



Assessment Report

Obstruction of Justice – SNC-Lavalin Affair

**Royal Canadian Mounted Police
National Division
Sensitive and International Investigations**

**February 2, 2021
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Royal Canadian Mounted Police
Gendarmerie royale du Canada

Canada

Contents

| | |
|---|----|
| Executive Summary..... | 6 |
| Allegations..... | 8 |
| Objective | 8 |
| Scope and Limitation..... | 8 |
| Understanding the Remediation Agreement Regime..... | 11 |
| Background | 11 |
| Definition | 12 |
| Purpose of a Remediation Agreement..... | 12 |
| Conditions for Remediation Agreement..... | 13 |
| Applicable Offences | 14 |
| Key Departments – Roles and Responsibilities..... | 15 |
| The Department of Justice and Attorney General..... | 15 |
| Department of Justice Act..... | 15 |
| Role of the Attorney General..... | 16 |
| Power of the Attorney General to Issue Directives | 17 |
| Power of the Attorney General to Intervene..... | 17 |
| Power of the Attorney General to Assume Conduct of Proceedings | 18 |
| The Shawcross Doctrine..... | 18 |
| Key Players from the Department of Justice and Attorney General | 19 |
| The Honourable Jody Wilson-Raybould..... | 19 |
| Jessica Prince..... | 19 |
| Nathalie G. Drouin | 19 |
| Francois Giroux | 19 |
| The Honourable David Lametti | 20 |
| Public Prosecution Services Canada (PPSC) | 20 |
| Office of the Director of Public Prosecutions | 20 |
| Role of the Director of Public Prosecutions..... | 21 |
| Duty to Inform..... | 22 |
| Key Player from the Public Prosecution Services Canada..... | 22 |



| | |
|--|----|
| Kathleen Roussel | 22 |
| Prime Minister’s Office (PMO) | 23 |
| Key Players from the Prime Minister’s Office | 23 |
| The Right Honourable Justin Trudeau | 23 |
| Gerald Butts | 23 |
| Elder Marques | 24 |
| Mathieu Bouchard | 24 |
| Katie Telford | 24 |
| Privy Council Office (PCO) | 24 |
| Key Player from the Privy Council Office | 25 |
| Michael Wernick | 25 |
| Department of Finance | 25 |
| Key Players from the Department of Finance | 26 |
| The Honourable Bill Morneau | 26 |
| Ben Chin | 26 |
| Justin To | 26 |
| Treasury Board of Canada | 26 |
| Key Players from the Treasury Board | 26 |
| The Honorable Scott Brison | 26 |
| The Honorable Jane Philpott | 27 |
| SNC-Lavalin | 27 |
| Key Players from SNC-Lavalin | 27 |
| Neil Bruce | 27 |
| The Honourable Frank Iacobucci | 27 |
| Standing Committee on Justice and Human Rights | 28 |
| Order in Council | 28 |
| The Honourable David Lametti | 29 |
| Summary | 29 |
| Michael Wernick | 31 |
| Summary | 31 |



| | |
|---|----|
| Nathalie Drouin | 34 |
| Summary | 34 |
| The Honourable Jody Wilson-Raybould | 39 |
| Summary | 39 |
| Gerald Butts | 45 |
| Summary | 45 |
| The Right Honourable Justin Trudeau | 51 |
| Extracts from the Transcript of the Press Conference Statement | 51 |
| RCMP Assessment (Probe) | 54 |
| Interviews | 54 |
| Jody Wilson-Raybould | 54 |
| Nathalie Drouin | 54 |
| Jessica Prince | 55 |
| Jane Philpott | 55 |
| Timeline | 56 |
| Chronology of Events | 56 |
| Calendar Timeline | 66 |
| External Reports Review | 71 |
| Review of the Roles of the Minister of Justice and Attorney General of Canada | 71 |
| Mandate | 71 |
| Report and Recommendations | 71 |
| Observations | 72 |
| Trudeau II Report | 76 |
| Examination | 76 |
| Scope & Limitations | 76 |
| Observations | 77 |
| Conclusion | 83 |
| Lobbying activities | 84 |
| Elements of the Offences | 86 |
| Obstruction of Justice, Section 139(2) of the Criminal Code | 86 |



| | |
|---|-----|
| Whether there is a course of justice..... | 86 |
| Analysis | 86 |
| Conclusion..... | 87 |
| Whether an act was committed | 87 |
| Analysis | 87 |
| 2018-08-14: Conversation with Mr. Chin..... | 89 |
| 2018-09-06: Conversation with Mr. Chin..... | 90 |
| 2018-09-11: Conversation with Mr. Chin..... | 91 |
| 2018-09-16: Conversation with Mr. Bouchard and Mr. Marques | 92 |
| 2018-09-17: Meeting with Prime Minister Justin Trudeau..... | 93 |
| 2018-09-19: Meeting with Mr. Wernick | 95 |
| 2018-09-19: Conversation with Mr. Bouchard and Mr. Marques | 96 |
| 2018-09-19: Conversation with Minister Morneau | 97 |
| 2018-09-20: Conversations with Mr. Chin and Mr. To | 98 |
| 2018-10-14: Text Messages with Minister Brison | 99 |
| 2018-10-18: Conversation with Mr. Bouchard | 100 |
| 2018-10-26: Conversations with Mr. Bickert and Mr. Bouchard..... | 101 |
| 2018-11-22: Meeting with Mr. Bouchard and Mr. Marques | 103 |
| 2018-12-05: Meeting with Mr. Butts | 104 |
| 2018-12-18: Meeting with Mr. Butts and Ms. Telford..... | 106 |
| 2018-12-19: Telephone conversation with Mr. Wernick..... | 108 |
| Conclusion..... | 110 |
| Whether the pressure was meant to obstruct, pervert or defeat the course of justice | 111 |
| Analysis | 111 |
| What was the nature of the political pressure | 112 |
| What was the nature of the legal advice provided..... | 115 |
| Final Decision Maker..... | 117 |
| Whether the pressure was meant to coerce the Attorney General to commit an unlawful act | 118 |
| Whether an improper act is inherently illegal | 122 |
| Cabinet Shuffle..... | 123 |



| | |
|---|-----|
| Conclusion..... | 125 |
| Intimidation of a Justice System Participant, Section 423.1 of the CC..... | 125 |
| Whether Ms. Wilson-Raybould is a justice system participant | 126 |
| Analysis | 126 |
| Conclusion..... | 126 |
| Whether threats were made | 126 |
| Analysis | 126 |
| Conclusion..... | 127 |
| Whether the threats were intended to cause fear..... | 127 |
| Analysis | 127 |
| Conclusion..... | 128 |
| Whether the conduct was meant to impede the justice system participant in the performance of their duties | 128 |
| Analysis | 128 |
| Conclusion..... | 128 |
| Conclusion..... | 129 |
| RCMP Assessment..... | 129 |
| Legislative Framework | 129 |
| External Reports..... | 130 |
| Criminal Intent | 131 |
| Cabinet Shuffle..... | 132 |
| Waiver and Authorization..... | 133 |
| Conclusory Statement and Recommendation | 133 |



Executive Summary

1. On February 7, 2019, the *Globe and Mail* published an article alleging that officials in the Prime Minister's Office pressured Ms. Wilson-Raybould to overrule federal prosecutors by offering a remediation agreement to SNC-Lavalin.
2. The genesis of this matter stems from a prosecution case against SNC-Lavalin and the Director of Public Prosecutions' (DPP) decision not to invite the company to negotiate a remediation agreement¹. On September 4, 2018, the DPP, Kathleen Roussel, advised the Attorney General of her decision not to invite SNC-Lavalin to negotiate a remediation agreement. Following this notification, Ms. Wilson-Raybould undertook a due diligence process in relation to the DPP's decision. As a result, Ms. Wilson-Raybould, in her role of Attorney General, decided not to intervene in the DPP's decision regarding SNC-Lavalin. This decision was communicated to the Prime Minister and the Clerk of the Privy Council in a meeting that took place on September 17, 2018.
3. On February 27, 2019, after almost three weeks of political controversies, the Honourable Jody Wilson-Raybould appeared before the House of Commons Standing Committee on Justice and Human Rights (Justice Committee) and provided a statement in relation to allegations of political interference she experienced in her role as Attorney General of Canada.
 - (a) Ms. Wilson-Raybould testified that between September and December 2018, herself or her staff were pressured by individuals from the Department of Finance, the Prime Minister's Office (PMO) or the Privy Council Office (PCO) to intervene in the matter involving SNC-Lavalin. Ms. Wilson-Raybould indicated that this pressure continued over the 4-month period and involved 11 people from the PMO, the PCO and the Office of the Minister of Finance. This pressure involved statements regarding the necessity of intervening in the SNC-Lavalin matter. This pressure culminated on December 19, 2018, with a conversation between Ms. Wilson-Raybould and the Clerk of the PCO in which she perceived veiled threats.
 - (b) On January 7, 2019, Ms. Wilson-Raybould was informed by the Prime Minister that she was being shuffled out of the role of Minister of Justice and Attorney General of Canada (MOJAG).

¹ In this document, remediation agreement is also referred to as a deferred prosecution agreement (DPA).



4. Following the media reporting on February 7, 2019, the RCMP Sensitive and International Investigations unit in Ottawa started monitoring the matter in an effort to determine if a criminal investigation was warranted.
5. As the scandal grew, the RCMP received several correspondences from members of the public and from the Honourable Andrew Scheer, Leader of the Official Opposition at that time requesting an investigation into the matter. These correspondences were citing alleged violations of the *Criminal Code* as it pertained to obstruction of justice.
6. As part of its proactive assessment of the situation, the RCMP undertook a review of the publicly available information related to the matter which consisted mainly of the various testimonies and document submissions presented to the Justice Committee. At the onset, the level of information related to the allegations were insufficient to make a credible assessment of the situation. While the information provided was concerning from an ethical standpoint, several intelligence gaps remained which limited the RCMP's ability to complete a credible assessment. Notwithstanding those considerations, the RCMP was also facing some challenges in assessing a matter shrouded in parliamentary and client-solicitor privileges.
7. Based on the former Attorney General's initial comments as to the legality of the events that unfolded, it could be easily argued that the matter was unethical as opposed to criminal. However, given the potential gravity of the matter as well as the impact it could have on the confidence in the institution of justice, it was believed that further assessment was warranted. While the testimonies before the Justice Committee provided considerable information on the matter, it was believed that fundamental questions were left unanswered. To address those questions, additional inquiries with several key witnesses would be required. As such, the RCMP approached this assessment by seeking information from the various witnesses attached to the Department of Justice and Attorney General in an effort to assess the information and determine if the level of evidence would support the launch of a full criminal investigation. Should there be sufficient evidence, additional steps would be explored as it relates to individuals at the source of the alleged pressure.
8. Once a waiver and authorization was obtained from the Department of Justice, the RCMP undertook a probe into the matter which lead to several witnesses being interviewed and documentary evidence gathered. The current report will detail the outcome of those inquiries and will provide conclusions and recommendations.



Allegations

9. During her statements, Ms. Wilson-Raybould alleged that she experienced a consistent and sustained effort by many people within the government to seek to politically interfere in the exercise of prosecutorial discretion in her role as the Attorney General of Canada in an inappropriate effort to secure a deferred prosecution agreement (DPA) with SNC-Lavalin.
10. Based on initial reporting and publicly available information, the following two *Criminal Code* offences were identified as potentially relevant to the current matter:
 - (a) Obstruction of Justice - Section 139(2); and
 - (b) Intimidation of a Justice System Participant - Section 423.1.
11. Subsequent probing into the matter did not establish additional potential offences.

Objective

12. The objective of this report is to provide an overview of the publicly available information as well as information collected as part of the RCMP proactive assessment on the matter.
13. This report will provide context in relation to the applicable legislations as well as a timeline of the key events. Subsequently, an assessment will be made as to the elements of the two above mentioned offences. Finally, conclusory remarks will be made based on the available information and the current legislative framework.

Scope and Limitation

14. A significant portion of this document was compiled using publicly available information, most of it derived from the testimonies of various witnesses during their appearances before the Justice Committee. It should be noted that, as per the House of Commons guidelines, testimony before a parliamentary committee is protected by parliamentary privilege.

“Testimony before a parliamentary committee is protected by parliamentary privilege. This means that nothing said by a witness in his or her official testimony before a committee, whether it be in person or by videoconference,



may be used in a court of law. This immunity does not apply if the same testimony is repeated publicly outside a parliamentary meeting.”²

15. It should also be noted that several key witnesses have not testified before the Justice Committee and that Ms. Wilson-Raybould and others were limited in their testimonies given parliamentary privilege restrictions. New developments and information received following modifications to the parameters of the current waiver and authorization could directly affect the conclusions drawn in this report.
16. The intense media and public attention generated by this matter has created a unique situation in which the RCMP was privy to additional information which is generally not available in a typical case. The various testimonies and disclosures to the Justice Committee, the releases of various reports as well as public comments on the matter has provided glimpses of information from several of the dissenting parties. This information has been used for the purpose of this assessment. However, should a full investigation be launched, additional investigative techniques would need to be utilized in order to obtain the information in a way that would be admissible in a court proceeding.
17. This report was also compiled using information gathered during the RCMP assessment of the information. This includes statements and/or documents obtained from the following individuals:
 - (a) The Honourable Jody Wilson-Raybould;
 - (b) The Honourable Jane Philpott;
 - (c) Ms. Nathalie G. Drouin Ad. E.; and
 - (d) Ms. Jessica Prince.

Recognizing the limitations pertaining to the admissibility of testimonies before the Justice Committee, the investigative actions taken during the RCMP assessment were conducted in a manner to be admissible during judicial proceedings.

18. It should be noted that the current parameters of the waiver and authorization, while allowing for investigational activities to be conducted, has limited the RCMP's ability to fully probe into some areas such as the January 2019 Cabinet shuffle. Even though the RCMP had requested an expansion of the current waiver and

² Reference: <https://www.ourcommons.ca/About/Guides/Witness-e.html>



authorization in order to fully assess the matter, it was only granted the same parameters as those found in the Order in Council number 2019-0105.

19. Lastly, during the course of the RCMP assessment, various reports were released which contained some commonalities to the current matter. This included a report from the Office of the Conflict of Interest and Ethics Commissioner, entitled the *Trudeau II Report*, which presented the findings of Commissioner Dion's examination of Mr. Trudeau's conduct in relation to this matter. This also included a report released by the Honourable Anne McLellan, entitled *Review of the Roles of the Minister of Justice and Attorney General of Canada* as mandated by the Prime Minister.



Understanding the Remediation Agreement Regime

Background

20. In the fall of 2017, the Government of Canada launched a public consultation in order to determine if Canada should expand the toolkit available to prosecutors to address corporate wrongdoing, through a Canadian version of a deferred prosecution agreement regime. This public consultation was undertaken given the complexity associated with corporate economic crimes and its potential serious repercussions on innocent third parties. The Government of Canada completed a discussion paper for public consultation on the issue of Deferred Prosecution Agreement (DPA).

21. As reported in this discussion paper:

“In Canada, corporate crime is subject to criminal prosecution. Given complex corporate structures and increasingly sophisticated ways of channeling funds and hiding illegal conduct, corporate crimes are often challenging to identify, time-consuming and resource-intensive to prosecute (especially when the alleged wrongdoing involves multiple jurisdictions) and difficult to prove. Investigations may take many years and require significant resources. Companies may be reluctant to report misconduct due to the prospect of a criminal conviction, which could damage the company’s reputation and economic prospects, result in a loss of investor confidence and have an adverse impact on the company’s employees and stakeholders.

While diversion from criminal prosecution is available under Canadian law in some limited circumstances, it is not generally available for corporate criminal liability. The court may order as a condition of a probation order that a company establish policies, standards and procedures to reduce the likelihood of committing a subsequent offence, but the focus of criminal prosecution is on punishing the wrongdoing rather than encouraging remediation and compliance going forward.

The Government of Canada is considering the merits of implementing a DPA regime, not as a replacement for prosecution, but as an additional tool to be used by prosecutors. Since a company that complies with the terms of a DPA will avoid being convicted, the prospect of a DPA may encourage self-disclosure of misconduct, thereby enhancing detection and enforcement.”



22. On February 22, 2018, the Government of Canada released the results of the consultation in a document entitled: Expanding Canada's Toolkit to Address Corporate Wrongdoing – What we heard.
23. Subsequently, the Government of Canada introduced *Criminal Code* amendments to create this new tool referred to, in Canada, as a remediation agreement. As of September 19, 2018³, this tool is available to prosecutors to address specified economic crimes under specific guidelines. This remediation agreement is included in Part XXII.1 of the Criminal Code – sections 715.3 to 715.43.

Definition

24. As per section 715.3(1) of the *Criminal Code*.

Remediation agreement means an agreement, between an organization⁴ accused of having committed an offence and a prosecutor, to stay any proceedings related to that offence if the organization complies with the terms of the agreement.

Purpose of a Remediation Agreement

25. As per section 715.31 of the *Criminal Code*:

The purpose of this Part is to establish a remediation agreement regime that is applicable to organizations alleged to have committed an offence and that has the following objectives:

- (a) to denounce an organization's wrongdoing and the harm that the wrongdoing has caused to victims or to the community;
- (b) to hold the organization accountable for its wrongdoing through effective, proportionate and dissuasive penalties;
- (c) to contribute to respect for the law by imposing an obligation on the organization to put in place corrective measures and promote a compliance culture;
- (d) to encourage voluntary disclosure of the wrongdoing;
- (e) to provide reparations for harm done to victims or to the community; and

³ The amendments to the *Criminal Code* received Royal Assent on June 21, 2018 and came into force on September 19, 2018. Reference: <http://www.mondaq.com/canada/x/738578/White+Collar+Crime+Fraud/Canada+moves+forward+with+a+remediation+agreement+regime>

⁴ Organization has the same meaning as in section 2 but does not include a public body, trade union or municipality.



- (f) to reduce the negative consequences of the wrongdoing for persons — employees, customers, pensioners and others — who did not engage in the wrongdoing, while holding responsible those individuals who did engage in that wrongdoing.

Conditions for Remediation Agreement

26. As per section 715.32(1) of the *Criminal Code*:

715.32(1) The prosecutor may enter into negotiations for a remediation agreement with an organization alleged to have committed an offence if the following conditions are met:

- (a) the prosecutor is of the opinion that there is a reasonable prospect of conviction with respect to the offence;
- (b) the prosecutor is of the opinion that the act or omission that forms the basis of the offence did not cause and was not likely to have caused serious bodily harm or death, or injury to national defence or national security, and was not committed for the benefit of, at the direction of, or in association with, a criminal organization or terrorist group;
- (c) the prosecutor is of the opinion that negotiating the agreement is in the public interest and appropriate in the circumstances; and
- (d) the Attorney General has consented to the negotiation of the agreement.

Factors to consider

(2) For the purposes of paragraph (1)(c), the prosecutor must consider the following factors:

- (a) the circumstances in which the act or omission that forms the basis of the offence was brought to the attention of investigative authorities;
- (b) the nature and gravity of the act or omission and its impact on any victim;
- (c) the degree of involvement of senior officers of the organization in the act or omission;
- (d) whether the organization has taken disciplinary action, including termination of employment, against any person who was involved in the act or omission;



- (e) whether the organization has made reparations or taken other measures to remedy the harm caused by the act or omission and to prevent the commission of similar acts or omissions;
- (f) whether the organization has identified or expressed a willingness to identify any person involved in wrongdoing related to the act or omission;
- (g) whether the organization — or any of its representatives — was convicted of an offence or sanctioned by a regulatory body, or whether it entered into a previous remediation agreement or other settlement, in Canada or elsewhere, for similar acts or omissions;
- (h) whether the organization — or any of its representatives — is alleged to have committed any other offences, including those not listed in the schedule to this Part; and
- (i) any other factor that the prosecutor considers relevant.

Factors not to consider

(3) Despite paragraph (2)(i), if the organization is alleged to have committed an offence under section 3 or 4 of the *Corruption of Foreign Public Officials Act (CFPOA)*, the prosecutor must not consider the national economic interest, the potential effect on relations with a state other than Canada or the identity of the organization or individual involved.

[Note: SNC-Lavalin was charged with an offence under section 3(1)(b) of the *Corruption of Foreign Public Officials Act*]⁵

Applicable Offences

27. The applicable offences are listed in an annex associated to this part and includes fraud under the *Criminal Code* and bribing a foreign public official under the *CFPOA*.

⁵ Reference: Project Assistance – [Letter](#) from Sgt. Alexandre Beaulieu



Key Departments – Roles and Responsibilities

The Department of Justice and Attorney General

28. The role of the Department of Justice⁶ is to ensure that Canada's justice system is as fair, accessible and efficient as possible. The Department helps the federal government to develop policy and to draft and reform laws as needed. At the same time, it acts as the government's legal adviser, providing legal counsel and support, and representing the Government of Canada in court.
29. The Department's responsibilities reflect the double role of the Minister of Justice, who is also by law the Attorney General of Canada: in general terms, the Minister is concerned with the administration of justice, including policy in such areas as criminal law, family law, human rights law, and Aboriginal justice; the Attorney General is the chief law officer of the Crown, responsible for conducting all litigations for the federal government.

Department of Justice Act

30. The powers, duties and functions of the Attorney General are described in section 5 of the Department of Justice Act.
31. As per section 5 of the Act:

The Attorney General of Canada:

(a) is entrusted with the powers and charged with the duties that belong to the office of the Attorney General of England by law or usage, in so far as those powers and duties are applicable to Canada, and also with the powers and duties that, by the laws of the several provinces, belonged to the office of attorney general of each province up to the time when the Constitution Act, 1867, came into effect, in so far as those laws under the provisions of the said Act are to be administered and carried into effect by the Government of Canada;

⁶ Reference: <https://www.justice.gc.ca/eng/rp-pr/cp-pm/about-aprop/index.html>



(b) shall advise the heads of the several departments of the Government on all matters of law connected with such departments;

(c) is charged with the settlement and approval of all instruments issued under the Great Seal;

(d) shall have the regulation and conduct of all litigation for or against the Crown or any department, in respect of any subject within the authority or jurisdiction of Canada; and

(e) shall carry out such other duties as are assigned by the Governor in Council to the Attorney General of Canada.

Role of the Attorney General

32. The Attorney General has jurisdiction to prosecute all non-*Criminal Code* federal offences⁷ in the provinces and *Criminal Code* and non-*Criminal Code* offences in the three territories. Moreover, the definition of “Attorney General” in the *Criminal Code* give concurrent jurisdiction to the Attorney General of Canada to prosecute certain *Criminal Code* offences including terrorism offences, organized crime offences, fraud, insider trading, and stock market fraud. However, under s. 3(3) of the *Director of Public Prosecutions Act* (DPP Act), these powers have been delegated to the Director of Public Prosecution (DPP), who exercises these general powers “under and on behalf of the Attorney General” independently, subject to directives issued by the Attorney General (s. 10), and subject to the Attorney General’s powers to intervene in (s. 14) or assume conduct of criminal proceedings (s.15).⁸
33. The Attorney General, and by extension the DPP, are bound by the principle of independence in respect of the prosecution function. As the Supreme Court stated in *Law Society of Alberta v Krieger*:

“It is a constitutional principle in this country that the Attorney General must act independently of partisan concerns when supervising prosecutorial decisions.”

⁷ Note: Except those under the *Canada Elections Act*.

⁸ Reference: [PPSC Deskbook](#)



34. However, it is quite appropriate for the Attorney General to consult with Cabinet colleagues before exercising his or her powers under the DPP Act in respect of any criminal proceedings. Indeed, sometimes it will be important to do so in order to be cognizant of pan-government perspectives. However, prosecutorial decision-making must take place independently of the interests of the government of the day.

Power of the Attorney General to Issue Directives

35. As per the DPP Act, the Attorney General may issue a directive to the DPP with respect to the initiation or conduct of any specific prosecution. To safeguard the DPP's independence and ensure transparency and accountability, any directive must be in writing and be published in the *Canada Gazette*. Ultimately, this requirement for transparency serves as a strong deterrent against partisan political influence and pressure in prosecution-related decision-making.
36. As per section 10 of the DPP Act:
- (1) Any directive that the Attorney General issues to the Director with respect to the initiation or conduct of any specific prosecution must be in writing and be published in the *Canada Gazette*.
 - (2) The Attorney General may, after consulting the Director, issue directives respecting the initiation or conduct of prosecutions generally. Any such directives must be in writing and be published in the *Canada Gazette*.
37. The power to issue a directive has been exercised sparingly in other jurisdictions in which this power exists. Such a situation may arise, for example, where there is disagreement between the DPP and the Attorney General as to whether to proceed with certain types of prosecutions or whether to appeal in a particular case, based on divergent assessments of what the public interest demands in the particular circumstances of that case.

Power of the Attorney General to Intervene

38. As per the *DPP Act*, the Attorney General may, after notifying the DPP, intervene in first instance or on appeal whenever the Attorney General is of the opinion that the proceedings raise questions of public interest.
39. As per section 14 of the DPP Act:



When, in the opinion of the Attorney General, proceedings raise questions of public interest, the Attorney General may, after notifying the Director, intervene in first instance or on appeal.

Power of the Attorney General to Assume Conduct of Proceedings

40. Section 15 of the *DPP Act* sets out the power of the Attorney General to take over a prosecution from the DPP. However, the Attorney General must first consult the DPP regarding his or her decision to assume conduct of a prosecution and must publish the notice in the *Canada Gazette* without delay.

41. As per section 15 of the DPP Act:

The Attorney General may only assume conduct of a prosecution after first consulting the Director. The Attorney General must then give to the Director a notice of intent to assume conduct of the prosecution and publish it in the *Canada Gazette* without delay.

The Shawcross Doctrine

42. The Shawcross doctrine draws its origin from a former Attorney General in the United Kingdom; Lord Shawcross. It signifies that Attorneys General in their performance of their duties must acquaint themselves with all the relevant facts and considerations that affect public policy. To achieve this, an Attorney General may consult with colleagues and should do so in certain situation. However, this assistance and advice should be limited to informing the Attorney General of the relevant facts and considerations without directing or pressuring the Attorney General in reaching a decision.

“(...) the Shawcross doctrine is clear that the assistance and advice of colleagues is confined to informing the Attorney General of particular considerations which might affect her or his decision, and it must not consist in telling him or her what the decision ought to be. The Attorney General should not be put under pressure by colleagues and, in particular, should not be put under partisan political pressure.”⁹

43. In reaching a decision, the Attorney General should discard partisan arguments and while applying her or his judicial mind towards relevant facts and arguments. This is

⁹ Reference: Justice Committee Hearing – February 25, 2019



necessary to maintain the integrity of the office and the integrity of the administration of justice.

Key Players from the Department of Justice and Attorney General

The Honourable Jody Wilson-Raybould

44. Ms. Wilson-Raybould is the Member of Parliament for Vancouver Granville in British Columbia. She was the former Minister of Justice and Attorney General of Canada. She became the Minister of Veterans Affairs and Associate Minister of National Defence as a result of a Cabinet shuffle on January 14, 2019. She has since resigned from her role as Minister of Veterans Affairs. Ms. Wilson-Raybould is a key figure into this matter given her ability to intervene into the matter and that she was subject to pressure from various individuals.

Jessica Prince

45. Jessica Prince was Chief of Staff to Minister Wilson-Raybould. In that role, Ms. Prince participated in several meetings and/or conversations in relation to the SNC-Lavalin matter.

Nathalie G. Drouin

46. Nathalie G. Drouin was appointed Deputy Minister of Justice and Deputy Attorney General of Canada on June 23, 2017. Ms. Drouin previously served as Senior Associate Deputy Minister of the Department of Justice of Canada since September 12, 2016.¹⁰ As it relates to the matter, Ms. Drouin participated in several discussions and in the drafting of a memorandum detailing possible options for the Attorney General.

Francois Giroux

47. Francois Giroux is a Judicial Affairs Advisor at the Department of Justice. In the course of his duties, he provided Ms. Wilson-Raybould with legal advice in relation to the matter. Mr. Giroux co-authored a legal advice memorandum that was distributed within the Department of Justice and Attorney General as well as with the PMO.

¹⁰ Reference: <https://www.justice.gc.ca/eng/abt-apd/bio.html>



The Honourable David Lametti

48. Mr. Lametti is the Member of Parliament for LaSalle-Emard-Verdun in Québec. He was appointed Minister of Justice and Attorney General after the Cabinet shuffle of January 14, 2019.

Public Prosecution Services Canada (PPSC)

49. The mandate of the PPSC is set out in section 3(3) of the *DPP Act*. It empowers the Director of Public Prosecutions (DPP) to:
- (a) Initiate and conduct federal prosecutions;
 - (b) Intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
 - (c) Issue guidelines to federal prosecutors;
 - (d) Advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
 - (e) Communicate with the media and the public on all matters that involve the initiation and conduct of prosecutions;
 - (f) Exercise the authority of the Attorney General of Canada in respect of private prosecutions; and
 - (g) Exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the Office of the Director of Public Prosecutions.

Office of the Director of Public Prosecutions

50. The *DPP Act* established the Office of the Director of Public Prosecutions. The *DPP Act* was designed to strengthen the twin goals of institutional independence and ultimate ministerial accountability. On one hand, it was intended to enhance integrity



in government by statutorily ensuring independence of the prosecution decision-making function from inappropriate political control, direction and influence.¹¹

51. At the same time, the *DPP Act* does not speak of absolute independence. Since the Attorney General is fully accountable to Parliament for the prosecution function, the DPP Act ensures a measure of oversight for the exercise of prosecutorial discretion.

Role of the Director of Public Prosecutions

52. The DPP has the power to make binding and final decisions to prosecute offences under federal statutes, stay proceedings or launch an appeal, unless otherwise instructed by the Attorney General under s. 10(1). The notion of DPP independence relates to the prosecutorial decision-making process – and all steps incidental to it. The DPP is regarded as an independent officer, exercising quasi-judicial responsibilities. The duties and functions of the DPP are enumerated in section 3(3) of the *DPP Act* as described above.
53. The Attorney General is directly accountable to Parliament, while the DPP is indirectly accountable to Parliament. The DPP is required to report to Parliament annually on its activities through the Attorney General and the DPP may be called to appear before parliamentary committees. Thus, it is crucial that they work in a consultative way so their decisions are fully informed. To ensure prosecutorial independence and accountability, their relationship should be premised on the following principles:
- (a) Respect for the independence of the prosecutorial function - By virtue of s. 3(3)(c) and s. 10(2), the Attorney General and the DPP are jointly responsible for establishing general prosecution policy, but the DPP is responsible for the exercises of prosecutorial discretion pursuant to that policy (subject to the Attorney General's residual powers under ss. 10 and 15).
 - (b) Notification on matters of significant public interest - The vast majority of prosecutorial decision-making and policy development requires no prior notice. However, the DPP should inform the Attorney General when the exercise of his or her duties raises issues that pertain to the Attorney General's functions.

¹¹ Reference: PPSC Deskbook



Duty to Inform

54. As per section 13 of the *DPP Act*, the DPP has a duty to inform the Attorney General in a timely manner¹² of any prosecution, or intervention that the DPP intends to make, that raises important questions of general interest such as:
- (a) Cases giving rise to concerns regarding public confidence in the administration of justice, including the manner in which a prosecution is conducted insofar as the impartiality or independence of the PPSC is at issue; and/or
 - (b) Cases that give rise to sustained, significant and/or anticipated media interest and that also raise important questions, for example when a matter puts into question the public's confidence in the administration of justice.
55. The section 13 notice requirement is limited to “*prosecutions and interventions*”. Section 2 of the *DPP Act* defines prosecution to include, not only a prosecution under the Attorney General's jurisdiction, but also “*a proceeding respecting any offence where the prosecution or prospective prosecution*” comes within his or her jurisdiction. The notices should be given at various milestones (i.e. initiating a prosecution, stay of proceedings, etc.)
56. As per section 13 of the DPP Act:

Issues of General or Public Interest - Duty to inform

The Director must inform the Attorney General in a timely manner of any prosecution, or intervention that the Director intends to make, that raises important questions of general interest.

Key Player from the Public Prosecution Services Canada

Kathleen Roussel

57. Ms. Kathleen Roussel is the Director of Public Prosecutions (DPP). She was appointed on June 21, 2017. As DPP, she sent a section 13 notice to the Attorney

¹² The section 13 timeliness requirement must be interpreted to uphold the overarching principle that, to the extent possible, the Attorney General must be given sufficient opportunity to react.



General in regards to the SNC-Lavalin matter advising that the company, SNC-Lavalin, would not be invited to negotiate a remediation agreement.

Prime Minister's Office (PMO)

58. The PMO is a central agency that came into its own in the late 1960s. It differs from its counterparts in that it is staffed with temporary political appointees rather than full-time, career civil servants and has no statutory base, its budget being a component of the estimates for the Privy Council Office. The Prime Minister determines the PMO's organization and role; its functions derive from the Prime Minister's political responsibilities as party leader rather than as head of government, though in practice the division between these responsibilities is not clear, thereby providing opportunities for the PMO to trespass on the more purely administrative preserves of other central agencies.¹³

Key Players from the Prime Minister's Office

The Right Honourable Justin Trudeau

59. Mr. Justin Pierre James Trudeau is the 23rd Prime Minister of Canada from 2015 to present. In 2007, he won the Liberal nomination in the Montréal riding of Papineau, beating the establishment's candidate. A year later, he was elected to the House of Commons. After winning the Liberal Party leadership in 2013, Trudeau propelled the party from third place to first in the House of Commons, becoming Prime Minister at the head of a majority government.¹⁴ Prime Minister Trudeau discussed the SNC-Lavalin matter directly with Ms. Wilson-Raybould on 2018-09-17. While Prime Minister Trudeau only had one face to face meeting with Ms. Wilson-Raybould on the subject, Mr. Trudeau is a central figure in this matter given that the resulting pressure originated from his office.

Gerald Butts

60. Mr. Gerald (Gerry) Michael Butts is a Canadian political consultant who served as the Principal Secretary to Prime Minister Justin Trudeau from November 4, 2015 until his resignation on February 18, 2019.¹⁵ Mr. Butts participated in meetings in which the matter was discussed with Ms. Wilson-Raybould or her staff.

¹³ Reference: <https://www.thecanadianencyclopedia.ca/en/article/prime-ministers-office>

¹⁴ Reference: <https://www.thecanadianencyclopedia.ca/en/search?search=justin+trudeau>

¹⁵ Reference: https://en.wikipedia.org/wiki/Gerald_Butts



Elder Marques

61. Mr. Elder Marques is a senior advisor at the Prime Minister's Office.¹⁶ Mr. Marques participated in meetings in which the matter was discussed with Ms. Wilson-Raybould or her staff.

Mathieu Bouchard

62. Mr. Mathieu Bouchard is a senior advisor at the Prime Minister's Office.¹⁷ Mr. Bouchard participated in meetings in which the matter was discussed with Ms. Wilson-Raybould or her staff.

Katie Telford

63. Ms. Katie Telford is a Canadian political strategist and the Chief of Staff to Prime Minister Justin Trudeau. She served as Trudeau's chief campaign advisor during his successful campaign in the 2015 election. Ms. Telford participated in a meeting with Gerald Butts and Jessica Prince on 2018-12-18.

Privy Council Office (PCO)

64. The Privy Council Office supports the Prime Minister and Cabinet. Led by the Clerk of the Privy Council, the department helps the government in implementing its vision, goals and decisions in a timely manner.
65. The Clerk of the Privy Council has three main roles:
- (a) Deputy Minister to the Prime Minister;
 - (b) Secretary to the Cabinet;
 - (c) Head of the federal public service.
66. The Clerk's job is to advise the Prime Minister and elected government officials in managing the country. The Clerk does so from an objective, non-partisan, public policy perspective. He also ensures Canada's federal public service is managed

¹⁶ Reference: <https://ipolitics.ca/2017/09/12/bains-gets-new-chief-of-staff-as-elder-marques-heads-to-pmo/>

¹⁷ Reference: <https://ca.linkedin.com/in/mathieu-bouchard-50a025a0>



effectively and follows a code of value and ethics in its work to design and deliver high quality services and programs for Canadians and their families.

67. To do this, the Clerk and his team at the PCO:

- (a) Work with departments and agencies to develop policy options and choices for the Government.
- (b) Advise and support ministers in making policy decisions.
- (c) Record Cabinet decisions, inform departments and agencies about them, and work with the public service to carry them out in a timely and effective way.

Key Player from the Privy Council Office

Michael Wernick

68. Michael Wernick became Clerk of the Privy Council and Secretary to the Cabinet on January 22, 2016¹⁸. Mr. Wernick joined the federal public service in 1981. Since then, he has worked in various departments and agencies, including the Department of Finance Canada, Consumer and Corporate Affairs Canada, and the Privy Council Office. Mr. Wernick participated in several meetings and discussion with Ms. Wilson-Raybould. He later retired from that position and was replaced by the current Clerk of the PCO, Ian Shuggart.

Department of Finance

69. The Department helps the Government of Canada develop and implement strong and sustainable economic, fiscal, tax, social, security, international and financial sector policies and programs. It plays an important central agency role, working with other departments to ensure that the Government's agenda is carried out and that ministers are supported with high-quality analysis and advice.¹⁹

¹⁸ Reference: <https://www.canada.ca/en/privy-council/corporate/clerk/role.html#summary-details1>

¹⁹ Reference: <https://www.fin.gc.ca/afc/index-eng.asp>



Key Players from the Department of Finance

The Honourable Bill Morneau

70. Mr. Bill Morneau was the Member of Parliament for Toronto Centre in Ontario. At the time in question, he was the Minister of Finance. As it relates to the current matter, Mr. Morneau had a conversation with Ms. Wilson-Raybould in September 2018 and participated in meetings with SNC-Lavalin.

Ben Chin

71. Mr. Ben Chin is a former TV news anchor and veteran political aide. Mr. Chin joined Mr. Morneau's office as a senior adviser has been his Chief of Staff during the period under review.²⁰ As it relates to the current matter, Mr. Chin was a party in three reported discussions with employees from the Office of the Attorney General.

Justin To

72. Mr. Justin To is the Deputy Chief of Staff & Director of Policy at the Ministry of Finance. As it relates to the current matter, Mr. To was a party to conversations with Jessica Prince.

Treasury Board of Canada

73. The Treasury Board is responsible for accountability and ethics, financial, personnel and administrative management, comptrollership, approving regulations and most Orders-in-Council.

Key Players from the Treasury Board

The Honorable Scott Brison

74. Scott Brison was President of the Treasury Board of Canada until January 2019 when he resigned. Mr. Brison communicated with Ms. Wilson-Raybould by text messages in relation to the matter.

²⁰ Reference: <https://www.theglobeandmail.com/politics/article-ben-chin-former-news-anchor-and-christy-clark-aide-to-be-morneaus/>



The Honorable Jane Philpott

75. Jane Philpott was appointed President of the Treasury Board following Mr. Brison's resignation. While not directly involved in the 2018 events, Dr. Philpott was part of several discussions on the matter with Ms. Wilson-Raybould.

SNC-Lavalin

76. Founded in 1911, SNC-Lavalin is a global fully integrated professional services and project management company and a major player in the ownership of infrastructure. From offices around the world, SNC-Lavalin's employees are proud to build what matters. Their teams provide comprehensive end-to-end project solutions – including capital investment, consulting, design, engineering, construction management, sustaining capital and operations and maintenance – to clients across oil and gas, mining and metallurgy, infrastructure, clean power, nuclear and EDPM (engineering design and project management).²¹

Key Players from SNC-Lavalin

Neil Bruce

77. During the time in question, Neil Bruce was the President and CEO, and a member of the Board of Directors of SNC-Lavalin since October 5, 2015. While Mr. Bruce had no interaction with Ms. Wilson-Raybould or her staff, his name surfaced during various meetings with government officials as part of the company's lobbying efforts.

The Honourable Frank Iacobucci

78. Frank Iacobucci is a counsel for SNC-Lavalin. He joined Torys LLP as Counsel in September 2004 after retiring as a Justice of the Supreme Court of Canada.²²

²¹ Reference: <http://www.snc-lavalin.com/en/about-us/>

²² Reference: <https://www.torys.com/people/iacobucci-the-honourable-frank>



Standing Committee on Justice and Human Rights

79. The Standing Committee on Justice and Human Rights (Justice Committee) studies the bills, policies, programs and spending of the Department of Justice and the six federal agencies related to its portfolio.
80. Since February 21, 2019, the Justice Committee has held a series of meetings in relation to the current matter; more specifically in relation to *remediation agreements, the Shawcross doctrine and discussions between the Office of the Attorney General and government colleagues*. Several witnesses testified before the Committee as detailed below.

Order in Council

81. On February 25, 2019, Order in Council number 2019-0105 was issued authorizing Ms. Wilson-Raybould to provide testimony on the matter. As per the order:

Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, for the purposes of the hearings before the Standing Committee on Justice and Human Rights and the examination by the Conflict of Interest and Ethics Commissioner:

(a) authorizes the Honourable Jody Wilson-Raybould, the former Attorney General, and any persons who directly participated in discussions with her relating to the exercise of her authority under the Director of Public Prosecutions Act respecting the prosecution of SNC-Lavalin, to disclose to the Standing Committee on Justice and Human Rights and to the Conflict of Interest and Ethics Commissioner any confidences of the Queen's Privy Council for Canada contained in any information or communications that were directly discussed with her respecting the exercise of that authority while she held that office; and

(b) for the purposes of disclosure to the Standing Committee on Justice and Human Rights and to the Conflict of Interest and Ethics Commissioner by the former Attorney General, and any persons who directly participated in discussions with her, waives, to the extent they apply, solicitor-client privilege and any other relevant duty of confidentiality to the Government of Canada in regards to any information or communications in relation to the exercise of the authority of the Attorney General under the Director of Public Prosecutions Act that were directly discussed with the former Attorney General respecting the prosecution of SNC-Lavalin while she held that office.



However, in order to uphold the integrity of any criminal or civil proceedings, this authorization and waiver does not extend to any information or communications between the former Attorney General and the Director of Public Prosecutions concerning SNC-Lavalin.

82. On May 16, 2019, the RCMP requested a waiver and authorization allowing for the conduct of the current assessment into the matter. In order to complete a thorough review of the matter, the RCMP sought some extensions to the above mentioned Order in Council. These extensions included the ability to obtain information from third parties who did not participate in discussion directly with Ms. Wilson-Raybould but did participate in meetings and conversations related to the subject matter. Furthermore, the RCMP requested an extension to cover discussions in relation to the January 2019 Cabinet shuffle.
83. On August 30, 2019, the RCMP was granted a waiver and authorization allowing for inquiries into the matter. While extensions were requested, the parameters of the waiver and authorization were, in essence, the same as granted by the Order in Council 2019-0105.

The Honourable David Lametti

84. On February 21, 2019, the Honourable David Lametti, Minister of Justice and Attorney General of Canada, testified before the Committee.

Full Transcript of Committee Meeting

Summary

85. In his opening statement, Mr. Lametti stated that Canadians should be provided with the transparency they deserve in a way that preserves the right to a fair hearing in cases that are currently active, the integrity of the position of the director of public prosecutions, and the rule of law in our country. He described his role as the Attorney General in being able to make decisions independent of partisan considerations or direction.
86. On the topic of the Shawcross doctrine, Mr. Lametti said that it was appropriate for the Prime Minister and officials to talk to the Minister of Justice and Attorney General about active cases and prosecutions.

“Absolutely. As I said in my opening remarks, the Attorney General can't be an island. The whole point of the Shawcross doctrine is that an Attorney



General can speak with cabinet colleagues about a variety of different considerations that might be pertinent to his or her decision in any particular case.

What is clear in the Shawcross doctrine is that, subsequent to those discussions, when an Attorney General puts on his or her hat as Attorney General, only the appropriate considerations that the Attorney General himself or herself has in mind will be the basis for that decision.

Those kinds of conversations would be appropriate to the Attorney General contemplating a decision on whether or not to direct a remediation agreement, but it is up to the Attorney General to make that decision himself or herself.”

87. Mr. Lametti mentioned that the Attorney General would be wise to take into account various kinds of considerations. There will be conversations that needs to happen on a variety of different issues, but ultimately or eventually, the decision is the Attorney General's.
88. Mr. Lametti also made it clear with the committee that while he had a general knowledge of this matter as a Montreal MP, he did not speak with the Prime Minister or any member of his office about it prior to his appointment as Attorney General.

“First, I want to be clear with the committee that while I had a general knowledge of this matter as a Montreal MP, I did not speak with the Prime Minister or any member of his office about it prior to my appointment as Attorney General.”

89. He also said that he was not aware of any details of the conversations that took place between Ms. Wilson-Raybould and the Prime Minister or his Office.

“However, I am not aware of any of the details of the conversations that took place between Ms. Wilson-Raybould and the Prime Minister or his office, other than what the Prime Minister has made public.”

90. Mr. Lametti, in his role as parliamentary secretary to the Minister of Innovation, met with SNC-Lavalin in May of 2017 for ISED and procurement topics. Neil Bruce, the CEO was present. When asked if they discussed SNC-Lavalin specific issues, Mr. Lametti said he has no recollection of the specifics of that meeting.



91. Mr. Lametti said he never experienced inappropriate pressure by the Prime Minister or anyone in the PMO on the issue of remediation agreement or any other legal issues.
92. With regard to consequences for third parties of a company if remediation agreements were not considered, Mr. Lametti said that in any scenario, the company could cease to exist, employees could lose their jobs, the funds of the pensioners could become in jeopardy, and could affect subcontractors, suppliers, all of those people who did not partake in any kind of criminal behavior. Companies can be large entities in which only a very few people are participating in the kinds of criminal activity that would be targeted by a remediation agreement. That is certainly a policy issue that needs to be taken into account.
93. Mr. Lametti said that prior to becoming the Minister of Justice and the Attorney General, the Prime Minister never mentioned the issues and the difficulties he was facing with respect to the SNC-Lavalin situation, nor did he engage into any conversations on this matter with his predecessor.

Michael Wernick

94. On February 21, and March 6, 2019, the Clerk of the Privy Council of Canada provided statements before the Committee.

Full Transcript of Committee Meeting
February 21, 2019 and March 6, 2019

Summary

95. In his opening statement, Mr. Wernick stated that Canadians should not be worried about the rule of law in Canada. He said the independence of investigative and prosecutorial functions have never been compromised. With regard to DPAs, he said that they are an attempt to balance public policy interests and characterized it as a legitimate concern for government and indeed for everyone, that the workers, suppliers, pensioners and communities in which a company operates didn't suffer for the misdeeds of the corporate officers. Mr. Wernick further elaborated that a DPA is not an acquittal, an amnesty, an exoneration, a get out of jail free card or a slap on the wrist but instead an agreement to defer prosecution subject to compliance.

"Should Canadians be concerned about the rule of law in this country? No. In the matter of SNC-Lavalin, it is now seven years since the first police raid on the company and four years since charges were laid by the RCMP, and



during that entire time and up to today, the independence of the investigative and prosecutorial function has never been compromised. The matter is proceeding to trial.

“Is there two-tier justice in Canada? No. Demonstrably not. Despite the most extensive government relations effort in modern times, including meetings with officials, political staff, the opposition leaders and hate advertising and advocacy by two consecutive premiers of Québec, the company did not get what it wanted, demonstrably because they're seeking judicial review.

96. Mr. Wernick predicted Ms. Wilson-Raybould would take issue with some conversations related to the SNC-Lavalin situation throughout the fall of 2018. Mr. Wernick insisted that his conversations with Ms. Wilson-Raybould were “*entirely appropriate*” and “*lawful*”, that he was informing the Minister of context. Mr. Wernick stated that Ms. Wilson-Raybould may have another view of those conversations, but that is something the Ethics Commissioner could sort out.

“It was always going to be her decision and the decision was open in September, October and November, and it's still open to the DPP to change her mind and to the Minister to exercise the powers of the law.”

“The question that I think you're going to have to come to a view with, as will the Ethics Commissioner, is inappropriate pressure.”

97. Mr. Wernick said that, at no point, a memorandum to Cabinet or a ministerial recommendation was brought forward to direct, instruct, encourage or otherwise influence the Attorney General to create the conditions under which SNC-Lavalin would receive a DPA.
98. Mr. Wernick also added that if Ms. Wilson-Raybould felt otherwise about those conversations, she had plenty of chances to complain, but she never did.
99. With regard to the Cabinet shuffle, Mr. Wernick said Ms. Wilson-Raybould was not fired, she was offered another position in Cabinet and she accepted it. He said there was some conversations between the Prime Minister and the Minister over the first week of January. Mr. Wernick said:

“I don't think this is a big secret. The resignation of Scott Brison created a vacancy at Treasury Board. The problem that was presented to the Prime



Minister was to replace the President of the Treasury Board, maintain a Nova Scotia person in cabinet and maintain gender balance. Those were the deliberations that took place in the first week of January.”

100. Further on the topic of the Cabinet shuffle, Mr. Wernick indicated that he did not single out the issue of SNC-Lavalin when he briefed Ms. Drouin on the assignment of a new Minister.

“On January 10 the cabinet shuffle was finalized, and the next day, in the context of calling five deputy ministers who were affected and would have to be ready by Monday, I called Madam Drouin and asked her to make sure that the new Minister of Justice and Attorney General would be brought up to speed on a number of prominent files that he would likely face questions about in the near future, perhaps as soon as the cabinet retreat in Sherbrooke, which would begin on Wednesday afternoon, two days after the swearing-in. I mentioned carbon pricing litigation, the Norman trial, TMX and SNC-Lavalin. I don't know if the deputy attorney general will agree with my recollection, but I never singled out SNC as the only issue, and it would be a misreading of my conversation with her to suggest it was.”

101. Mr. Wernick provided clarifications as to his understanding of the remediation agreement regime, viewing it as a legal option provided by the *Criminal Code* which can reduce the negative impacts on innocent third parties.

“My understanding is that one purpose of deferred prosecution agreements is that corporate criminality does not devastate workers, pensioners, suppliers and others who did nothing wrong. This is in the Criminal Code and it is part of public interest considerations. In speaking to the Attorney General in December, I was giving her contextual information about the SNC-Lavalin matter directly relevant to a decision she had to make.

102. Mr. Wernick saw public interest argument as an evolving issue which must be continually assessed.

“In dealing with the public interest, the Attorney General's decision is never final. The public interest can evolve and change, and the impact of a decision to prosecute or not prosecute was evolving in this case. When I mentioned to the Attorney General on September 17 that there was an election in Québec, I did not do so out of any partisan consideration. That is an unfair inference. It is a long-standing convention for the federal government to try to stay out of the fray of provincial election campaigns,



and that the people of each province decide for themselves who they want to govern. In mid-September, based on the company's public-disclosure obligations, I was concerned that a purely federal issue could surface in the last two weeks of that rather heated campaign. It is my job to remind elected officials about those conventions.

Nathalie Drouin

103. On February 21, and March 6, 2019, Nathalie Drouin, Deputy Minister of Justice and Deputy Attorney General of Canada, provided a statement to the Committee.

Full Transcript of Committee Meeting
February 21, 2019 and March 6, 2019

Summary

104. Ms. Drouin explained that her role as Deputy Minister of Justice and Deputy Attorney General is to support the Minister of Justice and Attorney General of Canada in fulfilling her responsibilities, including giving legal advice and coordinating the legal advice given by the Department of Justice, supporting the development of legislation and policy that fall within the Justice portfolio, as well as acting as the formal representative of the Crown in all civil litigation involving the Government of Canada.
105. The DPP is supported by the Attorney General and is responsible for initiating and conducting federal criminal prosecutions on behalf of the Crown. While their roles are different, the Deputy Minister of Justice can support and provide legal advice to the Attorney General of Canada in exercising his/her powers under the *DPP Act*.
106. The Deputy Minister of Justice has no involvement or role in any prosecution and, in fact, is not privy to any evidence with regard to prosecutions. It is entirely the DPP's role. Her role as both a public servant and a lawyer, with the support of her department, is to provide government decision-makers with all of the professional and non-partisan advice they need to carry out their duties.
107. Ms. Drouin explained that it really is the DPP's responsibility to take any decision on specific investigations, and to decide to lay charges or not. Her role is to provide advice. She can provide legal advice to the Attorney General to make sure she understand how the DPP operates and to give her advice if she decides to exercise one of those rights.



108. In describing the DPA, Ms. Drouin said that it's a legal tool in which Courts would be very much involved in ratifying such agreements.

"The agreement has to be accepted by the judge. The agreement has to be public too. This is an important aspect. And before a remediation agreement is concluded, victims must be consulted."

109. With regard to a DPA, only the Attorney General has the power to ask the DPP or to direct her to proceed with one of these remediation agreements.
110. Ms. Drouin said that as Deputy Minister of Justice, she was not informed of the DPP's decision to continue criminal proceedings against SNC-Lavalin on September 4, 2018.
111. With regard to the DPP decision pertaining to the prosecution of SNC-Lavalin, she remembered that the first discussion she had with Ms. Wilson-Raybould was in the afternoon of September 5. The purpose of the call was to discuss another file but SNC was also discussed in the margins. The former Attorney General was in Fiji and there was a 17-hour time difference. Two of her staff members, Jessica Prince, Chief of Staff, and Emma Carver, Policy Advisor, joined the call. They agreed that the Department would provide advice on the role of the Attorney General, for her consideration. She advised that the Department had begun working on the advice the evening before.
112. For the next two days, September 6 and 7, Ms. Drouin and her officials developed the written advice. She also provided verbal advice to the Attorney General's (AG) staff, Emma Carver and François Giroux, on the AG's powers under the *DPP Act*. It was during this conversation that they read the extracts of the section 13 letter from the DPP.

"I advised that it would be very important for the Attorney General to be comfortable with the director's position to not pursue a remediation agreement. I emphasized that the Attorney General was entitled to receive as much information as she considered necessary from the director."

113. It was during the same conversation that Emma Carver informed Ms. Drouin that she was drafting a document that she intended to provide to her counterparts in the PMO. Ms. Drouin was also told that the Attorney General was not keen on the idea of exercising her authorities under the *DPP Act*.
114. On September 8, 2018, Ms. Drouin provided a draft opinion entitled, "*The power of the Attorney General to issue directives and to assume conduct of proceedings*".
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The opinion also provided advice to the Attorney General on the role of the DPP, and that the Attorney General is entitled to receive information from the DPP in order to understand a decision.

115. On September 10, the Department responded to two follow-up questions that they had received from the Attorney General's office as a result of the draft advice.
116. On September 11, the Attorney General's acting Chief of Staff, Francois Giroux, informed Ms. Drouin by email that the Attorney General was not intending to intervene in the case and that she would be pleased to discuss it.
117. On September 19, during Ms. Drouin's bilateral meeting in the afternoon with the Attorney General, she told her that she just had a discussion with the Clerk. During the same meeting, Ms. Drouin clearly recalled that Ms. Wilson-Raybould told her that this would be the last time they discussed the SNC-Lavalin matter, and she was instructed to not have any discussion with the DPP. Ms. Drouin did not have further involvement in the SNC-Lavalin file with the Minister or her staff with the exception of two occasions.
- (a) On October 19, when the application for judicial review of the DPP's decision was filed in Federal Court. As would be regular process where there is an application for judicial review, officials in the Department discussed with the DPP who should appear on behalf of the Crown.
- (b) The second exception occurred near the end of October. The PCO asked the Department for an opinion on the potential impacts on SNC-Lavalin if the prosecution were to result in a criminal conviction. Ms. Drouin's Department developed the draft legal advice.
118. Ms. Drouin was informed of the Cabinet shuffle on January 11, 2019. She was advised on what the new minister should be briefed on:

"On Friday, January 11, the Clerk of the Privy Council called to inform me of the upcoming shuffle. I was not told who the new minister would be. I proactively asked the Clerk what areas or files I should be preparing to brief the new minister on. The Clerk identified briefing the new minister and Attorney General on roles and responsibilities as the primary need. This indicated to me that we were going to be receiving a first-time minister.

The Clerk also recommended that I brief the new minister on indigenous files because the Prime Minister could ask the new minister to attend a meeting with indigenous organizations early the next week. He also



recommended briefing the minister on current issues, including remediation agreements and SNC.”

119. Ms. Drouin developed, with the assistance of her immediate team, a briefing handbook, which also included the remediation agreement.

120. Ms. Drouin said that it is part of her role to prepare and welcome new ministers and to present all essential elements in order to take up their duties as soon as possible. That does not necessarily include a review of previous positions but rather the status of each of the files. Ms. Drouin also said it is not practice to discuss positions adopted by the previous government except regarding public policy. With regard to the SNC-Lavalin position, Ms. Drouin stated:

“...as the director of public prosecutions had decided that the trial would continue, that implied that no decision had been made by the previous attorney general.”

121. Ms. Drouin stated that the September 8 memorandum contained a couple of options:

- (a) The first thing the memo said was that an Attorney General is entitled to receive information from the DPP concerning a specific case;
- (b) The other option for an Attorney General is to issue a directive;
- (c) Another option was for an Attorney General to decide to assume the conduct of the prosecution; and
- (d) Another option was also to ask for legal advice to the Attorney General to decide whether or not she should exercise her authorities under the act.

122. Ms. Drouin stated that there was no recommendation as to one or more options to pursue.

123. Ms. Drouin stated that when an Attorney General takes a decision on whether or not to exercise his or her authorities under the DPP Act, there is no obligation to have reasons and to have written documents for that.

124. As for who is the decision maker, Ms. Drouin stated:

“The AG, as I said, has authorities under the DPP Act to intervene, to issue directives or to decide to assume the conduct of specific prosecutions, but



it's her decision, as I said at the beginning, to decide whether or not to use those authorities under the act.

In all my discussions on any files with the minister, she was always open to receive information, to seek advice, and then it was for her to take decisions.

As the attorney general is the decision maker in this case, when she made her decision, she in fact meant that the door was closed to any further action. She alone could decide whether to exercise authorities under the Director of Public Prosecutions Act.”

125. Ms. Drouin said she did not feel excluded by the former Attorney General on this specific issue because she disagreed with her view.

“No, I didn't feel that she excluded me for that.

The former minister has a strength of character. She possesses a strength of character and integrity. She upholds her independence. She has a very solid view of her independence, and I think this is why she was not comfortable to enter into discussions that can interfere with the decision she had to take.”

126. Ms. Drouin said that the former Attorney General told her that she was not comfortable and she didn't appreciate her conversation, first, with the Prime Minister. She then asked Ms. Drouin not to talk anymore about the SNC-Lavalin case nor the authorities under the DPP.

127. Pertaining to the opinion on the potential impacts on the SNC-Lavalin issue if the prosecution were to lead to a criminal conviction, Ms. Drouin developed that report. This report was not provided to the Privy Council Office. Ms. Drouin said:

“The request I got was from the PCO. I'm accountable to the minister. I do also report to the Clerk on the management thing, but I decided that because my minister was not comfortable with us sharing with the PCO, I didn't.”

128. With regard to Ms. Wilson-Raybould being removed as Attorney General because she refused, under pressure, to change her position in favour of a deferred prosecution agreement. Ms. Drouin said:



“The thing I would have to say is what I've seen in that case...and I do have an ethical obligation. If I had seen illegal activities, it was my duty and responsibility to report them, and I have not reported anything.”

129. Ms. Drouin stated that the offences that SNC-Lavalin is facing are covered under the remediation agreement regime, but whether or not this tool is available on a specific case is the decision of the DPP.

The Honourable Jody Wilson-Raybould

130. On February 27, 2019, the former Attorney General, Ms. Jody Wilson-Raybould, provided a statement to the House of Commons Justice Committee.

[Full Transcript of Committee Meeting](#)

Summary

131. On September 4, 2018, Ms. Wilson-Raybould was advised of the DPP's decision not to invite SNC-Lavalin to negotiate a remediation agreement. Following this notification, she undertook a due diligence process in relation to the DPP's decision. As a result, Ms. Wilson-Raybould decided not to intervene in the DPP's decision regarding SNC-Lavalin.
132. Ms. Wilson-Raybould testified that in the following 4 months, herself or her staff were pressured by individuals from the Finance Department, the Prime Minister's Office or the Privy Council Office to intervene in the matter involving SNC-Lavalin. Ms. Wilson-Raybould indicated that this pressure continued over the 4-month period and involved 11 people from those three offices. This pressure involved statements regarding the necessity of intervening in the SNC-Lavalin matter. This pressure culminated on December 19, 2018, with a conversation between Ms. Wilson-Raybould and the Clerk of the Privy Council in which she perceived veiled threats.
133. The following table illustrates the conversations and/or meetings mentioned by Ms. Wilson-Raybould. (See section entitled *Timeline of Reported Events* below for details pertaining to each event)



| Chronology of Reported Events | | |
|-------------------------------|------------|---|
| | Date | Parties involved |
| 1 | 2018-09-06 | Jessica Prince – DOJAG Ben Chin – MoF |
| 2 | 2018-09-11 | François Giroux - DOJAG Ben Chin – MoF |
| 3 | 2018-09-16 | Mathieu Bouchard – PMO Elder Marques - PMO Jessica Prince - DOJAG |
| 4 | 2018-09-17 | The Right Honourable Justin Trudeau The Honourable Jody Wilson-Raybould Mr. Michael Wernick - PCO |
| 5 | 2018-09-19 | The Honourable Jody Wilson-Raybould Mr. Michael Wernick |
| 6 | 2018-09-19 | Mathieu Bouchard – PMO Elder Marques - PMO Jessica Prince - DOJAG |
| 7 | 2018-09-19 | The Honourable Jody Wilson-Raybould The Honourable Bill Morneau |
| 8 | 2018-09-20 | Jessica Prince - DOJAG Ben Chin – MoF Justin To – MOF |
| 9 | 2018-10-18 | Mathieu Bouchard – PMO Jessica Prince - DOJAG |
| 10 | 2018-10-26 | Mathieu Bouchard – PMO Jessica Prince - DOJAG |
| 11 | 2018-11-22 | Mathieu Bouchard – PMO Elder Marques - PMO Jessica Prince - DOJAG |
| 12 | 2018-12-05 | Gerald Butts – PMO The Honourable Jody Wilson-Raybould |
| 13 | 2018-12-18 | Gerald Butts – PMO Katie Telford - PMO Jessica Prince - DOJAG |
| 14 | 2018-12-19 | Michael Wernick – PCO The Honourable Jody Wilson-Raybould |

134. A few weeks later, on January 7, 2019, Ms. Wilson-Raybould was informed by the Prime Minister that she was being shuffled out of the role of Minister of Justice and



Attorney General of Canada. On February 12, 2019, Ms. Wilson-Raybould resigned from her position of Minister of Veterans Affairs.

Meeting with the Prime Minister

135. Ms. Wilson-Raybould requested the September 17 meeting which was related to a different and important matter. She said that the Prime Minister brought up SNC-Lavalin and the DPA. With the Clerk present, they had conversations about SNC-Lavalin. He brought up SNC-Lavalin, jobs and the potential of job loss. She said that they were entirely appropriate conversations for the Prime Minister to bring up.
136. However, Ms. Wilson-Raybould said that the conversations turned to be completely inappropriate when there was discussion about the Québec election and about the fact that the Prime Minister was a Member of Parliament in Québec. It was at that point that she immediately became concerned.

“The political concerns that were raised prompted me to ask the question of the Prime Minister directly if he was politically interfering with my role as the Attorney General, so at that point my senses were heightened. The Prime Minister assured me that was not the case, but soon thereafter I instructed my staff to ensure—myself as well—that we had a very detailed chronology of all meetings and conversations about SNC and deferred prosecution agreements.”

Final Decision

137. Ms. Wilson-Raybould stated that she had made up her mind prior to the September 17 meeting with the Prime Minister. She said that her decision making process took into account many views, and she welcomed many views on public policy issues.

“I had determined that I was not going to issue a directive. It was inappropriate to interfere with the discretion of the director of public prosecutions, and having made up my mind, taking into account all of the information, again, for those who know me, I was not going to change my mind.”

138. Ms. Wilson-Raybould said that, in the early stages, conversations about job losses, or SNC-Lavalin with the Attorney General were appropriate. However, what she deemed inappropriate was the long sustained discussions about the job losses after



it was clear that she had made her decision and that she was not going to pursue a DPA.

“Leaving aside job losses, the conversations that I had, where they became clearly inappropriate, was when political issues came up, like the election in Québec, like losing the election if SNC were to move their headquarters, conversations like that, conversations like the one I had with the Clerk of the Privy Council, who invoked the Prime Minister’s name throughout our conversation and spoke to me about the Prime Minister being dug in and about his concerns as to what would happen. In my mind, those were veiled threats, and I took them as such. That is entirely inappropriate.”

Conversation with Mr. Chin

139. Ms. Wilson-Raybould stated that on the earlier meetings, prior to the meeting with the Prime Minister, Ben Chin had conversations with her Chief of Staff. Again, in terms of public policy and in terms of having discussions about impacts of decisions and loss of jobs, she said it was appropriate.

“But I will say that in those calls—I don’t have my notes in front of me, but I have a pretty generous memory—Mr. Chin raised the Québec election. I will say that it’s okay to talk about job losses, and it’s okay to talk about it in initial conversations, but when those topics continue to be brought up after there’s a clear awareness that a decision has been made, it becomes inappropriate.”

Cabinet Shuffle

140. Ms. Wilson-Raybould said that it was apparent, from her remarks, that she was concerned about being shuffled out of her role of Minister of Justice and Attorney General possibly because of a decision she would not take on SNC-Lavalin and the DPA. She raised those concerns with the Prime Minister and with Gerry Butts but they denied it. She said that she could not speak to anything that she thought about after that point.
141. Ms. Wilson-Raybould stated that she understood that it’s the prerogative of the Prime Minister to make Cabinet shuffles.

“As I said, I took him at his word. I took him at his word after I directly questioned him in September, and I took him at his word after I directly questioned him and Gerry Butts in January. I chose to take them at their



word. (...) I had serious concerns about it, but again, I took the Prime Minister at his word."

Final Decision Maker

142. Ms. Wilson-Raybould stated that she was confident, in her role as Attorney General, that she was the final decision maker (leaving aside all of the very inappropriate political pressure and interference) on whether or not a directive would be introduced on the SNC matter. She knew that as long as she was the Attorney General, this would not occur.

"I had concerns that when I was removed as the Attorney General, this potentially might not be the case. I decided that I would embrace this new role, a very important role, and I really want to say publicly that the role at Veterans Affairs is an incredibly important role, and I took it very seriously."

143. Ms. Wilson-Raybould decided to take on the role requested of her by the Prime Minister, but she had concerns, and knew that in her new role, still sitting around the Cabinet table, if a directive had been placed into the *Canada Gazette*, she would have resigned immediately from Cabinet.

Role of Attorney General

144. Ms. Wilson-Raybould stated that she was exercising, with her Attorney General's hat on, what was appropriate for her to consider based on what she had read in the section 13 note from the DPP.

"I did not change my mind to enter into or to issue a directive to the director of public prosecutions on the matter of putting out an invitation to negotiate a remediation agreement with SNC because I had the benefit of reading the section 13 note and of conducting my own due diligence around the appropriateness of entering into a deferred prosecution agreement with SNC, and I had the benefit of feedback and briefings from my departmental officials as well as my political staff."

Fear of losing her job

145. Ms. Wilson-Raybould spoke to the very heightened level of anxiety that she had, which increased and culminated in her discussion with the Clerk on December 19. She remembered distinctly ending that conversation with the Clerk by saying, *"I am*
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waiting for the other shoe to drop.”²³ She indicated that this reflection or her comments spoke for themselves.

Order in Council – Information Not Disclosed

146. As Ms. Wilson-Raybould indicated in her letter to the Committee and in her testimony, the Order in Council and the waiver of privilege and confidentiality only extended to January 14, 2019 until she was sworn in as the Minister of Veterans Affairs. It did not include any conversations that occurred thereafter nor did it include conversations that she may or may not have had with the Prime Minister. Finally, it did not include conversation(s) she had with her former Cabinet colleagues after her resignation from cabinet.

Dual Roles – Minister of Justice / Attorney General

147. Ms. Wilson-Raybould said that her role as the Minister of Justice, of shepherding legislation through the House of Commons, is entirely separate from her role as the Attorney General. She added that suggestions of obtaining external legal counsel after she had made her decision as the Attorney General on this matter was entirely inappropriate.

Opinion on Offence

148. Ms. Wilson-Raybould felt it was not an interference, because she never let it happen.

“Let's be clear about that. There was a concerted and sustained effort to attempt to politically interfere with my role as the Attorney General. As the Attorney General, I did not let that happen.”

149. When posed the question about the legality for someone to pressure the Attorney General to offer a special plea like this for political reasons or to pressure the Attorney General to intervene on a case, she said that in her opinion it was not illegal.

“In my opinion, it's not illegal. It is very inappropriate, depending on the context of the comments made, the nature of the pressure, the specific issues that are raised.”

²³ Definition: To await an event that is expected to happen, due to being causally linked to another event that has already been observed. <https://www.urbandictionary.com>



Gerald Butts

150. On March 6, 2019, Gerald Butts, former Principal Secretary to the Prime Minister testified before the Committee.

Full Transcript of Committee Meeting

Summary

151. Mr. Butts, as the point person in the Prime Minister Office (PMO), took responsibility for the breakdown in the trust that held the relationship between the Prime Minister and the former Attorney General.
152. Mr. Butts said that if the Attorney General had advised the Prime Minister at any time that attempts to contact her Office were improper and should cease immediately, something would have been done. She could have told people who raised it with her that they were close to or crossing a line.

“To you, Chair, and to members of this committee, I want you to know this. I know it from long personal experience with the Prime Minister: If something improper had been happening and that impropriety had been made known to him, the Prime Minister would have put a stop to it, even if the impropriety were his own. I deeply regret that the former minister's trust and faith in the many colleagues she served alongside for three and a half years has eroded so much, and I take my fair share of responsibility for that state of affairs.”

153. As for the rationale for his resignation, Mr. Butts said that if he had stayed on, his actions or inaction towards him could have been used to accuse the Prime Minister of playing favourites, that he was choosing his best friend over a Minister, so resigning was the right and necessary thing to do for the Office and for the Prime Minister.

Final Decision Maker

154. In his opening statement, Mr. Butts stated that the decision to direct the DPP to enter into negotiations toward a remediation agreement was the Attorney General's to make, and the Attorney General's alone. He stated:

“The Prime Minister gave and maintained clear direction to the PMO and PCO on this file. That direction was to make sure that the thousands of people whose jobs were and, it bears repeating, are at risk were at the



forefront of our minds at all times. If anything could be done to protect those innocent people, we were told to work with the professional public service to make sure that option would be given every due consideration.

He told us to keep in mind at all times that the decision to direct the DPP rests with the Attorney General, and the Attorney General alone. We implemented that direction faithfully and with integrity.”

Cabinet Shuffle

155. Mr. Butts also said that he would provide the committee with detailed evidence that the January Cabinet shuffle had nothing whatsoever to do with the SNC-Lavalin situation.

“The January cabinet shuffle had absolutely nothing to do with SNC Lavalin. In fact, I spent at least as much time working to prevent the shuffle from happening as I did preparing my advice for it.”

156. On December 12, Minister Brison approached Mr. Butts and Katie Telford to advise them that he was not running again and that he would advise the Prime minister later that day. Mr. Butts said he tried to talk him out of it, that the Prime Minister was happy with the team he had. Mr. Butts said that Minister Brison's departure would put them in a difficult position. In the span of a few months, they would go from holding all 11 seats in Nova Scotia with strong incumbents to having five of them open in the next election.
157. They found out after Christmas that Minister Brison would indeed resign. This left two large challenges. They needed a Nova Scotia Minister and a Treasury Board chair with ministerial experience. Mr. Butts said that all signs pointed to Minister Philpott moving to Treasury Board. She had been Vice-Chair, therefore had the experience to do the job.
158. The Prime Minister agreed, but was worried about the signal it would send to indigenous people. He wanted a person in Indigenous Services who would send a strong signal that the work would keep going at the same pace and that the file would have the same personal prominence for him. The right and perhaps only person who could do that was Minister Wilson-Raybould.
159. As for the Ministry of Justice and Attorney General, the Prime Minister chose Mr. Lametti because he is a distinguished McGill law professor, with graduate degrees from Yale and Oxford. He was also aware that it would raise eyebrows if he had three ministers in very large portfolios who all represented ridings on the subway



line in downtown Toronto. That was the context in which the Prime Minister made the decision to move Minister Wilson-Raybould. It had nothing whatsoever to do with SNC-Lavalin.

“The plan was a simple one, Mr. Chair: Philpott to Treasury Board, Wilson-Raybould to Indigenous Services; bring Lametti into Justice and Jordan into the new rural affairs portfolio that caucus had been lobbying for. It was a simple plan for a small, tidy shuffle.”

160. On January 6, the Prime Minister spoke to Minister Philpott in person, one-on-one, in his office. Minister Philpott advised the Prime Minister that Minister Wilson-Raybould was an excellent choice for Indigenous Services, but worried that she would see it as a demotion. Minister Philpott told the Prime Minister that she worried that Minister Wilson-Raybould might wonder if her move were connected to the “DPA issue”. The Prime Minister assured Minister Philpott that the shuffle had nothing to do with the file and asked her if she would help with the transition of her ministry to Minister Wilson-Raybould.
161. The Prime Minister shared with Mr. Butts that he was quite surprised by what Minister Philpott had said, however knew that was not the reason he was moving her, and he would not change his mind.
162. On January 7, 2019, the Prime Minister phoned the Minister of Justice and Attorney General to inform her that he was shuffling cabinet and that she would be part of that shuffle. Mr. Butts and Katie Telford were present. Ms. Wilson-Raybould said she was a little bit shocked because MOJAG was her dream job and told the Prime Minister she felt she was being shifted out of Justice for other reasons. The Prime Minister replied that he was doing this shuffle because he had to, and because he thought it was the best thing for the government and the country. He repeated that he wouldn’t be doing it at all if it weren’t for Minister Brison’s departure. He said that when you lose a team member, everyone else has to pitch in.
163. The former Attorney General turned down a cabinet portfolio. She said she could not do it for the reason that she had spent her life opposed to the *Indian Act*, and couldn’t be in charge of programs administered under its authority.
164. Mr. Butts advised the Prime Minister:

“I undertook to ask the Prime Minister to consider alternatives, but I also said I had never seen a minister turn down a ministry. The obvious question is, why did the Prime Minister not leave the minister in her old job if she



turned down a new one? My advice was this: If you allow a minister to veto a cabinet shuffle by refusing to move, you soon won't be able to manage cabinet. Cabinet invitations are not the product of shared decision-making. My advice was that the Prime Minister should not set the precedent that a cabinet minister could refuse a new position and therefore remain in one position for the life of the government."

Inappropriate Pressure from PMO

165. With regard to the DPA, Mr. Butts said that at no time did the Prime Minister or anyone in the government direct or ask the Attorney General to negotiate a remediation agreement. The PMO staff had the view that it would be appropriate for the Attorney General to seek independent advice from an eminent jurist or a panel of jurists because mainly, this remediation agreement was new and because of the extraordinary circumstances of a conviction.

"We also made clear that if the Attorney General accepted our proposal and took external advice, she was equally free to reject or accept that advice. It was not about second-guessing the decision; it was about ensuring that the Attorney General was making her decision with the absolute best evidence possible."

166. Mr. Butts' definition of what exactly constitutes pressure:

"According to the former minister's testimony, 11 people made 20 points of contact with her or her office over a period of close to four months. Four of these people never met with the Attorney General in person. In my case, the Attorney General solicited the meeting. That's two meetings and two phone calls per month for the minister and her office on an issue that could cost a minimum of 9,000 jobs. The minister confirmed last week that nobody ever asked her to make or not make the decision. You now know that the subject of those interactions was whether she would take independent, external advice on the matter."

167. Mr. Butts added, *"if any minister is made aware of something they think is this wrong, I believe they have an obligation to inform the Prime Minister soon after they become aware of it."*

PMO Notification of Decision

168. Mr. Butts said that they (PMO staff) just learned about the Attorney General's decision not to pursue a remediation agreement following DPP's decision on
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September 4. Since the Attorney General was out of the country until September 12, she made the final decision after weighing all of the public interest matters involved, and a new law, in just 12 days. (sic)

“In fact, learned for the first time while watching the former attorney general's testimony that she had made a final decision on September 16. My understanding is that nobody in the PMO or PCO knew that at the time either.

My understanding, which was informed by the public service and lawyers in the PMO, is that the Attorney General's power to direct the DPP extends until the time a verdict is rendered. My further understanding is that the Attorney General is free to take advice on the decision up until that point and is obligated to bring fresh eyes to new evidence. I believe the former attorney general confirmed this in her appearance here last week. The DPP considered the matter again itself in late September, when new evidence was presented by the company, and the DPP made a fresh decision on October 9, 2018”

December 5 Meeting at the Chateau Laurier

169. With regard to the December 5 meeting with Ms. Wilson-Raybould, Mr. Butts said he does not recall her saying that she wanted to talk about a number of things, including bringing up SNC and the barrage of people hounding at her and her staff.

December 18 Meeting

170. Regarding the meeting with Jessica Prince and Katie Telford on December 18, Mr. Butts does not think he used the word “solution”. His point to Ms. Prince was that if getting advice from someone like Beverley McLachlin constitutes political interference, then it must be her position that you can't have a conversation about this file.
171. Mr. Butts said the purpose of the meeting with Ms. Prince was that he sought to understand the former Minister's reticence on that file and on the concept of receiving independent advice. He made the case for doing so as a matter of sound public policy.
172. Pertaining to the “Harper-era” law he mentioned during the meeting on December 18, Mr. Butts said it was a chronological point, not a political one.



Cabinet Shuffle

173. Mr. Butts thought that in the context of the cabinet shuffle, that became very difficult. Mr. Butts thought that's when trust broke down.

“There was a point where the minister asked me directly if her departure from the ministry of justice and the Attorney General had anything whatsoever to do with the SNC-Lavalin matter, and I said no.”

174. With regard to Ms. Wilson-Raybould being offered the portfolio of Indigenous Services:

“As everyone in this committee knows, the splitting of INAC was a royal commission recommendation. When the Prime Minister, through the cabinet shuffle in 2017, I believe, in the summer—I could be wrong about that—created the new Indigenous Services portfolio, I felt he made a really strong point at the time of appointing Minister Philpott to that portfolio. She was obviously in her dream job in the Department of Health, but she took on that role because we had a collective understanding, as you folks know around the government, about how important the reconciliation agenda is. We wanted to make a very strong statement, the Prime Minister wanted to make a very strong statement, that the agenda was not going to slow down, which is why he wanted to appoint Minister Wilson-Raybould to the role.”

Deferred Prosecution Agreement

175. Mr. Butts did not think it was possible for the Attorney General to have made her decision if new evidence arose. His understanding was that up until the verdict, it is always appropriate to talk.

“What I said was that if she had made her mind up on a matter, she would not have had to disclose the content of the order. She could simply have informed us that her mind was made up and that any attempt to open the subject with her was inappropriate, and I think a fair evaluation of the events of the fall suggests that this was not the case—that further meetings were welcomed and solicited, and advice was also welcomed”

176. Mr. Butts said that there was no coordinated effort within the PMO to try to get the former Attorney General to change her mind on the SNC file. There was no pressure on the former Attorney General to approve a remediation agreement.



Inappropriate Pressure

177. Mr. Butts stated that if a Minister—any Minister, especially the Attorney General—spoke to him and said that a member of his staff or any other staff was pressuring them in an inappropriate way on any matter, he would have spoken to that staff member.

“Well, I think that 20 points of contact over four months are not a lot of contact, Mr. Rankin, and I think that if she felt at the time that the line had been crossed, then she should have been...she had lots of opportunities at her disposal to make that clear and put it on the record.”

The Right Honourable Justin Trudeau²⁴

178. On March 7, 2019, the Prime Minister attended a press conference during which he provided the following statement.

Extracts from the Transcript of the Press Conference Statement

(...) I would like to give you an update, based on what I have heard in the testimony. As you know, I met with Jody Wilson-Raybould and the clerk of the Privy Council on September 17th. During these meetings, I raised the SNC-Lavalin file. And as you heard, I reaffirmed that a decision was up to the Attorney General to make. Yes, I did mention that I was the member for Papineau and I had the great honour to represent Papineau and I have done this for more than 10 years. I care about the families, workers and students in my riding. But this comment wasn't partisan in nature.

It is our job as parliamentarians to defend the interests of the communities we were elected to represent. To be the voice of those communities in Ottawa. I stressed the importance of protecting Canadian jobs and re-iterated that this issue was one of significant national importance. Ms. Wilson-Raybould left that meeting, saying that she would speak with her Deputy Minister and the Clerk about this matter but that the decision was hers alone.

In the months that followed that meeting, I asked my staff to follow up regarding Ms. Wilson-Raybould's final decision. I realize now that in addition, I should have

²⁴ This statement was not made before the Standing Committee on Justice and Human Rights.



done so personally, given the importance of this issue and the jobs that were on the line. In recent days I have reviewed the testimony from the Justice Committee, including that given by Ms. Wilson-Raybould, Gerald Butts, the clerk of the Privy Council and the deputy minister of Justice and deputy attorney general, recalling various interactions.

Each of these interactions was a conversation among colleagues about how to tackle a challenging issue. Each came at a time when my staff and I believed that the former Minister of Justice and attorney general was open to considering other aspects of the public interest. However, I now understand that she saw it differently.

What has become clear through the various testimonies is that over the past months there was an erosion of trust between my office, and specifically my former principal secretary and the former Minister of Justice and attorney general. I was not aware of that erosion of trust. As Prime Minister and leader of the federal ministry, I should have been.

After several witnesses appeared it has become clear over the past few months that confidence has eroded between my office, my former principal secretary and the former AG. I was not aware of this erosion of trust and as Prime Minister and head of the cabinet, I should have been aware of it.

Many people have been sharing their advice, perspectives and experience with me over these past weeks. What is clear is that there are many different styles of and approaches to leadership. There's one theory that the most effective leaders are adversarial and almost tough to a fault. That's not what I believe.

I believe that real leadership is about listening, learning and compassion. It's about the push and pull of robust discourse and honest debate. It's about transparency and accountability. One of the things central to my leadership is fostering an environment where my ministers, caucus and staff feel comfortable coming to me when they have concerns.

Indeed, I expect them to do so. In Ms. Wilson-Raybould's case, she did not come to me, and I wish she had. Because, if it's a real relationship and we truly are a team, we can always acknowledge when we need to make adjustments. Things won't always be perfect, but there should remain a constant level of openness and dialogue. And that dialogue is crucial on a file as important as justice.



(...) I've spent my entire political career fighting for justice, and for people. Social justice. Protecting Canadian jobs. Since I started politics, I've always worked to the best of my abilities to represent people faithfully. The SNC-Lavalin file was no exception to this rule.

SNC-Lavalin is a company that employs 9,000 Canadians across this country. They create many thousands of spinoff jobs and peripheral industries. They directly or indirectly put food on the table for countless families as one of Canada's major employers. They are also a company facing serious criminal charges.

The context is a tough one, with potential job losses in the thousands. These are the types of situations that make governing a challenge. And when there's an erosion of trust within the people involved, it further complicates what is already a difficult decision for the attorney general.

This has been a tough few weeks. Canadians expect and deserve to have faith in their institutions and the people who act within them. Almost every day as Prime Minister I learn new things. So I can tell you without a doubt that I have taken and will continue to take many lessons from these recent days and weeks.

We will be seeking external expert opinions on a number of things as they relate to the set of issues raised over the past few weeks. This includes the dual role of the minister of justice and the attorney general as well as the operating policies and practices across cabinet, the public service and political staff as they relate specifically to judicial matters but also more general.



RCMP Assessment (Probe)

Interviews

Jody Wilson-Raybould

179. On September 9, 2019, RCMP investigators obtained a statement from Ms. Wilson-Raybould. In her statement, Ms. Wilson-Raybould provided a chronological account of the various interactions with government colleagues in relation to the matter. The essence of those interactions are documented in the analysis section of this report and included in the timeline.

[Summary](#)
[Transcript](#)
[Speaking Notes – Ms. Wilson-Raybould](#)
[Submission to Justice Committee](#)
[Justice Committee Testimony Transcript](#)

180. In December 2019, RCMP investigators received a document disclosure from Ms. Wilson-Raybould. The disclosure consisted of reference documents and communications in relation to the matter. The full disclosure has been included in the link below. Additional links to specific dates has been included in the analysis portion of this report (See Elements of the Offences)

[Documents disclosure](#)

181. In February 2020, RCMP investigators obtained a second statement from Ms. Wilson-Raybould in order to cover information contained within the December disclosure of documents.

[Summary](#)
[Transcript](#)

Nathalie Drouin

182. In October 2019, RCMP investigators obtained a statement from Nathalie Drouin. In her statement, Ms. Drouin provided her account of her interactions with Ms. Wilson-



Raybould and colleagues at the government. During the interview, Ms. Drouin provided the 3 below mentioned documents.

[Summary](#)
[Transcript](#)
[The power of the Attorney General of Canada to issue directives \(...\)](#)
[Answers to questions regarding memorandum](#)
[Memorandum regarding the impact of a conviction on SNC-Lavalin](#)

Jessica Prince

183. In January 2020, RCMP investigators received a disclosure from Jessica Prince containing various resource materials, notes and communications related to the matter. It should be noted that the disclosure has been extensively vetted given the parameters of the waiver and authorization. The full disclosure has been included in the link below. Additional links to specific dates has been included in the analysis portion of this report (See Elements of the Offences)

[Documents from Jessica Prince](#)
[Text messages from Jessica Prince](#)

184. In October, 2020, RCMP investigators obtained a statement from Jessica Prince. Ms. Prince provided a chronological account of the interactions she had with government colleagues.

[Summary](#)

Jane Philpott

185. In January 2020, RCMP investigators obtained a statement from Jane Philpott in which she recounted her interactions with Ms. Wilson-Raybould and government colleagues. She also provided additional context as it pertained to the government commitment in helping SNC-Lavalin regarding the attribution of government contracts.

[Summary](#)



Timeline

186. The following is a timeline of relevant events:

[Note: In order to give context, some information originating from open source articles were inserted to the chronology of events.]

Chronology of Events²⁵

February 19, 2015 — The RCMP charged SNC-Lavalin and two of its subsidiaries, SNC-Lavalin Construction Inc. and SNC-Lavalin International Inc., with one count of fraud and one count of corruption. Police alleged that, between 2001 and 2011, SNC-Lavalin bribed officials in Libya to the tune of nearly \$47.7 million, and that the company defrauded various Libyan organizations of about \$129.8 million. SNC-Lavalin later plead not guilty.

February 11, 2016 — Less than four months after the Liberals' win, SNC-Lavalin started lobbying Justin Trudeau's Prime Minister's Office on the subject of "*justice and law enforcement*." There were 18 interactions between PMO staff and SNC-Lavalin on the subject over the next three years, according to the federal lobbyist registry. The company also lobbied six Liberal Cabinet Ministers and dozens more government officials on the subject over that time span.

September 25, 2017 — The federal government started public consultations about introducing remediation agreements, also called "*deferred prosecution agreements*", to the Canadian justice system. Like plea deals involving individuals, these agreements suspend criminal prosecutions if the corporation agrees to pay fines and co-operate with authorities. A criminal conviction would bar SNC-Lavalin from bidding on Canadian federal contracts for 10 years.

March 27, 2018 — The Liberal government tabled a 582-page omnibus bill that included the introduction of remediation agreements. After the agreements are briefly discussed at the House of Commons Finance Committee, the bill passed and became law as Parliament broke for the summer.

August 14, 2018 -- Ms. Prince received a phone call from Ben Chin who said that he had been speaking to SNC and he was "wondering why the DPA with them was dragging. Their perception was that the process was taking way too long and he wanted to know if there was anything we can do to hurry that along. Mr. Chin stressed that it was extra important for them to keep this relationship positive." Ms.

²⁵ Part of this chronology was compiled from the news Article from the Toronto Star dated February 15, 2019.



Prince responded that they would not be able to provide any kind of updates on whether a DPA was being contemplated in a given case, nor could they provide updates on confidential negotiations that might be underway. They indicated that a status update would be perceived as political interference while reiterating the independence of the PPSC.

September 4, 2018 – Kathleen Roussel, the Director of Public Prosecutions (DPP) sent a memorandum to the Attorney General, Jody Wilson-Raybould, informing her of her decision to not negotiate a remediation agreement with SNC-Lavalin.

September 6, 2018 – The Attorney General Chief of Staff, Jessica Prince, received an email and then spoke on the phone with Ben Chin, Minister Morneau's Chief of Staff. Mr. Chin was asking what they would do to address the SNC-Lavalin situation saying that if they don't get a DPA, they will leave Montreal, and it's the Québec election right now, so they can't have that happen. On or about this day, Ms. Wilson-Raybould requested a one-on-one meeting with the Prime Minister on another matter of urgency.

September 7, 2018 – Ms. Prince spoke by phone with the Deputy Minister about the call she had received from Ben Chin and her understanding that the Department was working on a note regarding the role of the Attorney General vis-à-vis the PPSC. The Deputy gave Ms. Prince a quick rundown of what she thought some options might be (e.g. informally call Kathleen Roussel, set up an external review of their decision, etc.).

That same day, Emma Carver shared her note with Ms. Prince via email. It is addressed to PMO.

Francois Giroux and Emma Carver met with the Deputy Minister. Some excerpts of the s. 13 note were read, but the Deputy Minister did not want to be provided with a copy of the s. 13 note. The Deputy Minister indicated that we could ask PPSC for more information or for a reconsideration of its decision with or without an outside panel. The Deputy Minister also asked whether PPSC had given due consideration to the issue of international debarment.

September 8, 2018 – Ms. Drouin shared a draft note with Jess on the role of the Attorney General.

September 9, 2018 – At Francois Giroux's urging, Ms. Prince asked the Deputy to clarify one of the options in her note (i.e. engage someone outside the office of the DPP to assess the case and determine if the criteria for a DPA were met). Specifically, we asked whether this had ever been done with the PPSC before and



also, what the mechanism would be in order to do this (i.e. how would someone external get access to the PPSC's files?).

September 11, 2018 – Francois Giroux has a call with Ben Chin, who noted that Frank Iacobucci acts for SNC-Lavalin. Mr. Chin said that SNC has been informed by the PPSC that it cannot enter into a DPA due to the size of the transgression and the level of involvement of senior employees at SNC. Mr. Chin added that if SNC does not have a level of certainty, it will have to move out of Canada. He added that SNC was prepared to agree to the following terms: \$400 million to the Government of Canada, the company would be absolved but individual employees could still be prosecuted. He stated that Kevin Lynch would be absolved but individual employees could still be prosecuted. He stated that Kevin Lynch has said that PPSC's letter did not clearly tell them why SNC-Lavalin cannot enter into a DPA and was asking now what to do. Mr. Chin said that SNC-Lavalin would be okay if it knew that is not disqualified from entering into a DPA.

September 16, 2018 – Ms. Wilson-Raybould's Chief of Staff had a phone call with Mathieu Bouchard and Elder Marques, both Senior Advisors at the Prime Minister's Office. They wanted to discuss SNC-Lavalin and the fact that the individual Crown prosecutor wanted to negotiate an agreement while the director did not. They said that they understand they can't direct but they think that they should be able to find a more reasonable solution. They also mentioned the Québec election context. They asked Ms. Prince to follow-up directly with Ms. Wilson-Raybould on this matter.

September 17, 2018 – Ms. Jody Wilson-Raybould met with Prime Minister Trudeau and the Clerk of the Privy Council, Michael Wernick. The Prime Minister asked Ms. Wilson-Raybould to help out, to find a solution for SNC-Lavalin, citing that if there were no DPA, there would be many jobs lost and that SNC would move from Montreal.

Ms. Wilson-Raybould told the Prime Minister that her mind was made and that she would not interfere with the decision of the DPP.

The Clerk of the Privy Council stated the need for a DPA saying that SNC would move to London if this happens and there was an upcoming election in Québec.

The Prime Minister also emphasized the election in Québec and that he is an MP in Québec, the member for Papineau.

In response, Ms. Wilson-Raybould asked the Prime Minister if he was interfering with her role, with her decision as the Attorney General to which Prime Minister Trudeau answered *"No, no, no – we just need to find a solution"*



Ms. Wilson-Raybould explained her position in this matter to the Clerk and the Prime Minister and that she would have a further conversation with her deputy and with the clerk but that those conversations would not change her mind.

September 18, 2018 — The Clerk of the Privy Council met with SNC-Lavalin CEO Neil Bruce and two other company officials. SNC-Lavalin also met with Finance Minister Bill Morneau, Ben Chin, and Deputy Finance Minister Paul Rochon. The Globe and Mail later reported SNC-Lavalin warning on September 18 that the Montreal-based company might have to move to Britain or could face a takeover bid if it was not able to enter into a remediation agreement with prosecutors.

September 19, 2018 – Ms. Wilson-Raybould met with the Clerk of the Privy Council. The Clerk brought up job losses and that it was not about the election in Québec or the Prime Minister being a Montreal MP. He said that the Prime Minister was very concerned about the confines of her role as the Attorney General and the DPP.

Ms. Wilson-Raybould told the Clerk that if SNC would send a letter to her expressing their concerns, it would be permissible and she would forward it to the Director of Public Prosecutions.

Later that day, Ms. Wilson-Raybould's Chief of Staff received a call from Elder Marques and Mathieu Bouchard seeking an update on what was happening regarding the DPA since *"we don't have a ton of time"*. They also raised the idea of an *"informal reach out"* to the DPP. The Chief of Staff said that Ms. Wilson-Raybould was not comfortable with it, as it looked like and probably did constitute political interference. They said that they *"will regroup and get back to you on that"*.

Still on the same day, Ms. Wilson-Raybould spoke to Minister Morneau on this matter. He stressed the need to save jobs as Ms. Wilson-Raybould told him that engagements from his office to hers on SNC had to stop, that they were inappropriate.

September 20, 2018 – Ms. Wilson-Raybould's Chief of Staff had a phone call with Mr. Chin and Prime Minister Justin Trudeau about SNC and DPAs.

October 9, 2018 — The federal public prosecutor's office wrote to SNC-Lavalin, informing the company that no mediation deal will be offered. In a press release the next day, SNC-Lavalin said it strongly disagreed with the decision and vowed to keep pushing for remediation. The company later asked a Federal Court Judge to force prosecutors to reconsider.



October 10, 2018 — Québec Premier François Legault raised his concerns with Prime Minister Trudeau at the Francophonie summit in Armenia, asking him “*to make sure this situation is settled as quickly as possible,*” (according to Premier Legault’s Office).

October 14, 2018 – Scott Brison contacted Ms. Wilson-Raybould in order to inquire if something could be done in relation to SNC-Lavalin.

October 15, 2018 — Prime Minister Trudeau received a letter from SNC-Lavalin CEO Neil Bruce, in which he raised concerns about the remediation agreements.

October 18, 2018 – Mathieu Bouchard called Ms. Wilson-Raybould’s Chief of Staff to ask if they looked at the option of seeking an external legal opinion on the DPP’s decision not to extend an invitation to negotiate a DPA.

October 19, 2018 – SNC-Lavalin filed a Federal Court application seeking to quash the DPP’s decision to not enter into a remediation agreement with them. The matter is now before the Courts and a judge was being asked to look at the DPP’s discretion.

October 26, 2018 – Ms. Wilson-Raybould’s Chief of Staff spoke to Mathieu Bouchard who said that even if SNC had now filed a Federal Court application, he was still interested in an external legal opinion idea on whether the DPP had exercised their discretion properly and then on the legal application itself, the Attorney General could intervene and seek a stay of proceedings, given that she was awaiting a legal opinion.

When the Chief of Staff said that this would obviously be perceived as interference, Bouchard said that if, six months from the elections, SNC announced they were moving their headquarters out of Canada, it would be bad. He said “*we can have the best policy in the world, but we need to get re-elected*”.

October 29, 2018 — The preliminary inquiry into corruption and fraud charges against SNC-Lavalin began.

November 11, 2018 — SNC-Lavalin CEO, Neil Bruce, met with Ben Chin, Chief of Staff to Finance Minister Bill Morneau, and with PMO policy advisor Mathieu Bouchard.

November 13, 2018 – The Deputy Minister of Justice delivered to Jessica Prince a paper copy of a memorandum entitled 'SNC-Lavalin' addressing the question of SNC's criminal prosecution which the clerk of the Privy Council had asked the



Department to prepare. With regards to the fact that Nathalie Drouin, her Deputy Minister, was instructed not to provide this memorandum to the PCO, Ms. Wilson-Raybould replied that she has no recollection of having given this instruction saying that given that this request came directly from the clerk, it did not make sense to her that she would have instructed not to share it.

November 22, 2018 – Ms. Wilson-Raybould met with Mathieu Bouchard and Elder Marques at the request of the Prime Minister's Office. Again, Mathieu Bouchard was trying to tell Ms. Wilson-Raybould that there were options and that they needed to find a solution. Ms. Wilson-Raybould took them through the DPP Act and talked to them about the prosecutorial independence being a constitutional principle and that they were interfering.

Mr. Bouchard and Mr. Marques continued to plead their case saying that if she was not sure about her decision they could hire an eminent person to advise her.

In Ms. Wilson-Raybould's view, that was enough, the communications and efforts to make her change her mind on this matter should have stopped. Various officials urged her to take partisan political considerations into account, which was clearly improper for her to do so.

December 5, 2018 – Ms. Wilson-Raybould met with Mr. Butts, Prime Minister Trudeau's Principal Secretary. She told Mr. Butts that everyone needed to stop talking to her about SNC and stop hounding her staff. Mr. Butts then took over the conversation saying how they needed to find a solution on the SNC stuff. He said she needed to find a solution.

Ms. Wilson-Raybould answered by referring to the preliminary inquiry and the judicial review.

Mr. Butts made reference to the statute having been passed by former Prime Minister Harper and that he did not like that; to which she answered "*that's the law we have*".

December 7, 2018 – Ms. Wilson-Raybould received a letter from the Prime Minister dated December 6, with a letter from the CEO of SNC- Lavalin, dated October 15, in attachment. She responded that the matter is before the Courts, so she cannot comment on it, and that the decision regarding a DPA was one for the DPP, which is independent from her office.

December 14, 2018 – Ms. Wilson-Raybould's response to the PM's letter of December 6 goes out, effectively acknowledging the letter, noting that the matter is



before the courts, so she can't comment on it and that the decision re: a DPA was one for the DPP, which is independent of her office.

December 18, 2018 – Ms. Wilson-Raybould's Chief of Staff was urgently summoned to meet with Gerry Butts and Katie Telford, Chief of Staff for Prime Minister Trudeau, to discuss SNC. They wanted to know where Ms. Wilson-Raybould was in terms of finding solutions. They felt like the issue was getting worse and that she was not doing anything. They referenced a possible call with the Prime Minister and the Clerk the next day.

December 19, 2018 – Ms. Wilson-Raybould had a phone call with the Clerk from her home. The Clerk was calling about the DPA/SNC and wanted to pass on where the Prime Minister was at. He spoke about the possibility of SNC selling out to somebody else, moving their headquarters and job losses. He said that the Prime Minister wanted to say he had tried everything he could within the legitimate toolbox.

The Clerk said that the Prime Minister was quite determined, quite firm and wanted to know why the DPA route, which Parliament provided, was not being used. The clerk stated *"I think he is going to find a way to get it done one way or another. So, he is in that kinda mood and I wanted you to be aware of it."*

The Clerk said the Prime Minister wanted to give him or Ms. Wilson-Raybould advice on this if she wanted to feel more comfortable not doing anything inappropriate or outside the frame. Ms. Wilson-Raybould answered that she was 100 percent confident that she was doing nothing inappropriate.

The Clerk said he was going to report back to the Prime Minister before he leaves and that the Prime Minister was in a pretty firm frame of mind about this and that he was a bit worried.

Ms. Wilson-Raybould answered that she was trying to protect the Prime Minister from political interference or perceived political interference. The clerk replied that the Prime Minister does not have the power to do what he wants, that all the tools are in her hands.

January 7, 2018 – Ms. Wilson-Raybould received a call from the Prime Minister who informed her that she was shuffled out of her role as the Minister of Justice and Attorney General of Canada. Ms. Wilson-Raybould believes that the reason was because of the SNC matter.

January 11, 2018 – The Friday before the shuffle, the Clerk called Ms. Wilson-Raybould's former Deputy Minister and informed her that she will be getting a new



Minister. The Clerk told the Deputy Minister that one of the first conversations the new Minister will be expected to have with the Prime Minister will be on SNC-Lavalin, that the new Minister will need to be prepared to speak to the Prime minister on this file.

January 14, 2019 — Prime Minister Trudeau shuffled his cabinet. He moved Ms. Wilson-Raybould out of Justice and into Veterans Affairs, an assignment widely seen as a demotion. Later in the day, the Vancouver MP published an unusual 2,000-word [statement](#) underscoring her achievements and how she strove to be independent from partisan considerations as Canada's attorney general. *"It is a pillar of democracy that our system of justice be free from even the perception of political interference,"* she writes.

February 1, 2019 — SNC's appeal seeking a remediation deal is heard in a Montreal courtroom.

February 7, 2019 — The Globe and Mail published a bombshell report citing unnamed sources who alleged officials in Trudeau's office pressured Ms. Wilson-Raybould to overrule federal prosecutors by offering a remediation agreement to SNC-Lavalin. Prime Minister Trudeau denied any political interference whatsoever. Ms. Wilson-Raybould refused to confirm or deny the allegations, and refused to publicly back the Prime Minister's version, citing solicitor-client privilege.

February 10-11, 2019 — Prime Minister Trudeau spoke to Ms. Wilson-Raybould twice in Vancouver, but she failed to accompany him to a public Vancouver event on February 11 attended by other B.C. MPs and Ministers.

February 11, 2019 — Federal Ethics Commissioner Mario Dion launched an investigation into whether discussions on the SNC-Lavalin case breached Canada's conflict of interest law. Mr. Dion replied to an NDP formal complaint and advised Prime Minister Trudeau that he has "*reason to believe*" section 9 of the *Conflict of Interest Act* may have been broken. It prohibits a public office holder from trying to influence a decision to improperly advance another person's private interests.

February 11, 2019 — Prime Minister Trudeau told reporters he has full confidence in Ms. Wilson-Raybould and suggested his cabinet is united, as her presence in cabinet "*should speak for itself.*" Within hours, Ms. Wilson-Raybould informed Prime Minister Trudeau she was tendering her resignation from cabinet, and retained former Supreme Court Justice Thomas Cromwell as counsel.

February 12, 2019 — Ms. Wilson-Raybould released her resignation letter to the public. Prime Minister Trudeau in Winnipeg said he was "*surprised and*



disappointed” and that she failed to flag to him any concerns about undue pressure or political interference. He said she had an obligation as Attorney General to raise it with him and never did, choosing instead to remain in his cabinet. Prime Minister Trudeau held an emergency conference call to reassure his MPs that no political pressure was put on her.

February 13, 2019 — Liberal MPs block the Opposition effort to call Ms. Wilson-Raybould to testify about the affair before the House of Commons Justice Committee.

February 15, 2019 — Prime Minister Trudeau said the following about his conversation with Ms. Wilson-Raybould about SNC-Lavalin on September 17, 2018: *“There were many discussions going on, which is why Jody Wilson-Raybould asked me if I was directing her or going to direct her to take a particular decision. I of course said no, it was her decision to make and I expected her to make it. I had full confidence in her role as attorney general to make the decision.”*

February 18, 2019 — Prime Minister Trudeau’s Principal Secretary, Gerry Butts, resigned from the PMO. He denied that he or anyone in the PMO *“pressured Ms. Wilson-Raybould”* to make a decision about the SNC-Lavalin prosecution.

February 19, 2019 — One week after she resigned from cabinet, Ms. Wilson-Raybould attended the Liberal government’s cabinet meeting in Ottawa. Hours later, the Liberal controlled Justice Committee agreed to invite her to testify at the committee. She told reporters she is still working with her lawyer to determine what she can say publicly.

February 20, 2019 — Almost all Liberal MPs in the House of Commons defeated a NDP motion to launch a public inquiry and called on Prime Minister Trudeau to waive solicitor-client privilege so that Ms. Wilson-Raybould is free to speak publicly. During the vote, Ms. Wilson-Raybould told the House of Commons that she wanted her chance to *“speak my truth.”*

February 21, 2019 — Michael Wernick, the Clerk of the Privy Council, strongly denied allegations that Ms. Wilson-Raybould was improperly pressured to intervene in the SNC-Lavalin prosecution. *“There was no inappropriate pressure put on the Minister at any time”.*

February 25, 2019 — Prime Minister Trudeau’s cabinet issued an order-in-council to waive cabinet confidence and solicitor-client privilege for Ms. Wilson-Raybould in relation to discussions she had on SNC-Lavalin. This freed her to speak publicly about what happened, even though it did not waive privilege that covered



conversations Ms. Wilson-Raybould had with Kathleen Roussel, Director of Public Prosecutions, concerning SNC-Lavalin.

February 26, 2019 — Ms. Wilson-Raybould sent a letter to Justice Committee Chair Anthony Housefather, in which she said the Trudeau cabinet's order-in-council that allowed her to speak about the SNC-Lavalin affair *"falls short of what is required."* She said it only covered conversations that occurred when she was Attorney General, and did not free her to speak about *"communications"* while she was Veterans' Affairs Minister *"and in relation to my resignation from that post or my presentation to cabinet after I had resigned."* Nevertheless, she agreed to testify at the committee the next day. Mr. Housefather replied in a [letter](#) inviting Ms. Wilson-Raybould to testify before the Committee.

February 27, 2019 — Prime Minister Trudeau defended the remaining restrictions on Ms. Wilson-Raybould and said she'll be able to tell her story to the Ethics Committee and the Justice Committee which are looking into *"whether or not the Attorney General underwent pressure or inappropriate pressure."* Ms. Wilson-Raybould testified at the Justice Committee.



Calendar Timeline

187. The purpose of this timeline is to provide a visual on the various interactions between Ms. Wilson-Raybould, her staff and other government officials as it pertains to the SNC-Lavalin matter. In addition, other interactions involving SNC-Lavalin and government officials, as well as significant dates, were also noted in order to provide additional context.

| September 2018 | | | | | | |
|---|---|---|---|---|--------|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | | | | | 1 |
| | | | | | | |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | DPP advised the AG of the intention not to invite SNC for a DPA (Section 13 Notice) | | Phone call between Chin and Prince | | |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| | | Phone call between Francois Giroux and Ben Chin | | | | |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| Phone call between Prince, Bouchard and Marques | Meeting between PM, Wernick and Wilson-Raybould. Advised PM of decision not to interfere in SNC | Meetings between Wernick, Morneau and SNC-Lavalin | Meeting between Wernick and Wilson-Raybould | Phone calls between Prince, Chin and To | | |
| | | | Discussion between Wilson-Raybould and Morneau | | | |
| | | | Phone call between Prince, Bouchard and Marques | | | |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| | | | | | | |
| 30 | | | | | | |
| | | | | | | |



| October 2018 | | | | | | |
|---|---|--|-----------|---|---|-----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | 1 Québec provincial election | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 DPP informed SNC that no invitation will be made regarding DPA | 10 | 11 | 12 PCO receives opinion from MOJAG on powers to intervene | 13 |
| 14 Mr. Brison contacted Ms. Wilson-Raybould via text messages | 15 A letter from SNC is sent to the PM and a meeting is requested with the PM | 16 | 17 | 18 Phone call between Prince and Bouchard regarding a second legal opinion on DPA | 19 Court motion from SNC-Lavalin to quash the DPP's decision | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 Phone call between Prince and Bouchard regarding a second legal opinion on DPA | 27 |
| 28 | 29 Court – Preliminary inquiry into SNC-Lavalin charges | 30 | 31 | | | |



| November 2018 | | | | | | |
|--|-----------|--|---|---|--|-----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | | | 1 | 2 | 3 |
| | | | | SNC requested a legal opinion from Mr. Major (former SCC Justice) | Legal opinion from Mr. Iacobucci given to Scott Brison | |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| | | | | | | |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| Meetings between SNC, Chin and Bouchard | | SNC received legal opinion from Mr. Major. This was delivered to Morneau and senior advisors at PMO. | | Morneau Brison meet with Lynch in China | | |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| Meeting Bouchard, Telford, Butts to brief on SNC | | PCO prepared a memorandum for Mr. Trudeau in response to SNC letter of Oct 15 | | Meeting between Wilson-Raybould, Bouchard and Marques regarding options and solutions | | |
| 25 | 26 | 27 | 28 | 29 | 30 | |
| | | Meeting between Bouchard, Marques and Prichard (SNC) to discuss legal opinions | Meeting Iacobucci and Trudeau (unrelated meeting) | | | |



| December 2019 | | | | | | |
|---------------|--------|--|--|----------------------|---|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | | | | | 1 |
| | | | | | | |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | | Meeting Bouchard, Marques and Butt – pre- meeting brief on SNC | SNC Board meeting | Wilson- Raybould received a letter from PM with letter from SNC-Lavalin in attachment | |
| | | | Telephone call between Bouchard, Marques Prichard and Iacobucci | | | |
| | | | Meeting between Wilson- Raybould and Gerry Butts (PMO) | | | |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| | | | | | | |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| | | Meeting between Prince, Telford and Butts | Meeting between Trudeau, Telford, Butts and Wernick | | | |
| | | | Phone call between Wilson- Raybould and Wernick | | | |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| | | | | | | |
| 30 | 31 | | | | | |
| | | | | | | |



| January 2019 | | | | | | |
|--------------|---|---------|-----------|----------|---|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | 1 | 2 | 3 | 4 | 5 |
| | | | | | | |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| | Phone call between PM and Wilson-Raybould regarding Cabinet shuffle | | | | Phone call between Wernick and Drouin regarding briefing to Lametti | |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | Cabinet shuffle – Wilson-Raybould to Veterans Affairs | | | | | |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| | | | | | | |
| 27 | 28 | 29 | 30 | 31 | | |
| | | | | | | |



External Reports Review

Review of the Roles of the Minister of Justice and Attorney General of Canada

Mandate

188. On March 18, 2019, the Prime Minister of Canada appointed the Honourable Anne McLellan to review and advise on the roles of the Minister of Justice and Attorney General of Canada. Ms. McLellan was mandated to:

- (a) *Assess the structure which has been in place since Confederation of having the roles of the Minister of Justice and Attorney General of Canada held by the same person, to determine whether there should be any legislative or operational changes to this structure; and,*
- (b) *Review the operating policies and practices across the Cabinet, and the role of public servants and political staff in their interactions with the Minister of Justice and Attorney General of Canada.*²⁶

Report and Recommendations

189. On June 28, 2019, Ms. McLellan released her report entitled “Review of the Roles of the Minister of Justice and Attorney General of Canada” which contained an overview of the current Canadian framework, an evaluation of the current model and proposed recommendations. Ms. McLellan commented that while the SNC-Lavalin matter was a catalyst for her mandate, she did not undertake an inquiry into the matter.

*“I am not undertaking an inquiry into the SNC Lavalin matter. However, I am mindful that I have been given this mandate due to a perceived absence of clarity about the relationship between the government and the Attorney General and Minister of Justice in that matter.”*²⁷

190. Ms. McLellan reached the conclusion that there is no system that fully protects against partisan interference when it comes to managing prosecutorial decision while providing for public accountability. She did not believe that further structural change nor a division of the roles were necessary in order to protect prosecutorial independence and/or promote public confidence in the system. She identified

²⁶ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 6

²⁷ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 6



several factors that all play a vital role in preserving these principles. Ms. McLellan provided the following eight recommendations in order to enhance the current system.

- (a) That the Attorney General of Canada develop a detailed protocol to govern ministerial consultations in specific prosecutions;
- (b) Amendments to the *Public Prosecution Service of Canada Deskbook* in order to provide clarifications on section 13 notices;
- (c) That Attorneys General be encouraged to explain their reasons when using specific powers under the DPP Act, or when declining to do so, in cases raising significant public interest;
- (d) The creation of education programs directed at parliamentarians and Cabinet members on the role of the AG;
- (e) Amendments to the *Open and Accountable Government* to reflect the unique role of the Attorney General and to highlight the importance of prosecutorial independence and the rule of law;
- (f) Changes to the oath of office for the Minister of Justice and Attorney General of Canada to reflect the AG's unique role in upholding the rule of law and the independence of that office;
- (g) Amendments to the *Department of Justice Act* to make explicit the constitutional independence of the Attorney General in the exercise of their prosecutorial authority, confirm that their legal advice to Cabinet must be free of partisan considerations, and make explicit that these obligations take precedence over their other duties; and
- (h) Title change from Department of Justice Canada to Department of Justice and Office of the Attorney General of Canada.

Observations

191. The review of Ms. McLellan's report has revealed additional information on key elements which will be presented in this section. Please refer to Ms. McLellan report for additional details.



Legislative Structure

192. As it relates to the current legislative framework, Ms. McLellan referenced the *Director of Public Prosecutions Act* as a strong structural protection against political interference. She also identified the integrity of the Attorney General as an essential and probably the most important element in the protection of the rule of law.

Dual Roles and Cabinet Membership

193. Ms. McLellan elaborated on how this dual role, dating back to Confederation, was deliberately chosen as it provides for important synergies and allow this person to gain a wide perspective over the entire system.
194. Ms. McLellan was of the opinion that removing the Attorney General from Cabinet would also affect the credibility and quality of legal advice they provide. She was of the view that, as a Cabinet member, the Attorney General would be better informed and would better understand the political context in which they operate.

Decisions of the DPP

195. In her review, Ms. McLellan consulted with former AGs as it relates to decisions from the DPP. They all agreed that it would be inappropriate for them to overrule the DPP on specific prosecution cases unless there were exceptional circumstances.²⁸

Section 13 Notices

196. As indicated in the report, the DPP Act does not have any rules about what information must be included in section 13 notices. They are issued on matters of general interest which for instance could be debated in the House of Commons. Ms. Roussel provided insight into these section 13 notices by indicating that they are usually short, setting out the basic facts of the case, the decision and the underlying reasons. There might be several section 13 notices issued for a specific case depending on its evolution. Most section 13 notices do not prompt the Attorney General to take any further action. However, the Attorney General may contact the DPP in order to seek additional information on the case.

“The Attorney General may nevertheless contact the DPP to learn more about the evidence in the case or the reasons for the decision the DPP has made. The Attorney General can ask the Deputy Minister of Justice for advice on their options and/or on the merits of the DPP’s position. If the Attorney General requests, the Deputy Minister may contact the DPP on their behalf. The Attorney General can, in their discretion, also seek a

²⁸ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 17



second opinion, either from the Department of Justice, or from an outside expert retained for that purpose.”²⁹

“The directive requirement does not prevent an Attorney General and DPP from discussing the DPP’s decision. These discussions could involve new facts or public interest considerations, and might lead the DPP, of their own accord, to reconsider.”³⁰

Integrity of the AG

197. It seemed obvious by reading Ms. McLellan’s report that the integrity of the Attorney General is critical to the protection of the rule of law and principles governing prosecutorial independence. As indicated, knowledge of the rules and conventions is not sufficient to eliminate the pressure or direction to the AG. This is where the integrity of the Attorney General is essential and must educate, remind their colleagues about those fundamental principles and resist the pressure.³¹

Discussions on Public Interest

198. During her consultation with former Attorney General and heads of prosecution services, Ms. McLellan established that only rarely would an Attorney General engage in consultations to determine the public interest in specific prosecutions as this is a practice generally conducted by the DPP. Despite being rare, consultations by an Attorney General are permitted to determine public interest considerations. However, this consultation process must not be used as a way to intimidate or direct the Attorney General in reaching a decision. This consultation process was referred to in the Cabinet manual, Open and Accountable Government:

“The Attorney General and the DPP are bound by the constitutional principle that the prosecutorial function be exercised independently of partisan concerns. However, it is appropriate for the Attorney General to consult with Cabinet colleagues before exercising his or her powers under the DPP Act in respect of any criminal proceedings, in order to fully assess the public policy considerations relevant to specific prosecutorial decisions.”

199. Ms. McLellan commented on the fact that there is little guidance as it relates to the process governing ministerial consultation. While the Shawcross doctrine gives legitimacy for an Attorney General to consult with colleagues, it does not provide or explain the process for such consultations.

²⁹ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 19

³⁰ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 20

³¹ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 25



“Indeed, as I heard a number of times in my own consultations, the Shawcross Doctrine does not answer the questions of who, what, when, where, and how these consultations ought to take place.”

200. Ms. McLellan reiterate the need for Canada to establish a protocol addressing the issue of ministerial consultation.

“Without a protocol, there is no standard against which to measure the propriety of ministerial public interest consultations. I am of the view that public confidence in the justice system requires that the parameters of these consultations – rare though they may be – should not be determined on an ad hoc basis.”³²

201. Ms. McLellan suggested that while this protocol would not prohibit vigorous discussions on the issue of public interest it would assist in ensuring that the Attorney General is not subjected to undue pressure. This pressure was referred to as threats, implied or explicit that a decision would result in a negative consequence or any form of enticements or promises of a benefit. Ms. McLellan added that persistence could also be a factor to consider.

Protocol on Consultations

202. One of the key recommendation is the development of a detailed protocol governing ministerial consultations in prosecution cases. This protocol, which is aimed at ministers, their staff, the Office of the Clerk of the Privy Council and the public service, should address the following:

- (a) Who is entitled to initiate consultations;*
- (b) Who determines the process for such consultations;*
- (c) When and where the consultations take place;*
- (d) Who is entitled to be part of the consultation discussions;*
- (e) What the scope of the discussion should be; and*
- (f) The Attorney General’s options and obligations in response to such consultations.³³*

³² Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada - page 34

³³ Reference: Review of the Roles of the Minister of Justice and Attorney General of Canada



Trudeau II Report

Examination

203. On August 14, 2019, the Office of the Conflict of Interest and Ethics Commissioner released a report, dubbed the *Trudeau II Report*, which presented the findings of Commissioner Dion's examination of Mr. Trudeau's conduct. The examination, undertaken pursuant to the *Conflict of Interest Act*, (referred to in the section as the Act) had for objective to determine whether Mr. Trudeau used his position to seek to influence the decision of the Attorney General relating to a criminal prosecution involving SNC-Lavalin, contrary to section 9 of the Act.

Scope & Limitations

204. All or part of the evidence and testimony presented in the *Trudeau II Report* may have been gathered pursuant to the Commissioner's compulsory powers under Section 48 of the Act, which allows to summon witnesses, and to require those witnesses to give evidence and/or produce documents.
205. The Commissioner's findings in the *Trudeau II Report* originated from 6 witness testimonies and/or submissions provided to the Commissioner by 14 witnesses (Reference: *Trudeau II Report - Schedule: List of Witnesses*). In addition to information received from those witnesses, Mr. Dion's report was also based on an interview and several documentary submissions received by Mr. Trudeau.
206. It should be noted that section 48(4) of the Act prohibits information given under that section from being used against the person in a court or in any other proceeding; except for a prosecution of the offence of perjury. As such, it is likely that any evidence provided to the Ethics Commissioner or any of the findings contained in the *Trudeau II Report* would be inadmissible in criminal proceedings.
207. Despite the inadmissibility of evidence gathered in the *Trudeau II Report*, it was nevertheless reviewed in order to identify any pertinent information that could assist in the assessment of the overall matter.
208. It should be noted that the current RCMP assessment differs from the Commissioner's examination in that the issue of the January 14 Cabinet shuffle or Ms. Wilson-Raybould's due diligence process were not factored in the Commissioner's decision. These issues were assessed in the current analysis as it is believed that the Cabinet shuffle represented one of the critical elements into an offence of obstruction of justice. As it relates to the due diligence process, although



the issue bears less significance, it was nevertheless reviewed in order to determine any relevance. On that topic, the *Trudeau II Report* offers little information.

Observations

209. The review of the report has revealed several points of interest to the current assessment.

Order in Council 2019-0105

210. As reported by the Commissioner, during the course of his examination, nine witnesses felt that they had information they believed to be relevant, but could not be disclosed because of the scope of Order in Council 2019-0105. To resolve this issue, the Commissioner sought an expansion of the scope of the Order in Council by reaching out to the government on the following three instances:

- (a) On or about March 29, 2019, the Commissioner's Office engaged with counterparts in the PCO to request that witnesses be enabled to provide all of their evidence;
- (b) On May 3, 2019, the Commissioner raised the matter directly with the Prime Minister during his interview. Mr. Trudeau's counsel stated that consultation would be made with the PCO to see whether the Order in Council could be amended; and
- (c) On May 28, 2019, Mr. Dion sent a letter to Mr. Ian Shugart, the newly appointed Clerk of the PCO requesting access to all Cabinet confidences in respect to his examination.

211. On June 13, 2019, Mr. Shugart declined the Commissioner's request for access to all Cabinet confidences in respect of his examination. As reported by Mr. Trudeau's legal counsel, the decision on whether to expand the waiver was made by the PCO without the involvement of the Prime Minister or his office. Beside this limitation, the Commissioner felt that there was sufficient information available to reach a conclusion on the matter.

Public Interest Considerations

212. The concerns expressed by Mr. Trudeau or individuals acting under his direction were not limited to public consideration arguments such as jobs but also included several partisan arguments (i.e. provincial elections, prospect of re-election).



Lobbying

213. SNC-Lavalin has been actively lobbying the government for the implementation of a remediation agreement regime. Once implemented, the lobbying activities continued but were now directed towards the use of this new tool in their criminal case. Some of the lobbying activities were directed at the PMO, PCO, and Ministry of Finance but also included other ministries.
214. Legal advices obtained by SNC-Lavalin and intended for the Attorney General were circulated at the PMO, PCO and Ministry of Finance but excluded the Office of the AG. It appears that recommendations made to the Attorney General by the PMO, and PCO had been supported and sometimes, possibly suggested by SNC-Lavalin.
- (a) *Mr. Iacobucci, prepared a legal opinion that was to be shared with the Minister of Justice and Attorney General. It outlined the legitimacy for her to intervene in criminal matters seized by the Prosecution Service.*³⁴
- (b) *According to SNC-Lavalin, the discussion also focused on the idea of whether third-party legal experts could provide information to assist in understanding the appropriateness of remediation agreements. Mr. Morneau testified that, during their discussion, Mr. Lynch may have brought up the idea of having the Right Honourable Beverley McLachlin, former Chief Justice of the Supreme Court, act as a third-party expert.*³⁵
215. It is unknown at this time, why the two legal opinions were not share with the AG. Based on inference from the report, it is believed that these legal advices were favorable to SNC-Lavalin's position.

Continuation of Examination

216. As per section 49(1)(a) of the Act,

“the Commissioner shall immediately suspend an examination under section 43, 44 or 45 if the Commissioner believes on reasonable grounds that the public office holder or former public office holder has committed an offence under an Act of Parliament in respect of the same subject-matter, in which case the Commissioner shall notify the relevant authorities.”

217. In his examination the Ethics Commissioner looked at the events that took place at the end of 2018 which included the various meetings and discussions between Ms.

³⁴ Reference: Trudeau II Report - Paragraph 165

³⁵ Reference: Trudeau II Report - Paragraph 173



Wilson-Raybould, her staff and individuals at the PMO, PCO and Ministry of Finance. This also included meetings between SNC-Lavalin and government public officials. Despite having access to a wider range of documents and testimonies, the Commissioner did not suspend his examination which would be required if evidence of criminal wrongdoing was discovered. This is leading investigators to believe that despite having access to a wider range of information, the Commissioner, based on the information at hand, did not believe on reasonable grounds that the public office holder had committed an offence under an Act of Parliament. The Commissioner talked at length about the pressure directed at the Attorney General over the course of the end of 2018 which he described as culminating at the end of December 2018. One could infer that his examination did not lead him to believe that Mr. Trudeau, through himself or his agent, had committed an offence under an Act of Parliament.

- (a) Even though this inference can be drawn, it cannot be seen as the only factor not to pursue a criminal investigation as the source documents were not examined. At the same time, the RCMP believe the cabinet shuffle to be a critical element which was not reviewed by the Commissioner. Therefore, the lack of suspension of his examination by the Commissioner does not necessarily equate to the absence of an offence under an Act of Parliament.

Prime Minister's Knowledge

218. Prime Minister Trudeau was aware that he could not interfere in the course of a criminal prosecution.

Implementation of Regime

219. It was believed that the implementation of the remediation agreement was primarily because of SNC-Lavalin.

- (a) Ms. Wilson-Raybould testified that it was her understanding that the need to create a regime was primarily because of SNC-Lavalin. Given the importance of the amendments to the *Criminal Code*, she expressed concern that the process, including the public consultations and the amendments, had been rushed in order to include them in the 2018 federal budget bill. As a result, she made the decision not to lead the memorandum to Cabinet regarding the amendments to the *Criminal Code* and not to speak publicly or before parliamentary committees about the regime.

Documents from SNC-Lavalin

220. The *Trudeau II Report* outlined information in relation to various documents obtained from SNC-Lavalin in relation to their plea for support and assistance. Some



documents referred preceded the implementation of the remediation regime as well as after the DPP's decision not to invite SNC-Lavalin to negotiate such an agreement. The following extract from the Trudeau II Report provides insight on one of those documents:

- (a) On February 2, 2018, Mr. To met with Mr. Bruce and other SNC-Lavalin representatives in Ottawa as a follow-up to their meeting in Davos, Switzerland. The company presented Mr. To with a confidential discussion document outlining reasons in support of a remediation agreement regime and the company's request for timely implementation of a regime via the federal budget. According to the document, this strategy would increase the likelihood of a settlement of the company's pending criminal charges, of the company maintaining its head office in Canada for the foreseeable future and of an increase in its workforce.³⁶*

221. Additional passages also referred to documents which were circulated at the government in the fall of 2018. The following extract made reference to these documents.

- (a) Mr. Bruce and his staff held several discussions with the Deputy Minister of Finance, his Chief of Staff, and an Assistant Deputy Minister of Finance on public-interest considerations. According to SNC-Lavalin, the company presented a draft PowerPoint document it had prepared on public-interest considerations that would be submitted to the Prosecution Service. The parties reviewed the presentation and officials with the Department of Finance suggested possible additional factors relevant to the public interest.³⁷*

[RCMP investigators attempted to obtain that document via a request for disclosure of government records to the Department of Finance. However, the Department of Finance said that they did not have the document in question]

- (b) The PowerPoint presentation also outlined a "Plan B" as a potential result of not being invited to negotiate a remediation agreement, which involved the creation of two SNC-Lavalin sourced companies. One would consist of a trio of possibly convicted entities carrying on reduced business operations in Canada or heading towards an eventual wind-up. The other group would be made up of parts of the SNC-Lavalin Group that had no role in the wrongful behaviour and would be reconstituted and headquartered in another jurisdiction.³⁸*

³⁶ Reference: Trudeau II Report - Paragraph 38

³⁷ Reference: Trudeau II Report - Paragraph 132

³⁸ Reference: Trudeau II Report - Paragraph 133



222. These two passages again demonstrated the company's plea and the assistance from the government in identifying public arguments considerations. This Plan B also made reference to the creation of other non-convicted entities with headquarters in another jurisdiction.

Failing in Duties Arguments

223. The report also made reference to Ms. Wilson-Raybould failing in her duties as Attorney General. However, it is interesting to note that these arguments were never mentioned as part of the cabinet shuffle in which the sole reason was attributed to the retirement of Scott Brison.

(a) Mr. Trudeau's legal counsel further submitted that Ms. Wilson-Raybould failed in her duty, as Attorney General, to acquaint herself with all the relevant facts. Rather than making a meaningful independent decision of her own, Ms. Wilson-Raybould reflexively deferred to the DPP's decision. In that regard, Mr. Trudeau's legal counsel pointed to concerns expressed by Ms. Drouin that more time and reflection were required in order to assess the information at hand and to seek additional information to better inform Ms. Wilson-Raybould's view.³⁹

(b) Mr. Trudeau's counsel submitted that, in sum, Ms. Wilson-Raybould's decision-making process was inadequate and infected by legal misunderstanding and political motivation.⁴⁰

Understanding of the Decision – Opposing Views

224. The reading of the report revealed two opposing views in relation to the Attorney General's decision not to intervene. This was apparent in the following extracts of the report:

(a) The evidence showed that the Attorney General was of the view that she had completed her review, made up her mind, and articulated her position before her September 17, 2018 meeting with Mr. Trudeau. However, Mr. Trudeau and members of his staff were of the view that the Attorney General's decision was subject to change up until the prosecution was completed and that she could receive new information for this purpose.⁴¹

³⁹ Reference: Trudeau II Report – Paragraph 237

⁴⁰ Reference: Trudeau II Report – Paragraph 238

⁴¹ Reference: Trudeau II Report – Paragraph 265



- (b) *Despite Ms. Wilson-Raybould's direct advice to Mr. Trudeau, the evidence showed that her warning was discounted and ignored, because her senior staff continued to receive unsolicited entreaties to reconsider her refusal to intervene in the matter. Several witnesses testified that the degree to which the company was serious about taking measures to protect its business interests constituted new information that could be presented to the Attorney General. According to the evidence, Ms. Wilson-Raybould had already considered the economic consequences and did not view this information as sufficient to revisit her original decision not to intervene.*⁴²
- (c) *Mr. Trudeau and several witnesses testified they believed that the Shawcross doctrine allowed for debate between the Attorney General and Cabinet colleagues. My reading of the doctrine and the governing jurisprudence have led me to a different conclusion. Although the Shawcross doctrine provides that the Attorney General may "consult" colleagues on a given matter, in order to minimize the possibility of conflicts of interest from arising, I believe that that consultation should be led, whenever possible, by the Attorney General.*

[It should be noted that the principles of the Shawcross doctrine could not have been known during the period and that we are looking at the actions after the fact.]

Public Interest

225. Because the Director of Public Prosecutions and the Attorney General must only prosecute when it is in the public interest, Mr. Trudeau submitted that his interactions with Ms. Wilson-Raybould in this matter, as well as those of his agents, were done precisely with that interest in mind.
226. Mr. Trudeau's position is that the issue of potential job losses and the repercussions on SNC-Lavalin's stakeholders and pensioners could be properly considered by the Attorney General since those interests were not viewed as national economic interests within the meaning of the above exclusion. This position was consistent with other witnesses' understanding of the provision.
227. The Commissioner acknowledged the lack of clarity on the matter in the Canadian remediation agreement regime and as a result considered case law from other jurisdictions. The Commissioner cited a case in the United-Kingdom involving Rolls Royce in which national economic interest were not factored in the decision.

⁴² Reference: Trudeau II Report – Paragraph 268



228. Counsel for Mr. Trudeau argued that considerations for the impact of a conviction on an accused corporation, its stakeholders and other individuals is not prohibited by the "national economic interest" exclusion.

(a) Leveson J.'s discussion of those points, in their view, showed that (1) the economic impact on uninvolved individuals is relevant but not determinative of the approval application; and (2) the national economic interest, as distinct from the impact on individuals, is not relevant.

229. In the end the Commissioner acknowledged that it remains unclear whether these factors are truly national economic interests, which must be excluded from consideration, or are legitimate factors that must be weighed in deciding whether to negotiate a remediation agreement.

Prosecutorial Independence

230. As per the report, it was noted that *the principles of prosecutorial independence and subjudice make it clearly improper for one branch of the Government of Canada to be communicating with applicants to a judicial review challenging a decision made by another branch of the Government of Canada, without the knowledge or involvement of the Attorney General or their delegated representative.*

Role of Minister of Justice versus Attorney General

231. In Commissioner Dion's view, Mr. Trudeau misunderstood this important distinction—the dual role of Minister of Justice and Attorney General. Mr. Trudeau and several other witnesses testified that they viewed Ms. Wilson-Raybould, in her capacity as Attorney General, as a member of Cabinet on an equal footing with other ministers. One witness failed to see a distinction between engaging with Ms. Wilson-Raybould on matters of legal policy, as Minister of Justice, and on matters of criminal prosecution.

Conclusion

232. Mr. Dion found that Mr. Trudeau used his position of authority over the former Attorney General, Ms. Wilson-Raybould, to seek to influence, both directly and indirectly, her decision on whether she should overrule the Director of Public Prosecutions' decision not to invite SNC-Lavalin to enter into negotiations towards a remediation agreement. Therefore, Mr. Dion found that Mr. Trudeau contravened section 9 of the Act.



Lobbying activities

233. In 2018, there were 33 instances of Lobbying by SNC-Lavalin on the subject matter of Justice and Law Enforcement. The review of the lobbying activities was not done with an optic of identifying possible violations of the *Lobbying Act*. The lobbying activities were examined only for the purpose of better understanding the situation and provide context.

| Communication Date | Name | Minister |
|--------------------|--|---------------------------------|
| 2018-02-12 | SIMARD, Miguel | Export Development Canada (EDC) |
| 2018-04-22 | Government tabled the results of public consultation on DPA | |
| 2018-02-28 | BOUCHARD, Mathieu | Prime Minister's Office (PMO) |
| 2018-04-27 | Government tabled omnibus with modifications to the <i>Criminal Code</i> | |
| 2018-04-16 | BRACKEL, Henrik | House of Commons |
| 2018-04-16 | NAUTA, Renze | House of Commons |
| 2018-04-25 | ALLISON, Dean | House of Commons |
| 2018-05-10 | DUSSEAU, Pierre-Luc | House of Commons |
| 2018-05-10 | HARDER, Peter | Senate of Canada |
| 2018-05-10 | SINGH, Jagmeet | House of Commons |
| 2018-05-17 | DOWNE, Percy | Senate of Canada |
| 2018-05-17 | WETSTON, Howard | Senate of Canada |
| 2018-05-23 | WOO, Yuen Pau | Senate of Canada |
| 2018-05-31 | HARDER, Peter | Senate of Canada |
| 2018-06-04 | DIXON, Rebecca | Senate of Canada |
| 2018-06-04 | MITCHELL, Grant | Senate of Canada |
| 2018-06-21 | Amendments to <i>Criminal Code</i> received Royal Assent | |
| 2018-07-05 | BOUCHARD, Mathieu | Prime Minister's Office (PMO) |
| 2018-07-05 | MARQUES, Elder | Prime Minister's Office (PMO) |
| 2018-09-04 | DPP's section 13 notice forwarded to the AG | |
| 2018-09-18 | BOTHAM, Richard | Finance Canada (FIN) |
| 2018-09-18 | CHIN, Ben | Finance Canada (FIN) |
| 2018-09-18 | HANES, Tasha | Finance Canada (FIN) |
| 2018-09-18 | MORNEAU, Bill | Finance Canada (FIN) |



| | | |
|------------|---|---------------------------------|
| 2018-09-18 | ROCHON, Paul | Finance Canada (FIN) |
| 2018-09-18 | TAPLEY, Catrina | Privy Council Office (PCO) |
| 2018-09-18 | WERNICK, Michael | Privy Council Office (PCO) |
| 2018-09-19 | Meeting between Mr. Wernick and Ms. Wilson-Raybould | |
| 2018-09-24 | BOTHAM, Richard | Finance Canada (FIN) |
| 2018-09-24 | HANES, Tasha | Finance Canada (FIN) |
| 2018-09-24 | ROCHON, Paul | Finance Canada (FIN) |
| 2018-10-11 | MARQUES, Elder | Prime Minister's Office (PMO) |
| 2018-10-17 | McNAUGHTON, David | Global Affairs Canada (GAC) |
| 2018-10-26 | SEXTON, Richard | Atomic Energy of Canada Limited |
| 2018-11-05 | BOUCHARD, Mathieu | Prime Minister's Office (PMO) |
| 2018-11-07 | McNAUGHTON, David | Global Affairs Canada (GAC) |
| 2018-11-19 | BOUCHARD, Mathieu | Prime Minister's Office (PMO) |
| 2018-11-19 | CHIN, Ben | Finance Canada (FIN) |



Elements of the Offences

Obstruction of Justice, Section 139(2) of the Criminal Code

Every one who wilfully attempts in any manner other than a manner described in subsection (1) to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.⁴³

234. In this case, for a successful prosecution of the offence of obstruction of justice, it is believed that the following criteria must be proven beyond a reasonable doubt:

- (a) Whether there was a course of justice;
- (b) Whether an act was committed; and
- (c) Whether the pressure was meant to obstruct, pervert or defeat the course of justice.

235. While the objective of this assessment is to determine if sufficient evidence exists to launch a full investigation, which differs from the threshold required for a conviction, these elements were nevertheless assessed for evidence or their prospect. Each of those criteria will be looked at separately in the following analysis.

Whether there is a course of justice

Analysis

236. As per *R. v. Spezzano*⁴⁴, a course of justice includes judicial proceedings, either existing or proposed but is not limited to such proceedings. It can also include a prosecution that an accused contemplates may take place notwithstanding that no decision to prosecute has been made.

237. On February 19, 2015, the RCMP National Division laid charges against the SNC-Lavalin Group Inc., its division SNC-Lavalin Construction Inc. and its subsidiary

⁴³ Note: Section 139(3) provides a number of examples of how the offence created by subsection (2) may be committed in the context of a judicial proceeding, either existing or proposed. This section is merely illustrative not exhaustive

⁴⁴ Reference: *R. v. Spezzano* (1977), 34 C.C.C. (2d) 87 (Ont. C.A.)



SNC-Lavalin International Inc. The three entities were charged with one count of corruption under section 3(1)(b) of the *Corruption of Foreign Public Officials Act* and one count of fraud under section 380(1)(a) of the *Criminal Code*.

238. On September 4, 2018, the RCMP was advised by the Crown prosecutor assigned to the file that the DPP would not invite the company SNC-Lavalin to negotiate a remediation agreement.

Conclusion

239. For it to be obstruction of justice, there must be a course of justice. The expression “*course of justice*” is inclusive of judicial proceedings. As indicated above, court proceedings had been initiated in 2015 regarding SNC-Lavalin. The matter has been before the courts until December 18, 2019 when SNC-Lavalin Construction Inc. pled guilty to the charge of fraud under section 380 of the *Criminal Code*. The remainder of the charges were dropped by the Crown. Given the above information, it is believed that the notion of course of justice was satisfied.

Whether an act was committed

Analysis

240. On September 4, 2018, the DPP advised the Attorney General, Ms. Wilson-Raybould, of her decision not to negotiate a remediation agreement with SNC-Lavalin. Following this decision, Ms. Wilson-Raybould conducted a due diligence process and decided not to intervene in the matter. This due diligence process included various internal consultations at the Office of the Minister of Justice and the Attorney General.
241. During this consultation process, documents were drafted outlining various considerations and options available to the Attorney General. The two most notable documents, consisted of a document entitled “*The power of the Attorney General of Canada to issue directives and to assume conduct of proceedings*” prepared by the Deputy Minister, Ms. Drouin and an untitled draft document from Emma Carver and Grégoire Webber and addressed to Elder Marques and Amy Archer. These documents were shared with Ms. Wilson-Raybould along with individuals from the PMO and PCO. Ms. Wilson-Raybould testified that following her due-diligence process, she was confident in her decision not to intervene in the matter.



242. In her statements, Ms. Wilson-Raybould said that from September to December 2018, several meetings, phone calls, emails and text messages were made to herself and her staff about the SNC-Lavalin situation. There were 11 people from the PMO, the PCO and from the Office of the Minister of Finance who were involved in approximately 10 phone calls and 10 meetings explicitly about SNC-Lavalin. Ms. Wilson-Raybould characterized these situations as a consistent and sustained effort by many people within the government to seek to politically interfere in the exercise of prosecutorial discretion in her role as the Attorney General of Canada in an inappropriate effort to secure a remediation agreement with SNC-Lavalin.
243. Ms. Wilson-Raybould indicated that communications became inappropriate whenever considerations of a partisan nature were made such as the Québec provincial election or the Prime Minister being a Member of Parliament for Papineau. Ms. Wilson-Raybould stated that it would have been unlawful for her to make a decision based on political motivations.
244. From the testimonies of Ms. Wilson-Raybould, Ms. Jessica Prince and Ms. Drouin, it is clear that the Attorney General's decision was communicated to various individuals on several occasions in a consistent fashion. Despite her decision being communicated, Ms. Wilson-Raybould was asked to intervene in the matter by adopting some of the options laid out in previously mentioned legal advice documents.
245. In an effort to better understand the acts, a synopsis of the various interactions Ms. Wilson-Raybould or her staff had with various government officials was compiled from disclosures of documents and testimonies. These interactions formed the basis of the pressure she experienced during the course of her tenure as Attorney General in relation to the attribution of a remediation agreement to SNC-Lavalin.



2018-08-14: Conversation with Mr. Chin

Chronology of Ms. Prince

| | |
|---|------------------------------------|
| <i>Individuals present</i> | Jessica Prince Ben Chin |
| <p>Summary</p> <ul style="list-style-type: none"> Ms. Prince received a phone call from Ben Chin who said that he had been speaking to SNC and he was "wondering why the DPA with them was dragging. Their perception was that the process was taking way too long and he wanted to know if there was anything we can do to hurry that along. Mr. Chin stressed that it was extra important for them to keep this relationship positive." On the same day, Ms. Prince responded that they would not be able to provide any kind of updates on whether a DPA was being contemplated in a given case, nor could they provide updates on confidential negotiations that might be underway. They indicated that a status update would be perceived as political interference while reiterating the independence of the PPSC. | |
| <p>Arguments cited</p> <ul style="list-style-type: none"> none | |
| <p>Proposed Course of Action</p> <ul style="list-style-type: none"> none | |



2018-09-06: Conversation with Mr. Chin

Chronology of Ms. Prince

| | |
|---|--|
| <i>Individuals present</i> | Jessica Prince Ben Chin |
| Summary <ul style="list-style-type: none">Mr. Ben Chin, Minister Morneau's Chief of Staff wanted to talk about SNC-Lavalin and what could be done, if anything, to address this issue. Mr. Chin cited the current Québec provincial election and explained that the company will leave Montreal should they were not provided with a DPA, something they had to ensure does not happen. Finally, Mr. Chin referenced an upcoming SNC-Lavalin meeting on Tuesday and the likelihood of this bad news going public.Ms. Prince exchanged some emails that same day with Francois Giroux and Emma Carver about this, who advised her that the Deputy was working on something and that Emma Carver and Grégoire Webber were drafting something too. | |
| Arguments cited <ul style="list-style-type: none">the possibility of SNC-Lavalin moving from Montreal;the upcoming Québec provincial election; andan upcoming SNC-Lavalin meeting and news going public. | |
| Proposed Course of Action <ul style="list-style-type: none">Inquiry to determine if something can be done.Documents were being drafted. | |



2018-09-11: Conversation with Mr. Chin

Chronology of Ms. Prince

| | |
|---|-------------------------------------|
| <i>Individuals present</i> | François Giroux Ben Chin |
| Summary <ul style="list-style-type: none">Mr. Ben Chin and Mr. François Giroux discussed SNC-Lavalin. Mr. Chin said that SNC-Lavalin had been informed by the PPSC that it cannot enter into a DPA. Mr. Chin again detailed the reasons why they were told that they were not getting a DPA. Mr. Chin also noted that SNC-Lavalin's legal counsel was Frank Iacobucci and further detailed what the terms were that SNC-Lavalin was prepared to agree to, stating that they viewed this as part of a negotiation.SNC-Lavalin was prepared to agree to the following terms: \$400 million to the Government of Canada, the company would be absolved but individual employees could still be prosecuted. Mr. Chin stated that Kevin Lynch would be absolved but individual employees could still be prosecuted. He stated that Kevin Lynch has said that PPSC's letter did not clearly tell them why SNC cannot enter into a DPA and was asking now what to do. Mr. Chin said that SNC-Lavalin would be okay if it knew that is not disqualified from entering into a DPA. | |
| Arguments cited <ul style="list-style-type: none">No further arguments cited. | |
| Proposed Course of Action <ul style="list-style-type: none">Inquiry to determine if something can be done. No specific course of action detailed. | |



2018-09-16: Conversation with Mr. Bouchard and Mr. Marques

Chronology of Ms. Prince

| | |
|--|--|
| Individuals present | Mathieu Bouchard Elder Marques Jessica Prince |
| Summary <ul style="list-style-type: none">• A conversation took place between Jessica Prince, Mathieu Bouchard and Elder Marques in relation to SNC-Lavalin. They told Ms. Prince that SNC had made further submissions to the Crown and that “there is some softening, but not much”. They said that they understand that the individual Crown prosecutor wants to negotiate an agreement, but the director does not. They acknowledged that there are limits on what can be done, and that they can't direct, but that they heard that our deputy of justice, Ms. Drouin thinks we can get the PPSC to say “we think we should get some outside advice on this.”• Mr. Bouchard and Marques believed a more reasonable resolution could be found in this case.• They told Ms. Prince that SNC's next board meeting is on Thursday, September 20.• They also mentioned the Québec election context.• Finally, they asked Ms. Prince if someone had suggested the outside advice idea to the PPSC and asked whether the AG's Office was open to this suggestion. They inquired as to the possibility of Ms. Drouin suggesting this option to the PPSC. | |
| Arguments cited <ul style="list-style-type: none">• Further submission to the Crown by SNC-Lavalin and companies interest in negotiating a DPA;• The Québec provincial election context;• Options suggested by the Deputy Minister; and• An upcoming SNC-Lavalin board meeting on September 20, 2018. | |
| Proposed Course of Action <ul style="list-style-type: none">• Further inquiries to determine if something can be done. No specific course of action was detailed but discussions were taking place in relation to options. | |



2018-09-17: Meeting with Prime Minister Justin Trudeau

Chronology of Ms. Prince
Summary and notes from Ms. Wilson-Raybould

| | |
|--|---|
| Individuals present | <i>The Right Honourable Justin Trudeau The Honourable Jody Wilson-Raybould Mr. Michael Wernick</i> |
| <p>Summary</p> <ul style="list-style-type: none"> Ms. Wilson-Raybould attended a scheduled one-on-one meeting with the Prime Minister to discuss an unrelated matter. The Clerk of the PCO, Mr. Wernick was also in attendance. While the anticipated topic was not SNC-Lavalin or DPAs, the Prime Minister raised the issue immediately asking Ms. Wilson-Raybould to help in finding a solution for SNC. The Prime Minister cited the loss of many jobs and the prospect of the company moving from Montreal should they not receive a DPA. Ms. Wilson-Raybould explained the law and options available as per the DPP Act. Ms. Wilson-Raybould told him that she had done her due diligence and made up her mind on SNC and that she was not going to interfere with the decision of the DPP. Ms. Wilson-Raybould had provided the section 13 notice to the PMO as well as a briefing note. The prime minister commented on the following: <ul style="list-style-type: none"> potential loss of jobs; the possibility of SNC moving; the Québec provincial election; and his position as a Member of Parliament in Québec; namely the member for Papineau. Mr. Wernick also made the case for the need to have a DPA and commented on the following: <ul style="list-style-type: none"> a board meeting with stock holders scheduled for Thursday September 20, 2018; the possibility of the company moving to London; and the upcoming Québec provincial election. Ms. Wilson-Raybould asked the Prime Minister: "Are you politically interfering with my role, my decision as the Attorney General? I would strongly advise against it." To this direct question, the prime minister responded, "No, no, no – we just need to find a solution." The Clerk cited options he learned from discussion with Ms. Drouin such as speaking with the DPP. Ms. Wilson-Raybould explained that she had already spoken to Ms. Drouin in that regards and had established that the situations differed and as such would be inappropriate to do so. | |



- Ms. Wilson-Raybould agreed to and undertook to the Prime Minister that she would have a further conversation with Ms. Drouin and Mr. Wernick.

Arguments cited

- potential loss of jobs;
- the possibility of SNC-Lavalin moving its HQ (i.e. London, U.K.);
- the upcoming Québec provincial election;
- PM's position as a Member of Parliament for Papineau in Québec; and
- a SNC-Lavalin board meeting with stock holders scheduled for Thursday September 20, 2018.

Proposed Course of Action

- Further conversations with Ms. Drouin and Mr. Wernick.



2018-09-19: Meeting with Mr. Wernick

Chronology of Ms. Prince
Summary and notes from Ms. Wilson-Raybould

| <i>Individuals present</i> | <i>The Honourable Jody Wilson-Raybould Mr. Michael Wernick</i> |
|--|---|
| <p>Summary</p> <ul style="list-style-type: none"> As undertaken to the PM, Ms. Wilson-Raybould met with Mr. Wernick to discuss SNC-Lavalin. While the discussion gravitated mostly about SNC-Lavalin it also included other topics. As it relates to SNC-Lavalin, Mr. Wernick brought up the job losses and clarified that this is not about the Québec election or the prime minister being a Montreal MP. Mr. Wernick said that he has not seen the section 13 note. As per Mr. Wernick, SNC-Lavalin were attempting to obtain more information from the DPP. Mr. Wernick again referenced the September 20th shareholder's meeting and that they do not have anything from the DPP. Ms. Wilson-Raybould told the clerk again that she had instructed that Ms. Drouin was not to get in touch with the DPP and that given her review of the matter, she would not speak to her directly regarding a DPA. Ms. Wilson-Raybould offered to the clerk that if SNC were to send a letter to her expressing their concerns – their public interest argument – it would be permissible and she would appropriately forward it directly to the director of public prosecutions. | |
| <p>Arguments cited</p> <ul style="list-style-type: none"> potential loss of jobs; the company wants more information from the DPP; Mr. Iacobucci is not a shrinking violet; and a SNC-Lavalin board meeting with stock holders scheduled for Thursday September 20, 2018. | |
| <p>Proposed Course of Action</p> <ul style="list-style-type: none"> SNC-Lavalin could forward a letter to Ms. Wilson-Raybould containing public interest arguments which could be forwarded to the DPP. | |



2018-09-19: Conversation with Mr. Bouchard and Mr. Marques

Chronology of Ms. Prince

| | |
|--|---|
| <i>Individuals present</i> | <i>Mathieu Bouchard Elder Marques Jessica Prince</i> |
| Summary <ul style="list-style-type: none">Mr. Bouchard and Mr. Marques wanted an update on what was going on regarding the DPAs since “we don't have a ton of time”. Ms. Prince relayed Ms. Wilson-Raybould's summary of the meeting with the Clerk and the Prime Minister.Mathieu and Elder also raised the idea of an “informal reach out” to the DPP. | |
| Arguments cited <ul style="list-style-type: none">No further arguments detailed other than a sense of urgency in relation to the matter. | |
| Proposed Course of Action <ul style="list-style-type: none">The idea of an informal reach out to the DPP was suggested. However, there was no plan detailed to do so. | |



2018-09-19: Conversation with Minister Morneau

Chronology of Ms. Prince
Summary and notes from Ms. Wilson-Raybould

| <i>Individuals present</i> | <i>The Honourable Jody Wilson-Raybould The Honourable Bill Morneau</i> |
|--|--|
| Summary <ul style="list-style-type: none">• Ms. Wilson-Raybould briefly spoke with Minister Morneau about the matter just before the question period in the House of commons.• Ms. Wilson-Raybould asked Mr. Morneau that his staff not contact her office anymore to discuss the matter since she had reached a decision and that continued contact were inappropriate.• Mr. Morneau stressed on the importance of saving several jobs while Ms. Wilson-Raybould indicated that it was not as important as protecting the principle of prosecutorial independence. | |
| Arguments cited <ul style="list-style-type: none">• potential loss of jobs. | |
| Proposed Course of Action <ul style="list-style-type: none">• None. As of the following day (2018-09-20), there have been no further reported contacts between the Department of Finance and the Office of the Attorney General on the matter. | |



2018-09-20: Conversations with Mr. Chin and Mr. To

Chronology of Ms. Prince

| <i>Individuals present</i> | Jessica Prince Ben Chin Justin To |
|---|--|
| <p>Summary</p> <ul style="list-style-type: none"> On this date, Ms. Prince had conversations with Mr. Chin and Mr. To from the Minister of Finance's office about DPAs and SNC. Mr. Chin referenced the DM's idea of calling the Director, and said that it seems like MOJAG has shut this idea down. Mr. Chin said "there has to be some middle ground here, because we are headed towards losing these guys." Ms. Prince said that, when it came to prosecutorial independence, there really is no middle ground. Later that same day, Ms. Prince spoke to Justin To who stressed that remediation agreement were a form of restorative justice for corporations. Mr. To asked "why can't SNC just go through the process though?" Ms. Prince repeatedly explained to him that we do not control who goes through the process; that is up to the PPSC and we do not and cannot control them in this decision. <p>.....</p> <ul style="list-style-type: none"> | |
| <p>Arguments cited</p> <ul style="list-style-type: none"> Company leaving | |
| <p>Proposed Course of Action</p> <ul style="list-style-type: none"> None. As of 2018-09-20, there have been no further reported contacts between the Department of Finance and the Office of the Attorney General on the matter. | |



2018-10-14: Text Messages with Minister Brison

Text messages from Ms. Wilson-Raybould

| | |
|---|--|
| <i>Individuals present</i> | <i>The Honourable Scott Brison The Honourable Jody Wilson-Raybould</i> |
| Summary <ul style="list-style-type: none">Mr. Scott Brison inquired with Ms. Wilson-Raybould if something could be done in relation to the SNC-Lavalin matter; suggesting a call to the DPP. Mr. Brison indicated that he learned of the matter from a lawyer at Tory's. | |
| Arguments cited <ul style="list-style-type: none">No arguments detailed. | |
| Proposed Course of Action <ul style="list-style-type: none">None. | |



2018-10-18: Conversation with Mr. Bouchard

Chronology of Ms. Prince

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|--|--|
| <i>Individuals present</i> | Mathieu Bouchard Jessica Prince |
| Summary <ul style="list-style-type: none">Mr. Bouchard called Ms. Prince in order to inquire if Ms. Wilson-Raybould looked at the option of seeking an external legal opinion on the DPP's decision not to extend an invitation to negotiate a DPA. | |
| Arguments cited <ul style="list-style-type: none">No further arguments detailed. | |
| Proposed Course of Action <ul style="list-style-type: none">This appears to be a request for an update on their actions taken. | |



2018-10-26: Conversations with Mr. Bickert and Mr. Bouchard

Chronology of Ms. Prince

| <i>Individuals present</i> | Geoff Bickert Mathieu Bouchard Jessica Prince |
|---|--|
| <p>Summary</p> <ul style="list-style-type: none"> Ms. Prince spoke to Geoff Bickert by phone. Geoff said that Paul Shuttle, PCO counsel, asking if the Attorney General could intervene in the Federal Court matter to ask for an expedited hearing. Geoff told me that he explained that, procedurally, you could not do that, as when the PPSC appears, they are there as the AG, so you cannot appear twice. Geoff also reported that the PPSC want some expertise to help them manage the Federal Court matter. In particular, they need some advice around how JRs work in the Federal Court. Geoff said that he gave them some names of external counsel to look at, and that he understands that they've been back and forth with Rob Frater on some of them. Geoff also pointed out that in the preliminary inquiry that starts on October 29, SNC can test the PPSC's case against them. They can use the prelim to point out flaws. If, after the prelim concludes, it is obvious that there are some issues with the prosecution case, then the DPP can always revisit her decision regarding a DPA. Mr. Bouchard contacted Ms. Prince to discuss the matter. Ms. Prince communicated that, given that SNC-Lavalin had now filed in Federal Court seeking to review the DPP's decision, they had moved past the idea of the Attorney General intervening or getting an opinion on the same question. Mr. Bouchard replied that he was still interested in an external legal opinion idea and suggested that Ms. Wilson-Raybould could get an external legal opinion on whether the DPP had exercised their discretion properly, and then on the application itself, the Attorney General could intervene and seek to stay the proceedings, given that she was awaiting a legal opinion. Ms. Prince responded that this would obviously be perceived as interference. Mr. Bouchard argued that an announcement about the company moving its HQ, would be not be favourable to their re-election prospect. <p>"We can have the best policy in the world but we need to get re-elected."</p> <ul style="list-style-type: none"> Mr. Bouchard acknowledged that the decision rests with the Attorney General but he wanted to ensure that all options have being canvassed and that no doors were left opened. Ms. Prince offered for Ms. Wilson-Raybould to discuss this further should he wished to do so. | |



Arguments cited

- Re-election prospect if company was to move.

Proposed Course of Action

- Offer to discuss the matter further.



2018-11-22: Meeting with Mr. Bouchard and Mr. Marques

Chronology of Ms. Prince
 Summary and notes from Ms. Wilson-Raybould

| <i>Individuals present</i> | <i>Mathieu Bouchard Elder Marques The Honourable Jody Wilson-Raybould</i> |
|--|--|
| <p>Summary</p> <ul style="list-style-type: none"> Ms. Wilson-Raybould met with Mathieu Bouchard and Elder Marques at the request of the PMO to discuss SNC-Lavalin and DPAs. By accepting this meeting, Ms. Wilson-Raybould wanted to put an end to the PMO's continued engagement with her Chief of Staff, Ms. Prince. Ms. Wilson-Raybould with this lengthy meeting given she had already advised the Prime Minister that she would not going to issue a directive to issue a DPA to SNC-Lavalin. Mathieu Bouchard was advancing that options were available and that they needed to find a solution. Ms. Wilson-Raybould took Mr. Bouchard and Mr. Marques through the various applicable sections of the DPP Act, the section 13 notice and the principles of prosecutorial independence. Ms. Wilson-Raybould advised them that they were interfering. Mr. Bouchard and Mr. Marques continued to plead their case adding that they could hire an eminent person or panel, like Beverly Mclachlin to advise her if she wasn't sure in her decision. Ms. Wilson-Raybould questioned its need for given that she felt that this person could not contribute further to what she already knew. Ms. Wilson-Raybould had made her decision and wanted them to stop. | |
| <p>Arguments cited</p> <ul style="list-style-type: none"> No new arguments – continued pleading their case | |
| <p>Proposed Course of Action</p> <ul style="list-style-type: none"> The options of seeking the services of a prominent person like Beverly Mclaughlin was discussed. However, based on the information, it does not appear that a specific course of action was initiated in that regard. | |



2018-12-05: Meeting with Mr. Butts**Summary and Notes from Ms. Wilson-Raybould**

| <i>Individuals present</i> | Gerald Butts <i>The Honourable Jody Wilson-Raybould</i> |
|--|--|
| <p>Summary</p> <ul style="list-style-type: none"> Mr. Gerald Butts and Ms. Wilson-Raybould had a pre-arranged meeting at Zoe's at the Chateau Laurier. While both parties had sought the meeting, Ms. Wilson-Raybould wanted to address several issues, one being SNC-Lavalin and the constant inquiries directed at herself or her staff on the matter. Towards the end of the meeting, Ms. Wilson-Raybould raised how she needed everyone to stop talking to her about SNC-Lavalin since she had made her decision and the engagements were inappropriate. Mr. Butts said that they needed a solution on the "SNC stuff" and that Ms. Wilson-Raybould needed to find a solution. Ms. Wilson-Raybould said no and referenced the preliminary inquiry and the judicial review currently underway. Ms. Wilson-Raybould explained that she had offered Mr. Wernick the only appropriate solution; namely the public interest consideration letter from SNC-Lavalin; an option that was not taken up. Mr. Butts expressed _____ for the Director of Public Prosecutions Act; a statute enacted by the former Harper government. Ms. Wilson-Raybould stated something to the effect that that the DPP Act is the law we have. During his testimony before the Justice Committee, Mr. Butts said that his reference to the DPP Act was meant as a chronological point, not a political one. As per Mr. Butts testimony before the Justice Committee, Ms. Wilson-Raybould asked for his view on the file to which he responded that his understanding was that their offices were working together on ideas. They briefly talked about the idea of asking a retired Supreme Court justice for advice, acknowledging that this was not his area of expertise. Ms. Wilson-Raybould explained that what Mr. Marques or Mr. Bouchard were proposing had never been done before. Mr. Butts' understanding was that remediation agreements were brand new to Canada and that the DPP Act itself was not very old. Mr. Butts' suggestion was that it was a legitimate public policy discussion to have in this circumstance, and it would help clarify the Attorney General's powers in this and any subsequent case. Mr. Butts suggested Ms. Wilson-Raybould speak with the Clerk or the public service for more expert advice but said that it was her call. Mr. Butts' said that Ms. Wilson-Raybould never suggested to him that Mr. Marques or Mr. Bouchard had done anything wrong. | |



- Both Mr. Butts and Ms. Wilson-Raybould described the meeting as cordial. Mr. Butts and Ms. Wilson-Raybould did meet on a regular basis to catch up on things.

Arguments cited

- None

Proposed Course of Action

- The options of seeking the services of a former Supreme court justice or to discuss the matter further with the Clerk were proposed and discussed. Ms. Wilson-Raybould suggested that the only option, which had not been taken up, involved SNC-Lavalin sending her a letter detailing their public interest considerations. Based on the information, it is difficult to speculate if a course of action was anticipated. However, based on the subsequent meeting with Ms. Prince and Mr. Butts, it appears that it was Mr. Butts' belief that Ms. Wilson-Raybould was to continue considering the matter.



2018-12-18: Meeting with Mr. Butts and Ms. Telford

Chronology of Ms. Prince
 Text messages - Ms. Prince and Ms. Wilson-Raybould

| <i>Individuals present</i> | Gerald Butts Katie Telford Jessica Prince |
|----------------------------|---|
| | <p>Summary</p> <ul style="list-style-type: none"> At the PMO's request, Ms. Prince met with Mr. Gerald Butts and Ms. Katie Telford in order to ascertain where Ms. Wilson-Raybould stood in terms of finding a solution. Mr. Butts and Ms. Telford conveyed that they felt that the issue was getting worse and that Ms. Wilson-Raybould was not doing anything. As per Ms. Prince's text messages, Mr. Butts and Ms. Telford wanted external counsel retained to give Ms. Wilson-Raybould an opinion on whether she could review the DPP's decision and whether she should in this case. Ms. Prince advised them that this would be interference to which Mr. Butts responded that that there is no solution that does not involve some interference. Ms. Prince felt that Mr. Butts or Ms. Telford did not care about the independence of the PPSC. The issue of retaining the services of a former Supreme Court Justice seemed to be a favored option from the PMO as it was perceived that it would give them cover in the business and legal community They finally referenced a possible call with the Prime Minister and the Clerk the next day. Reference: text message: <ul style="list-style-type: none"> Jessica: "Basically, they want a solution. Nothing new. They want external counsel retained to give you an opinion on whether you can review the DPP's decision here and whether you should in this case.... I told them that would be interference. Gerry said, 'Jess, there is no solution here that does not involve some interference.' At least they are finally being honest about what they are asking you to do! Don't care about the PPSC's independence. Katie was like 'we don't want to debate legalities anymore....' They keep being like 'we aren't lawyers, but there has to be some solution here.'" Ms. Wilson-Raybould "So where were things left?" Jessica: "So unclear. I said I would of course let you know about the conversation and they said they were going to 'kick the tires' with a few people on this tonight. The Clerk was waiting outside when I left. But they said they |



want to set up a call between you and the Prime Minister and the Clerk tomorrow. I said that of course you would be happy to speak to your boss! They seem quite keen on the idea of you retaining an ex Supreme Court of Canada judge to get advice on this. Katie Telford thinks it gives us cover in the business community and the legal community, and that it would allow the Prime Minister to say we were doing something. She was like 'If Jody is we would of course line up all kinds of people to write OpEds saying that what she is doing is proper.'

- In his testimony before the Justice Committee, Mr. Butts provided a slightly different interpretation of the events as reported by Ms. Prince. Mr. Butts remembered Ms. Prince saying that the minister didn't want to consider "political factors" in the decision and was worried about the appearance of political interference. Mr. Butts was of the view that the situation involving 9,000 people was not a political issue but rather a very real public policy problem. Mr. Butts stated that he could not see how having someone like Beverley McLachlin give the minister advice constituted political interference.
- As it related to the op-ed comment, Mr. Butts relayed that Ms. Telford was simply saying that we would do our best to support the minister, whatever decision she chose to make.

Arguments cited

- The loss of 9,000 jobs

Proposed Course of Action

- The options of seeking the services of a former Supreme Court Justice was again discussed.
- The possibility of a call with the Prime Minister and the Clerk was advanced.



2018-12-19: Telephone conversation with Mr. Wernick

Summary and notes from Ms. Wilson-Raybould

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|--|--|
| Individuals present | Michael Wernick The Honourable Jody Wilson-Raybould |
| <ul style="list-style-type: none">Mr. Wernick called Ms. Wilson-Raybould to discuss SNC-Lavalin and to relay the Prime Minister position on the matter. Mr. Wernick immediately provided arguments which included a firmer stance from the company about examining options in light of the current situation. Mr. Wernick spoke about the company's board and the possibility of them selling out to someone else, moving their headquarters and job losses. (i.e consulting firm to propose options to the board or prospect of moving or selling the company). Mr. Wernick added that the anxiety was rising about losing a signature firm and jobs in the wake of Oshawa and the situation in Calgary.Mr. Wernick said that the Prime Minister wanted to be able to say that he has tried everything he can within the legitimate tool box. The Clerk said that the Prime Minister is quite determined, quite firm, but he wants to know why the DPA route, which Parliament provided for, isn't being used. Mr. Wernick added, <i>"And I think he is going to find a way to get it done, one way or another. So, he is in that kinda mood and I wanted you to be aware of that."</i>Mr. Wernick made reference to the possibility of the Prime Minister calling Ms. Wilson-Raybould in order to discuss the matter. While this statement could be construed as a statement of fact, when looking at the totality of the call and preceding events, it could be also viewed as a way to exert some pressure on Ms. Wilson-Raybould.Mr. Wernick indicated that the Prime Minister was considering getting some external advice and suggested Beverly McLachlin as a potential person. Mr. Wernick added that the Prime Minister wanted to understand more about why the DPA route was not taken.<p>"I think he is thinking about getting somebody else to give him some advice ... you know he does not want to do anything outside the box of what is legal or proper-um ... but his understanding is, you know, the DPA tool is there and you have options that we talked about before to ask for reason from the DPP or even take over the prosecution. He just wants to understand more at this point of why the DPA route is not taken up on this route. So he is thinking on bringing someone in like Bev McLachlin to give him advice on this or to give you advice on this if you want to feel more comfortable you are not doing anything inappropriate or outside the frame of.."</p>Ms. Wilson-Raybould told the Clerk that she was confident that she was doing nothing inappropriate and that her views on SNC and the DPA have not changed. I reiterated this as a constitutional principle of prosecutorial independence. | |



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|---|
| <ul style="list-style-type: none"> • Ms. Wilson-Raybould warned Mr. Wernick that she felt that the discussions were “treading on dangerous ground”. Ms. Wilson-Raybould advised Mr. Wernick that she could not act in a manner that is not objective or independent while reiterating the constitutional principle of prosecutorial independence. • Mr. Wernick’s position was that it was not interference for the Attorney General to use tools that were provided in the Act. Mr. Wernick wondered whether anyone could speak to the director about the context around this, or get her to explain her reasoning. • Mr. Wernick advised Ms. Wilson-Raybould that he had to report to the Prime Minister and added that the Prime Minister was in a pretty firm frame of mind and was concerned about the Prime Minister and the Attorney General to be at loggerheads on the matter. • Ms. Wilson-Raybould advised Mr. Wernick that she had provided him her best advice and that it was his prerogative to do as he wished should he not accept her advice. Ms. Wilson-Raybould stated that she was trying to protect the Prime Minister from political interference or perceived political interference. Mr. Wernick acknowledged that the Prime Minister does not have the power to do what he wants but that the Attorney General possess those tools. • Ms. Wilson-Raybould referenced the Saturday night massacre but reiterated that she had given the Prime Minister her best advice to protect him and the principles of prosecutorial independence. |
| <p>Arguments cited</p> <ul style="list-style-type: none"> • potential loss of 9000 jobs and a Canadian signature firm |
| <p>Proposed Course of Action</p> <ul style="list-style-type: none"> • There were no clear proposed courses of action following the call. While Mr. Wernick and Ms. Wilson-Raybould discussed the option of contacting Beverly McLaughlin, there was no clear direction or definitive commitment to do so. As per the discussion, Ms. Wilson-Raybould could be expecting a call from the Prime Minister which did not happen. |

246. On January 14, 2019, Ms. Wilson-Raybould was moved to Veterans Affairs as part of a Cabinet shuffle. She believed that her shuffle was the result of her decision on the SNC-Lavalin matter even though the Prime Minister had stated otherwise. She indicated that she took the Prime Minister at his word and added that she would have resigned if she would have seen a directive in the *Canada Gazette* from the new Attorney General on the SNC-Lavalin issue.



247. On February 12, 2019, Ms. Wilson-Raybould resigned from her position as Veterans Affairs Minister following a statement from the Prime Minister indicating that Ms. Wilson-Raybould's continued presence in Cabinet was proof she did not think she'd been improperly pressured to help SNC-Lavalin avoid criminal prosecution.

Conclusion

248. At this time, and solely based on the available statements, it appears that a consensus exists as to the existence of the meetings and communications as reported by Ms. Wilson-Raybould. However, there are several divergences in relation to their interpretation. For instance, what Ms. Wilson-Raybould described as sustained pressure was viewed by others, such as the Prime Minister, as conversations among colleagues about how to tackle a challenging issue. Also, as an example, Ms. Wilson-Raybould believed her shuffle to the veterans' affairs portfolio was related to the SNC-Lavalin matter; a fact that has been denied by Gerald Butts and Michael Wernick during their respective testimonies before the Justice Committee.
249. Based on the information provided by Ms. Wilson-Raybould, Mr. Wernick, Mr. Butts, and Ms. Prince, it is believed that the various meetings did indeed take place. A careful examination of the available information suggested that the interactions during these events, intentional or not, did create pressure for the Attorney General. This was particularly clear when listening to the phone conversation between Ms. Wilson-Raybould and Mr. Wernick where the tone suggested a tense conversation. Based on the above, there is sufficient evidence to indicate that an act was committed.
250. However, for it to be an offence under the *Criminal Code*, there must be more than a technical violation of the Act. The impugned activities must be accompanied by a corrupt intent to interfere. As such, the following section will detail the assessment pertaining to the notion of "intent".



Whether the pressure was meant to obstruct, pervert or defeat the course of justice

Analysis

251. In *R. v. Melo*⁴⁵ the Court adopted the dictionary definition of the words “to obstruct, pervert or defeat”:

- (a) “to obstruct” means to interrupt, make difficult, get in the way of something, impede or hinder;
- (b) “to pervert” means to lead astray, turn away from the right course or corrupt; and
- (c) “to defeat” means to prevail over, pervert or frustrate.

252. In *R. v. Hearn*⁴⁶, the gravamen of the offence is the willful attempt to obstruct justice and it does not matter that the attempt was not only unsuccessful but could not have succeeded.

253. Based on the information at hand, a conclusion can be drawn that political pressure was made during conversations and meetings. One must examine if this political pressure constituted a willful attempt to obstruct the course of justice. As such, the alleged pressure was examined with the following optics:

- (a) What was the nature of the political pressure;
- (b) What was the nature of the legal advice provided;
- (c) Who was the final decision maker;
- (d) Whether the pressure was meant to coerce the Attorney General to commit an unlawful act; and
- (e) Whether an inappropriate or improper act is inherently illegal.

⁴⁵ Reference: *R. v. Melo* [2014] O.J. No. 1879 (S.C.J.)

⁴⁶ Reference: *R. v. Hearn* (1989), 48 CCC (3d) 376 (Nfld CA) affd [1989] 2 SCR 1180, 53 CCC (3d) 352n.



What was the nature of the political pressure

254. In assessing the nature of the political pressure, a close attention was given to the timing and types of arguments presented to the Attorney General or her staff. As indicated above, several arguments were brought forward which can be grouped into two categories; public interest arguments and partisan arguments. The public interest arguments mainly gravitated around the potential loss of jobs and consequences on innocent third parties resulting from a possible conviction for SNC-Lavalin. The latter consisted mainly of election arguments such as the Québec provincial election, the Prime Minister being a member of Papineau and/or the prospect of re-election.

Partisan Arguments

255. A review of the evidence has revealed that partisan arguments were first brought forward in early September when the DPP's decision was made public. These arguments were first mentioned by staff at the Department of Finance, the Prime Minister and the Clerk of the PCO during various interactions. For instance, during the September 17 meeting, the Québec provincial election and Mr. Trudeau being a member of Papineau were raised. However, when confronted by them, the Prime Minister reaffirmed that he was not asking the Attorney General to politically interfere in the matter. Similar arguments were again brought forward by Mathieu Bouchard in October while discussing the case with Ms. Prince. In this case, Mr. Bouchard had indicated that the prospect of the company moving six months before an election would be detrimental to a re-election. From this point, the main arguments brought forward for consideration were the potential loss of jobs associated with a conviction for SNC-Lavalin. These arguments were presented as a justification for the Attorney General to intervene or to consider other options (i.e. second opinion).
256. From her testimony, Ms. Wilson-Raybould indicated that it would have been unlawful for her to consider purely partisan arguments. This interpretation was also clear amongst other parties given the Prime Minister's response when confronted by Ms. Wilson-Raybould on September 17 and comments made by additional individuals thereafter. This understanding was further confirmed in Commissioner Dion's report, where it was acknowledged that Prime Minister Trudeau was aware that he could not interfere in the course of a criminal prosecution.
257. While it is clear from a review of applicable legislations, federal government guidelines or the Shawcross doctrine that purely partisan arguments should not be



considered in any decision to intervene in a specific case. When discounting those purely partisan arguments, only the public arguments associated with the loss of jobs and the impacts on innocent third parties remains. The question is: Can those arguments be legally considered?

Public Arguments vs. National Economic Interest

258. When looking at the remediation regime, it is clear that one of its objectives is “*to reduce the negative consequences of the wrongdoing for persons — employees, customers, pensioners and others — who did not engage in the wrongdoing, while holding responsible those individuals who did engage in that wrongdoing.*” This suggests that the remediation regime has been designed to give considerations to some public interest arguments.
259. The *Criminal Code* also provides guidance as to some factors that must not be considered in certain circumstances. For instance, whenever an organization is alleged to have committed an offence under section 3 or 4 of the *CFPOA*, the prosecutor must not consider the national economic interest, the potential effect on relations with a state other than Canada or the identity of the organization or individual involved. This situation appears to create a paradox, whereas remediation agreements were enacted to reduce the consequences on innocent third parties while at the same time banning national economic interest from consideration.
260. The lack of current case law surrounding remediation agreement is making it difficult to determine if the loss of jobs fall under the definition of national economic interests. In his communication with Commissioner Dion, Mr. Trudeau’s legal team argued that the national economic interest exclusion should not apply to innocent third parties’ who did not participate in the illicit activities. This interpretation was found to be recurring in several witnesses. Commissioner Dion also acknowledged that it remains unclear whether these factors are truly national economic interests, which must be excluded from consideration, or are legitimate factors that must be weighed in deciding whether to negotiate a remediation agreement.
261. This ambiguity creates challenges in situations where there are competing legitimate interpretations of the public interest. Despite the lack of clarity on the subject, Ms. Wilson-Raybould indicated that she felt that public interest arguments, including the loss of jobs, could be considered. Notwithstanding the lack of clarity on the subject, the RCMP took the approach in assessing if there is sufficient evidence to establish beyond a reasonable doubt that consideration of these arguments would be illegal. Based on the information at hand and given the current legislative framework, it is believed that recommendation to the Attorney General to



consider the loss of jobs would likely not be seen as improper or illegal, if not pressured.

262. Despite this ambiguity, it is believed that the pressing of public arguments associated to the job loss would not be inherently illegal. In her role, the Attorney General has the difficult task of assessing those arguments while using her judicial mind. So, in further assessing the nature of the political pressure, a review of the timeline of the events was undertaken.

Chronology

263. When looking at the chronology of the events, they took place over a 4-month period with some clusters of events several weeks apart (see section entitled *Calendar Timeline* above). As it relates to the meetings and conversations, it was noted that:
- (a) Some meetings/communications were requested by Ms. Wilson-Raybould (i.e. September 17 / December 5, 2018);
 - (b) Some meetings/communications appeared to be following a specific event (i.e. SNC letter sent to the Prime Minister in October);
 - (c) Some meetings/communications appeared to have been directed at topics other than partisan considerations (i.e. second opinion). However, one could view this second opinion option as a means to push those partisan considerations; and
 - (d) The December 19, 2018 phone call between the Clerk and Ms. Wilson-Raybould appears to be of significance given the veiled threats she perceived and the Cabinet shuffle two weeks later.
264. While this could be politically untenable to do otherwise, it was noted that Ms. Wilson-Raybould remained in her position as Attorney General throughout the period of the Québec provincial election and after the election on October 1, 2018. Also, despite SNC-Lavalin board meetings and threats of the company moving, she remained in her position.
265. It is believed that the most significant event remains her removal from the Attorney General's role. Before the Cabinet shuffle, Ms. Wilson-Raybould remained the final decision maker. Although, the reason for her shuffle has been provided by Mr. Butts, Ms. Wilson-Raybould believed otherwise. The circumstances surrounding the Cabinet shuffle will be discussed later in this report.



What was the nature of the legal advice provided

266. A review of documentary evidence obtained during the assessment of the matter has revealed two documents with contents of significant importance. The first document consisted of an untitled draft document prepared by Emma Carver and Grégoire Webber and addressed to Elder Marques and Amy Archer. This document touched on prosecutorial independence, the remediation agreement regime and political considerations.

268. The second document of interest was entitled “*The power of the Attorney General of Canada to issue directives and to assume conduct of proceedings*” and was prepared by the Deputy Minister of Justice, Ms. Drouin. This document provided
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additional details as it relates to the Attorney General's statutory powers under the DPP Act. Again, the general feeling of the document gravitates towards the importance of prosecutorial independence. The document differs in the sense that additional intervention options were provided.

269. These options are important given that they are a recurring theme in several interactions between October and December. Based on the information provided by the various testimonies, it is clear that the options of consulting with the DPP or to appoint an external counsel to advise on the case were valued by the PMO or the PCO. On more than one occasion, these options were presented to the Attorney General. While the availability of these options does not justify the pressure for the Attorney General to opt for one, it does become relevant when determining if criminal intent was present. Based on the information at hand, it appears that the PMO was in disagreement with Ms. Wilson-Raybould's legal advice. Given that these options were provided by the Department of Justice and deemed legal by the PMO and PCO, it could be argued that counseling the Attorney General to opt for these options is not illegal.
270. The *Trudeau II Report* also provided some arguments, which until then, had not been presented. It was argued that the Attorney General failed in her duties when assessing the matter. This comment opens the door of the ability of the Prime Minister to appoint a new Minister of Justice and Attorney General should he be of the opinion that he is no longer receiving proper legal advice. While this argument was not factored into this assessment, the Prime Minister's Cabinet appointment powers are likely to be argued in the context of a criminal prosecution.



271. As it relates to the Prime Minister's powers, Professor Peter Hogg, in his seminal text *Constitutional Law of Canada, Fifth Edition*,⁴⁷ provided the following:

- (a) the Prime Minister (...) has certain powers which he or she does not need to share with his or her colleagues ... first, there is the power to select the other ministers, and the power to promote, demote or dismiss them at pleasure.
- (b) Not only are these powers important in their own right, but the Prime Minister's possession of them also ensures that the Prime Minister's voice will be the most influential one within the cabinet (...)
- (c) The Prime Minister (...) effectively controls the executive branch of government through his control over ministerial appointments and over the cabinet.

272. A review of the matter did not reveal any legal authority compelling the Prime Minister to make publicly available any justification for demoting or dismissing an Attorney General. While there may be political considerations for making that information public, no legal requirements have been identified.

Final Decision Maker

273. There seems to be a consensus from all parties that Ms. Wilson-Raybould was the final decision maker on this matter. Given her previous refusal, one must consider if her removal as Attorney General was part of a scheme to allow someone else to take a more favorable decision. As mentioned above, it does not matter that the attempt was unsuccessful. So, even though Mr. Lametti indicated that he was not spoken to by anyone in regards to the matter before his appointment, if evidence existed that her removal as Attorney General was orchestrated solely for the purpose of selecting an Attorney General that may be more inclined to cooperate, that may constitute reasonable and probable grounds that an offence took place.

274. Mr. Lametti testified that he never had prior discussions on the SNC-Lavalin issue and wasn't pressured in his role as the new Attorney General. For his part, Mr. Butts offered an explanation for her removal as Attorney General. There is currently no strong evidence suggesting otherwise.

⁴⁷ Reference: Hogg, P.W., *Constitutional Law of Canada, Fifth Edition* (Toronto: Thomson Reuters, 2021)



Whether the pressure was meant to coerce the Attorney General to commit an unlawful act

275. In her testimony, Ms. Wilson-Raybould stated that it would be unlawful for the Attorney General to make her decision based on partisan considerations. It was also established that she was the final decision maker. As such a review of the information was conducted in order to determine if someone was attempting to counsel or abet her in committing an offence. As per the *Criminal Code*:

Parties to Offence

21 (1) *Every one is a party to an offence who:*

- (a) actually commits it;*
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or*
- (c) abets any person in committing it.*

Common intention

(2) *Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.*

Person counselling offence

22 (1) *Where a person counsels another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled.*

(2) *Every one who counsels another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling that the person who counselled knew or ought to have known was likely to be committed in consequence of the counselling.*

276. The following salient points were noted from these sections of the *Criminal Code*:

- (a)** There must be intent to counsel, abet, etc; and



- (b) There must be knowledge that the counseling or abetting could or would result in the commission of an offence.

277. As it relates to the elements of coercion, the following extracts were obtained from Ms. Wilson-Raybould's statement. These extracts were expressly viewed for the purposes of determining intent by someone to illicit the Attorney General to commit an unlawful act.

- (a) September 6: referencing Mr. Chin: *"He wanted to talk about SNC and what we could do, if anything, to address this"*
- (b) September 16: referencing Mr. Bouchard and Mr. Marques: *"They said that they understand that there are limits on what can be done, and that they can't direct, but that they hear that our deputy of justice thinks we can get the PPSC to say 'we think we should get some outside advice on this.' Mr. Bouchard and Mr. Marques kept telling her that they didn't want to cross any lines, but they asked my chief of staff to follow up with me directly on this matter."*
- (c) September 17: referencing Prime Minister Trudeau: I asked, *"Are you politically interfering with my role/my decision as the Attorney General? I would strongly advise against it."* The Prime Minister said, *"No, no, no. We just need to find a solution."*
- (d) October 26: referencing Mr. Bouchard: *"He said that everybody knows that this is the Attorney General's decision, but that he wants to make sure that all options are being canvassed. Mathieu said that if at the end of the day the Attorney General is not comfortable, that is fine. He just 'doesn't want any doors to be closed'."*
- (e) December 18: referencing Mr. Butts: *"Jess, there is no solution here that does not involve some interference. They seem quite keen on the idea of you retaining an ex Supreme Court of Canada judge to get advice on this. 'If Jody is nervous, we would of course line up all kinds of people to write OpEds saying that what she is doing is proper'"*
- (f) December 19: referencing Mr. Wernick: *"He said that the Prime Minister wants to be able to say that he has tried everything he can within the legitimate tool box." I think he is going to find a way to get it done, one way or another.... So he is in that kind of mood, and I wanted you to be aware of it. You know, he does not want to do anything outside of the box of what is legal or proper. He said that the Prime Minister wants to understand more, to give him advice on*



this or give you advice on this if you want to feel more comfortable you are not doing anything inappropriate or outside the frame".

278. Notwithstanding appearances of partisan motivations at the source of the pressure, the recurring theme from these extracts is that there was no direct request to the Attorney General to commit an unlawful act. It should be noted that Mr. Butts' comment that there is no solution that does not involve some interference is problematic. However, Mr. Butts indicated that this "*interference*" was referencing his suggestion to obtain a second opinion from a former Supreme Court Judge. Also, a comment made by Mr. Wernick alleging that the Prime Minister will find a way to get it done one way or another is also indicative of possible improprieties. However, it was followed by comments about not crossing outside of what is legal or proper. This dichotomy in statements during the same conversation is giving rise to a reasonable doubt that the intent was not criminal.

Whether the Attorney General was provided with false information

279. As mentioned above, several arguments were raised to Ms. Wilson-Raybould relating to the impact that a conviction for SNC-Lavalin could have on jobs, and pensioners. As such, a review was conducted in order to establish if false information was provided to the Attorney General in an effort to mislead her. Since the government's messaging was focusing towards the potential loss of jobs, a review was conducted in order to assess if a disconnect existed between the government arguments and statements made by SNC-Lavalin.
280. Open source information has revealed that in October 2017, SNC-Lavalin had argued in a brief to federal officials that "*it is unfair that the actions of one or more rogue employees should tarnish a company's reputation, as well as jeopardize its future success and its employees' livelihoods.*" From the same article, in October 2018, SNC-Lavalin asked for a judicial review of the decision, citing "*the extremely negative consequences the underlying legal proceedings have had and will continue to have [even in the event of an acquittal] on [SNC] and innocent stakeholders, including employees, suppliers, pensioners and stakeholders, in the absence of an invitation to negotiate.*"⁴⁸
281. In an open letter to Canadians dated October 19, 2018, SNC-Lavalin President and CEO, Neil Bruce, indicated that since 2012 about 10,000 employees have left their firm due to uncertainty. Mr. Bruce explained that he wished for the Canadian

⁴⁸ Reference: Globe and Mail article: PMO pressed Wilson-Raybould to abandon prosecution of SNC-Lavalin; Trudeau denies his office 'directed' her –



Government to participate in remediation with the company in an effort to do what is right for Canada.

282. In an open address to Canadians dated October 26, 2018, Mr. Bruce again spoke about being given the opportunity to go through the remediation agreement process. Mr. Bruce repeated the same statistics of job losses since 2012.
283. In a SNC-Lavalin statement dated December 14, 2018, SNC-Lavalin indicated that they may have to move out of Québec if they don't get the opportunity to participate in remediation. SNC-Lavalin indicated that their employee base was at 20,000 in 2013 and at 8,500 in 2018 (a difference of 11,500 employees).
284. As per Commissioner Dion's report, on February 2, 2018, Mr. To met with Mr. Bruce and other SNC-Lavalin representatives in Ottawa and presented a confidential discussion document outlining reasons in support of a remediation agreement regime and the company's request for timely implementation of a regime via the federal budget. According to the document, this strategy would increase the likelihood of a settlement of the company's pending criminal charges, of the company maintaining its head office in Canada for the foreseeable future and of an increase in its workforce.⁴⁹
285. Additional passages from Commissioner Dion's report also referred to SNC-Lavalin documents which were circulated at the government in the fall of 2018. The following extract made reference to these documents.
- (a) *Mr. Bruce and his staff held several discussions with the Deputy Minister of Finance, his Chief of Staff, and an Assistant Deputy Minister of Finance on public-interest considerations. According to SNC-Lavalin, the company presented a draft PowerPoint document it had prepared on public-interest considerations that would be submitted to the Prosecution Service. The parties reviewed the presentation and officials with the Department of Finance suggested possible additional factors relevant to the public interest.*⁵⁰
- (b) *The PowerPoint presentation also outlined a "Plan B" as a potential result of not being invited to negotiate a remediation agreement, which involved the creation of two SNC-Lavalin sourced companies. One would consist of a trio of possibly convicted entities carrying on reduced business operations in Canada or heading towards an eventual wind-up. The other group would be made up*

⁴⁹ Reference: Trudeau II Report - Paragraph 38

⁵⁰ Reference: Trudeau II Report - Paragraph 132



of parts of the SNC-Lavalin Group that had no role in the wrongful behaviour and would be reconstituted and headquartered in another jurisdiction.⁵¹

286. Based on the above, it is believed that there is sufficient publicly available information suggesting that SNC-Lavalin was advocating for a remediation agreement and that arguments of job loss and a headquarter move were pleaded in support.

Whether an improper act is inherently illegal

287. During her Committee testimony, Ms. Wilson-Raybould offered her opinion on the legality of the events that unfolded.

Question: Did you feel that this was an obstruction of justice?

Answer: It wasn't interference, because I never let it happen. Let's be clear about that. There was a concerted and sustained effort to attempt to politically interfere with my role as the Attorney General. As the Attorney General, I did not let that happen.

Question: Is it illegal for someone to pressure the Attorney General to offer a special plea like this for political reasons? Is it illegal for someone to pressure the Attorney General to intervene on a case?

Answer: In my opinion, it's not illegal. It is very inappropriate, depending on the context of the comments made, the nature of the pressure, the specific issues that are raised.

288. In her answer, Ms. Wilson-Raybould indicated that there was an attempt to politically interfere but that no obstruction took place because she did not let it happen. It should be noted that after the January 14, 2019 Cabinet shuffle, Ms. Wilson-Raybould no longer had the authority to uphold her previous decision.
289. When asked about the legality of the pressure, Ms. Wilson-Raybould stated that it was not illegal but instead inappropriate; which is defined as something not suitable or proper in the circumstances. Ms. Wilson-Raybould clarified that while she had no evidence of criminal wrongdoing when she testified before the Committee, information she read from Commissioner Dion's report has given her cause for concern.

⁵¹ Reference: Trudeau II Report - Paragraph 133



290. While it is clear from the various testimonies that Ms. Wilson-Raybould felt pressured by the events, the Attorney General's perception of the events as inappropriate as opposed to being illegal, makes a prosecution of the case improbable, unless additional evidence is obtained in support of a corrupt intent.

Cabinet Shuffle

Summary and notes from Ms. Wilson-Raybould
Text messages – Mr. Butts and Ms. Wilson-Raybould

291. As mentioned throughout this report, it is believed that Ms. Wilson-Raybould's removal from her position as Attorney General is significant to a possible offence of obstruction. Throughout the fall of 2018, Ms. Wilson-Raybould didn't waiver from her initial decision. It could be argued that the only option available to alter her decision could be to assign another Attorney General who would be in a position to assess the matter differently. While recognizing the right of an incoming Attorney General to review each case through their own judicial mind, a review of the available information has been conducted in order to assess if evidence existed which could support a theory that her shuffle was done to increase the likelihood of a desired outcome. As was previously reported, Mr. Lametti testified that he did not have any previous discussions on the matter before his appointment, nor was he pressured in reaching a specific decision. Given that the scandal broke out shortly after the Cabinet shuffle, one can only speculate on the probability of the new Attorney General assessing the matter differently. Nevertheless, a review of the evidence was conducted in order to assess if evidence exist tying the Cabinet shuffle to Ms. Wilson-Raybould's decision not to intervene in the case.

Synopsis of the Cabinet Shuffle

292. As per Mr. Butts testimony before the Justice Committee, on December 12, 2018 Minister Brison announced that he would not seek re-election. Mr. Butts attempted to dissuade Mr. Brison reinforcing that the Prime Minister was happy with the current Cabinet members. Mr. Butts said that Minister Brison's departure would put them in a difficult position given that the party would go from holding all 11 seats in Nova Scotia with strong incumbents to having five of them open in the next election.
293. Mr. Butts explained that given Minister Brison's resignation, they needed a Nova Scotia Minister and a Treasury Board Chair with ministerial experience. Mr. Butts said that all signs pointed to Minister Philpott moving to Treasury Board given her previous experience as Vice-Chair. At the same time, the Prime Minister wanted a person in Indigenous Services who would send a strong signal that the work would



keep going at the same pace and that the file would have the same personal prominence for him. It was felt that Minister Wilson-Raybould could be that person.

294. As for the Ministry of Justice and Attorney General, the Prime Minister chose Mr. Lametti given his background as a distinguished McGill law professor, with graduate degrees from Yale and Oxford. Mr. Butts explained that this was the context in which the Prime Minister made the decision to move Minister Wilson-Raybould and added that it had nothing to do with SNC-Lavalin.
295. In her statement, Ms. Wilson-Raybould indicated that she believed that her shuffle from the Justice portfolio was a consequence of her decision in the SNC-Lavalin case. This belief was also echoed by former Minister Philpott and Ms. Prince in their testimony. Both Minister Philpott and Minister Wilson-Raybould brought this issue to the attention of the Prime Minister and Gerry Butts on or about January 6-7, 2019. Based on the testimony of Dr. Philpott, it appears that the Prime Minister and Mr. Butts were aware that Ms. Wilson-Raybould would take issue with the shuffle. They both denied any links between the Cabinet shuffle and the decision of Ms. Wilson-Raybould.
296. From a review of the testimonies and the documentary evidence at hand, the following information was noted that would give concern as to the motive for the Cabinet shuffle.
- (a) The decision on the Cabinet shuffle assignment took place 19 days after the December 19 call between Ms. Wilson-Raybould and Mr. Wernick. It is during this call that Mr. Wernick made comments to the effect that the Attorney General and the Prime Minister were on a collision course and that the Prime Minister would find a way to get it done;
 - (b) Ms. Prince stated that she had a discussion with Ms. Drouin during which she was advised that the first subject the new Minister was to be briefed on was the matter of SNC-Lavalin; and
 - (c) Both Ms. Wilson-Raybould and Dr. Philpott believed the Cabinet shuffle to be linked to SNC-Lavalin and/or that a link would be made.
297. The timing of the Cabinet shuffle shortly after what can be perceived as an escalation of the conflict is problematic. However, without any corroborating evidence, this temporal link is more circumstantial than factual.
298. As it relates to Ms. Prince's assertion that the topic of SNC-Lavalin would be the first topic to be briefed to the new Minister, it represents the strongest evidence



suggesting a causal link between the shuffle and the SNC-Lavalin matter. However, in her testimonies, Ms. Drouin indicated that while the situation about SNC-Lavalin was presented to the new Minister, it was not given any precedence or importance. In its assessment, the RCMP has obtained a copy of the briefing document which was presented to the new Minister. The matter of remediation agreement was included in the document alongside several other cases. The information in this document does not suggest that the matter of SNC-Lavalin was given any primacy over the others. This was also supported by statements made by Mr. Wernick to the Justice Committee in which he asserted that the matter of SNC-Lavalin was not stressed beyond the others. Finally, statements by Mr. Lametti indicating that he received no instruction or pressure from the PMO would again support the position that the case of SNC-Lavalin was not highlighted. While Ms. Prince's statement is believed to be truthful, strong causal evidence must exist in order to support a link in a criminal proceeding.

299. Both Ms. Wilson-Raybould and Dr. Philpott provided details pertaining to the Cabinet shuffle. While they believe the two events to be connected, neither could provide concrete evidence in the form of documents or direct communication that would corroborate their assertions.
300. Finally, the parameters of the current waiver and authorization would make it impossible for the RCMP to obtain additional information on this topic.

Conclusion

301. Based on the above, it is believed that there is insufficient evidence to further establish that the acts, namely the meetings, the communications or Ms. Wilson-Raybould's removal as Attorney General, were meant to obstruct the course of justice.

Intimidation of a Justice System Participant, Section 423.1 of the CC

423.1 (1) No person shall, without lawful authority, engage in any conduct with the intent to provoke a state of fear in

(b) a justice system participant in order to impede him or her in the performance of his or her duties.



302. For a successful prosecution of the offence of intimidation of a justice system participant in this case, it is believed that the following criteria must be proven beyond a reasonable doubt:

- (a) Whether Ms. Wilson-Raybould is a justice system participant;
- (b) Whether threats were made;
- (c) Whether the threats were intended to cause fear; and
- (d) Whether the conduct was meant to impede the justice system participant in the performance of their duties.

Whether Ms. Wilson-Raybould is a justice system participant

Analysis

303. The *Criminal Code* defines “justice system participant” as

- (a) a member of the Senate, of the House of Commons, of a legislative assembly or of a municipal council,
- (b) a person who plays a role in the administration of criminal justice, including (...)

Conclusion

304. Given her role as Attorney General and as a member of the House of Commons, it is believed that Ms. Wilson-Raybould is a justice system participant as defined by the *Criminal Code*.

Whether threats were made

Analysis

305. During her testimony, Ms. Wilson-Raybould referenced veiled threats made to her. The essence of those threats are as follows:

- (a) The determination of the Prime Minister to find a way to get it done one way or another;



- (b) Repeated comments referencing calls from the Prime Minister or the Clerk;
 - (c) The Clerk's statement about reporting back to the Prime Minister and comments associated to the Prime Minister and his Attorney General being at loggerheads;
 - (d) Ms. Wilson-Raybould thoughts of the Saturday night massacre; and
 - (e) The Clerk's comments about a collision between her and the Prime Minister on the issue.
306. During his testimony, Mr. Wernick stated that he made no threats, veiled or otherwise, nor that the Minister's decision would lead to consequences for her.

Conclusion

307. In this situation, the two parties to the communication provided opposing interpretation to the content of the conversation. Given the above, one could draw an inference between the comments and the subsequent Cabinet shuffle. However, without strong factual link between the Cabinet shuffle and Ms. Wilson-Raybould decision, it is unlikely that it can be proven beyond a reasonable doubt.

Whether the threats were intended to cause fear

Analysis

308. In previous testimonies, Ms. Wilson-Raybould didn't venture about the arguments that the above mentioned comments were made with the deliberate intent to cause her fear. She however made reference to the Saturday night massacre which is referencing a situation when two US Attorney Generals resigned following a presidential order to fire an independent special prosecutor. This reference could be viewed as fearing for her position. She also explained that she was in a very heightened level of anxiety which increased and culminated in her discussion with the Clerk on December 19. She ended her conversation with the Clerk by saying, "*I am waiting for the other shoe to drop.*"
309. In *R. v. Horton*, it was held that s. 423.1 should be given "*such fair, large and liberal construction and interpretation to the section as best ensured the attainment of its objects*". However, no case law has been found suggesting that fear of demotion,



dismissal or other non-violent consequences is the kind of fear contemplated by s. 423.1.⁵²

Conclusion

310. Based on the comments, it seems clear that Ms. Wilson-Raybould was concerned about her continued position as Attorney General. This is also a sentiment that she had shared with Dr. Philpott. Based on the information, it remains unknown if the above mentioned comments were made for the purpose of causing fear. Current statements by Mr. Wernick would support a defence that he had no intent in causing fear and that he was instead presenting facts.

Whether the conduct was meant to impede the justice system participant in the performance of their duties

Analysis

311. It seems clear that various individuals were attempting to get the Attorney General to explore other options and/or to re-consider her decision. However, it was repeatedly reiterated that she was the final decision maker and that her decision was always hers. Again, as stated above, that decision was no longer hers after the January 2019 Cabinet shuffle.

Conclusion

312. Based on the current information, conclusion can't be drawn as to the whether the conduct was meant to impede Ms. Wilson-Raybould in the performance of her duties. The fact that these veiled threats were made in only one instance limits its probative value. It is believed that without the strong evidence in support of an offence of obstruction of justice, the prospect of a conviction for this offence alone would be unlikely.

⁵² Reference: *R. v. Horton*, 2014 ONCA 616 at para. 14



Conclusion

RCMP Assessment

313. Following the reporting of allegations of political interference in the application of prosecutorial independence, the RCMP Sensitive and International Investigations undertook a review of the available information in an effort to determine if the current allegations were criminal in nature.
314. The RCMP took a phased approach which consisted initially of conducting a preliminary review of the publicly available information in order to assess the scope of the allegations. Following each phase, an assessment was made as to the need and capacity to further the evidence gathering activities.
315. The second and current phase involved obtaining information from key witnesses; namely Ms. Wilson-Raybould, Ms. Prince, Ms. Drouin and Dr. Philpott. Concurrently, documentary evidence in the form of memorandum, letters, emails, and notes, was sought for further analysis. The review of this information and subsequent analysis formed the basis of the current document.
316. In its review, the RCMP assessed several points which included:
- (a) The current legislative framework;
 - (b) An analysis of the evidence (See Elements of the Offences);
 - (c) A review of external reports; and
 - (d) The prospect of further investigative activities.
317. Throughout the phases, RCMP SII investigators were supported by National Special Advisor – Financial Crime Investigations, John Ahern, whose legal advice greatly contributed to the completion of this assessment.

Legislative Framework

318. As detailed in this document, this matter involves a wide range of applicable legislations, policies, principles and doctrine. Needless to say that this legislative framework creates a unique situation which decrease the likelihood of a successful prosecution of a case, even when sufficient evidence would exist.



319. While the principles of prosecutorial independence are well established, the legislation pertaining to remediation agreement was relatively new. It was clear that SNC-Lavalin actively lobbied the government for the implementation of such a regime and were advocating for one to be issued in their case. The remediation agreement amendments to the *Criminal Code* came in force approximately two weeks after the DPP had informed the Attorney General of her decision not to invite SNC-Lavalin to negotiate a remediation agreement. In essence, this case was the first instance in which a decision on a remediation agreement was debated. It was even recognized by the Office of the Minister of Justice and Attorney General that this decision would elicit questions and inquiries.
320. The Shawcross doctrine remains at the center of this matter. This doctrine provides some parameters as it relates to ministerial consultations. While it is agreed that ministerial discussion should be encouraged, it is widely accepted that the Attorney General should not be pressured in reaching a decision. As such, the question was posed as to whether a violation of the Shawcross Doctrine would amount to a criminal act. As per Professor Maxime St-Hilaire of the Université de Sherbrooke and Professor Martine Valois of the Université de Montréal, the Shawcross Doctrine is a constitutional convention or practice, not a rule of law.⁵³ This would suggest that unless the elements of a criminal offences were met, a breach of the doctrine is more in the realm of ethical consideration with political ramifications and consequences. Based on the information at hand, it can be argued that the interactions were violating convention or practice, but not the law.

External Reports

321. Following a review of the information, it became apparent that the dual roles of Minister of Justice and Attorney General added to the complexity of the matter. Based on the information at hand, it was difficult to assess if Ms. Wilson-Raybould was approached in her role of Attorney General or Minister of Justice whenever specific questions on the SNC-Lavalin were posed to her or her staff. However, given the nature of the pressure, the logical inference would be that this pressure was directed at the Attorney General given her power to intervene. It was clear from Ms. McLellan's report and recommendations that more guidance is required as it relates to the process governing ministerial consultation. This lack of clarity would surely be actively debated in any court proceeding.
322. As Ms. McLellan so eloquently commented in her report, the integrity of the Attorney General is critical to the protection of the rule of law and principles governing

⁵³ <http://www.ruleoflaw.ca/the-problem-with-prosecutorial-independence-in-canada>.



prosecutorial independence. It is believed that the character of the former Attorney General was instrumental in the preservation of those principles.

323. The *Trudeau II Report* has provided additional context into the extent of SNC-Lavalin's lobbying activities and outreach into the government. It is clear from Dr. Philpott's statement and a review of the evidence that the government was actively attempting to find a solution that would allow for SNC-Lavalin to keep operating. While information from the report is concerning from an ethical standpoint, it does not provide factual evidence that would bridge the gap between the impugned activities and a criminal intent to obstruct the course of justice.
324. From his examination, Mr. Dion found that Mr. Trudeau used his position of authority over the former Attorney General to seek to influence, both directly and indirectly, her decision on whether she should overrule the DPP's decision not to invite SNC-Lavalin to negotiate a remediation agreement. As a result, Mr. Dion found that Mr. Trudeau contravened section 9 of the *Conflict of Interest Act*. However, this finding of guilt cannot be transposed to a criminal matter.
325. Finally, it should be noted that despite having access to a wider range of documents and testimonies, the Commissioner did not suspend his examination which would be required as per section 49(1)(a) of the Act if evidence of criminal wrongdoing was discovered.

Criminal Intent

326. As argued in the elements of the offences section, the allegations are related to specific intent offences. As per *R. v. Bernard*, specific intent offences involve more than a prohibited act but also require that the act was committed with some form of specific criminal intent.⁵⁴ Furthermore, as per *R. v. Savinkoff* and *R. v. Charbonneau*, to sustain a conviction for wilfully obstructing justice, the prosecution must prove not only that the accused was injecting false information into the justice system but must also prove that the accused knew he was proffering a falsity.⁵⁵ Throughout its assessment, the RCMP could not locate concrete evidence suggesting that the Attorney General was provided with false information in an effort to mislead her.
327. Between September and December 2018, it was reiterated that the decision on the matter was for the Attorney General to take. It was noted that the essence of the

⁵⁴ Reference: *R. v. Bernard*, [1988] 2 S.C.R. 833 at 863

⁵⁵ Reference: *R. v. Savinkoff*, [1963] C.C.C. 163 (B.C.C.A.), *R. v. Charbonneau* (1992), 74 C.C.C. (3d) 49 at 56-57 (Que. C.A.).



messages was often leaning towards finding a solution within the “*legitimate toolbox*” or to ensure that all options have been explored. While other comments give cause for concerns, they remain open for debate as to their interpretation. Furthermore, some of these comments were clarified during testimonies before the Justice Committee; in which an opposing view was provided. While one might not accept these explanations, there are currently no strong contradicting evidence. The remediation agreement was in fact a new option at the disposal of the DPP and it was expected that the first decision on the topic would bring questioning.

328. Also, the fact that discussions (leaving aside the purely partisan considerations) on the matter are proper on occasions but inappropriate in others creates a situation in which a clear delineation of when the activities become improper subjective and open to interpretation. When assessing a case, it is the Attorney General’s responsibility to consider only appropriate factors as set out in the *Criminal Code*; a rule that her Cabinet colleagues do not have to follow.
329. It is clear in Ms. Wilson-Raybould’s testimony that her decision had been reached by September 17, 2018. However, that same level of clarity wasn’t shared by other witnesses during their testimony. It seems that this decision date is significant as it would delineate between proper and improper. However, this line becomes more subjective when factoring the concept of continuous assessment of a situation. For instance, despite a decision made by September 17, Ms. Wilson-Raybould agreed to meet with the Clerk on a following day and to discuss the matter with her Deputy Minister. Notwithstanding her informed decision on the subject, this might be viewed as an opening for further discussions and would be actively debated in the context of a criminal prosecution.

Cabinet Shuffle

330. It is believed, should evidence exist that the Cabinet shuffle was orchestrated to allow for another Attorney General to reach a different decision, that it would likely be the strongest theory towards an offence of obstructing justice. As previously described, the Prime Minister has complete latitude in promoting, demoting or dismissing an Attorney General. While the Prime Minister is not compelled by law to provide an explanation, one was provided by Mr. Butts and Mr. Wernick, which linked the decision to the retirement of Minister Brison. Mr. Butts provided a clear rationale explaining the decision making process. Documentary evidence showed that the Prime Minister and Mr. Butts denied any correlation between the SNC-Lavalin matter and the Cabinet shuffle when confronted on the subject. At present, there is no information or evidence available to investigators to support the contrary.



Waiver and Authorization

331. Notwithstanding the level of evidence, it is believed that given the current parameters of the waiver and authorization, a full investigation into the matter would be greatly impacted. Beside the fact that witness testimonies have been limited by the parameters of the Order in Council, at this time, the RCMP does not have additional argument in support of an extension of the waiver and authorization.

Conclusory Statement and Recommendation

332. Notwithstanding the privilege barriers, it is believed that there is insufficient evidence to obtain production orders or search warrants for additional material based on the totality of the circumstances and the evidence gathered. To obtain production orders or search warrants, there must be reasonable grounds to believe that a criminal offence has been committed. When factoring the principles of a full, fair and frank disclosure of the matter, it is believed that the evidence at hand is insufficient to convince a trier of fact of the alleged offences.
333. It should be emphasised, that the conclusions reached in this report does not translate to the absence of a criminal offence. Instead, given the current legislative framework, the overall assessment of the evidence, and the evidence threshold required for a criminal conviction, it is believed that there is insufficient evidence to support further investigative actions or a criminal prosecution.
334. However, should additional evidence be uncovered corroborating a criminal intent to obstruct justice, it would be recommended that the occurrence be reopened for further investigation.

