

**Criminal Code
Private Prosecution Application
Ontario Court of Justice**

Will Say

**for Application filed by Duff Conacher on February 19, 2025 re: allegations of
obstruction of justice and breach of trust by Prime Minister Justin Trudeau
(electronic Record #2)**

1. Concerning the charge of obstruction of justice

The RCMP investigated the situation of alleged obstruction of justice by Prime Minister Trudeau (“PM”) pressuring, and instructing federal government officials to pressure, then-Attorney General and Minister of Justice Jody Wilson-Raybould (JWR) to intervene and stop the prosecution of SNC-Lavalin for various offences. Obstruction of justice is an offence under [subsection 139\(2\)](#) of the *Criminal Code* (R.S.C. 1985, c. C-46).

The PM and several other government officials acting at his direction pressured JWR and/or her ministerial staff to stop the prosecution of SNC-Lavalin several times from mid-August and the end of December 2018. The pressuring occurred:

1. During a phone call on August 14, 2018 from Ben Chin, then-Finance Minister Bill Morneau’s Chief of Staff (“Chin”) to Jessica Prince, then Chief of Staff for JWR (“Prince”);
2. During a phone call and in a follow-up email on September 6, 2018 between Chin and Prince;
3. During a phone call on September 11, 2018 between Chin and Francois Giroux, then-Ministerial Staff for JWR (“Giroux”);
4. During a phone call on September 16, 2018 from Mathieu Bouchard, then-Senior Advisor to the PM (“Bouchard”) and Elder Marques, then-Senior Advisor to the PM (“Marques”), to Prince;
5. During a meeting in Ottawa on September 17, 2018 between JWR, the PM and then-Clerk of the Privy Council Michael Wernick (“Wernick”) in Ottawa;
6. During a phone call on September 17, 2018 from Katie Telford, Chief of Staff for the PM (“Telford”) and Gerald Butts, then-Principal Secretary to the PM (“Butts”), to Prince;

7. During a meeting in Ottawa on September 19, 2018 between JWR and Wernick;
8. During a September 19, 2018 phone call between Bouchard and Marques to Prince;
9. During a phone call on September 20, 2018 from the PM and Chin to Prince;
10. During an October 14, 2018 phone call between JWR and then-Treasury Board President Scott Brison;
11. During an October 26, 2018 phone call between Prince and Bouchard;
12. During a meeting in Ottawa on November 22, 2018 between JWR and Bouchard and Marques;
13. During a meeting in Ottawa on December 5, 2018 between JWR and Butts;
14. During a meeting in Ottawa on December 18, 2018 between Prince and Butts and Telford, and;
15. During a December 19, 2018 phone call between JWR and Wernick (recorded by JWR).

(See details in Part 1 of RCMP Records, Record #2, pp. 56-70 and 90-110 (See this Record also in Part 2 of RCMP Records at p. 587-719, with same chronology of events at pp. 642-656 and 675-696). Also see Part 2 of RCMP Records, pp. 54-146, 298-311, 473-477 and 1000-1042, and the Part 2 Summary of the RCMP Records).

However, the RCMP only interviewed JWR, JWR's former Chief of Staff Jessica Prince ("Prince"), JWR's former Deputy Minister Nathalie Drouin ("Drouin"), and former Treasury Board President Jane Philpott ("Philpott"). The RCMP did not interview other members of JWR's staff, Prime Minister Justin Trudeau ("PM") or any other Cabinet ministers or government officials who were involved in pressuring JWR, even though all of them had evidence of the alleged offences, and even though JWR urged the RCMP to interview other witnesses (Part 2 of RCMP Records, page 144).

In addition to the two witnesses listed on the application form, included in this application is a document with information for 11 other witnesses (in both hard copy form, and also electronic form (Record #3)).

Instead of interviewing key witnesses as part of a criminal investigation, the RCMP relied unquestioningly on the public statements made by all the people who were involved in pressuring JWR (at House of Commons Committee hearings and in news conferences and news releases). These public statements, of course, were all aimed at trying to make it seem like none of them had done anything wrong.

The RCMP's investigation records show that the RCMP consistently characterized all of the statements made by all of the people involved in pressuring JWR in a favourable way, and consistently argued in favour of doubts concerning the success of a prosecution (Part 1 of RCMP Records, Record #2, paras. 259, page 117; para. 278, page 121; paras. 295-299, pages 125-126; paras. 313-334, pages 130-134 – especially paras. 318, 320-32, 323-326, 328-330; Record #3, subparas. 9(e), (g) and (h), pages 3-4; paras. 15-18, pages 5-6; and paras. 19-20, pages 6-7).

The RCMP accepted the Trudeau Cabinet's restricted disclosure order and did not apply to court for a warrant to obtain internal communication records of the PM and other Cabinet ministers and staff which would have provided evidence concerning both intent and also details of the actions of the PM (Part 1 of RCMP Records, Record #2, para. 300-301, p. 126; paras. 331-334, page 134; Record #3, paras. 5 (page 2) and 21-23 (page 7)), even though JWR urged them to get the disclosure order expanded so they could see all the internal communication records (Part 2 of RCMP Records, page 144).

The RCMP's investigating officer initially established that, to prove obstruction of justice in court, pressure must have been placed on someone to obstruct a proceeding in the justice system, and that such pressure had been put on JWR by the PM and his officials (Part 1 of RCMP Records, Record #2, para. 234, page 87; para. 239, pages 88, and; para. 249, page 111). However, the investigating officer then switched the standard to require proof of "a corrupt intent to interfere" even though that is not the correct legal standard (Part 1 of RCMP Records, Record #2, paras. 250-301 (pages 111-126 – especially paras. 287-290)).

The RCMP's opinion that the offence of obstruction of justice requires "corrupt intent" (and that charges against the Prime Minister were not warranted for this reason) runs contrary to the plain language found in section 139(2) of the *Criminal Code*

and to the Superior Court of Justice caselaw on this very point. The correct standard that should have been applied is “willful attempt.” This private prosecution will provide an opportunity for the judiciary, not the RCMP, to determine whether the Prime Minister willfully attempted to obstruct the prosecution of SNC Lavalin. See *R. v. Valentine*, [2003 CanLII 2465 \(ON SC\)](#), paras 20-27; also see *R. v. Kotch*, [1990 ABCA 348 \(CanLII\)](#), paras 12-13, 16.

The RCMP's decision not to prosecute the PM for obstruction was based in part on the clearly self-interested and biased statement by JWR before a House of Commons Committee in February 2019, when JWR was still a member of the Trudeau Cabinet, that while the PM pressuring her was wrong it was not illegal (Part 1 of RCMP Records, Record #2, paras. 287-290, pages 122-123).

At the time that JWR made this statement, she was still a member of the Cabinet and therefore bound to express confidence in the Cabinet and PM. There was no indication at the time that JWR was planning to leave Cabinet or that the PM was going to remove her from the Liberal Party caucus.

The RCMP is also hiding part of the statements of JWR during her third meeting with RCMP officers in February 2020 concerning whether, after learning more about what happened, she thought the actions of the Prime Minister amounted to obstruction of justice (Part 2 of RCMP Records, pages 373 and 395-397).

The RCMP is also hiding part of the statements of Prince during her interview with RCMP officers on October 25, 2020 concerning the pressuring by federal government officials to have JWR stop the prosecution (Part 2 of RCMP Records, pages 472-474, 478, 487-488, 498, 519, 527, 528 and 532).

The RCMP is also hiding part of the statements of Philpott during her interview with RCMP officers on October 25, 2020 concerning what JWR communicated to her re: the pressuring by federal government officials to have JWR stop the prosecution (Part 2 of RCMP Records, pages 1792, 1796-1797, 1803, 1804, 1806-1808, 1810-1816).

The informant relies on the evidence contained in the Part 1 and Part 2 summaries of the investigation records of the RCMP, included with this application (in both hard copy form, and also electronic form (Records #6-8)), and on the Part 1 and Part 2 RCMP records included in electronic format with this application. The evidence shows that the PM, and officials acting at the request of the PM, pressured JWR several times from August 2018 to December 2018 to intervene and stop the prosecution of SNC-Lavalin, even though JWR told the PM and the other officials that pressuring her was wrongful.

The informant also relies on the opinion of a retired superior court justice included with this application (in both hard copy form, and also electronic form (Record #5)) that concludes a prosecution of the PM for obstruction of justice was warranted. The opinion was provided voluntarily to Democracy Watch on the condition that the justice could remain anonymous.

2. Concerning the charge of breach of trust

The RCMP did not even consider the charge of breach of trust during its investigation (Part 1 of RCMP Records, Record #2, paras. 10-11, page 9; Record #3, para. 3, page 1; para. 10, page 4; and para. 12-14, pages 4-5).

Breach of trust is an offence under [section 122](#) of the *Criminal Code*. Under the test set out by the Supreme Court of Canada in *R. v. Boulanger*, [2006 SCC 32 \(CanLII\)](#), [2006] 2 SCR 49, breach of trust by public officer occurs when a public official departs markedly from the standards of confidentiality or other conduct demanded of an individual in their position for a purpose other than the public good.

It is a violation of [sections 4 and 6-9](#) of the federal *Conflict of Interest Act* (S.C. 2006, c. 9, s. 2) for the PM to participate in, attempt to influence and/or use inside information in any official decision-making to improperly further the interests of any person or entity.

In a [ruling issued in August 2019](#), the federal Conflict of Interest and Ethics Commissioner concluded that the PM violated section 9 by trying to influence, and directing others to try to influence, JWR's decision not to stop the prosecution of

SNC-Lavalin. The ruling is included with this application in electronic form (Record #10)).

The evidence from the investigation records of the RCMP show that the PM participated in, attempted to influence, and used inside information to pressure JWR's official decision-making process to intervene and stop the prosecution of the entity of SNC-Lavalin. According to JWR's statement to the RCMP, the PM pressuring her was improper. Stopping a prosecution is clearly not a public good purpose, especially given it was illegal for JWR to take into account the reasons the PM gave (protecting jobs, helping the Liberal Party win re-election) for stopping it.

As a result, the evidence supports a prosecution of the PM for breach of trust.

3. Concerning the conduct of the RCMP in investigating the situation

The RCMP's investigation records show that the RCMP's national command took from March 2021, when it received the investigation report from the investigating officer, until January 2023 to make its decision to conclude the investigation without prosecuting anyone. This delay of one year and nine months has not been explained by the RCMP.

As noted above in section 1, the investigating officer changed the standard of proof initially being used by the RCMP for the charge of obstruction of justice, and applied an incorrect legal standard as the basis for the conclusion that no one should be prosecuted. The RCMP did not interview many witnesses, and accepted the Cabinet's restricted Cabinet document disclosure order, and relied in part on the clearly self-interested and biased statement by JWR in February 2019, while hiding part of statements by her and other key witnesses concerning whether the actions of the PM amounted to obstruction of justice. As noted above in section 2, the RCMP did not even consider prosecuting the PM for breach of trust even though the evidence supports such a prosecution. The RCMP has also refused to disclose approximately 300 pages of its investigation records.

See details in attached Summary of Actions by the RCMP (electronic Record #4).

Again, this Will Say document is also provided in electronic format (Record #2).