

PMO pressed Wilson-Raybould to abandon prosecution of SNC-Lavalin; Trudeau denies his office 'directed' her

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OTTAWA, TORONTO

PUBLISHED FEBRUARY 7, 2019

UPDATED 1 DAY AGO

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After former justice minister and attorney-general Jody Wilson-Raybould was shuffled to veterans affairs on Jan. 14, she released a lengthy statement listing her legislative accomplishments in the portfolio and underlining the need for independence.

ADRIAN WYLD/THE CANADIAN PRESS

Prime Minister Justin Trudeau's office attempted to press Jody Wilson-Raybould when she was justice minister to intervene in the corruption and fraud prosecution of Montreal engineering and construction giant SNC-Lavalin Group Inc., sources say, but she refused to ask federal prosecutors to make a deal with the company that could prevent a costly trial.

SNC-Lavalin has sought to avoid a criminal trial on fraud and corruption charges stemming from an RCMP investigation into its business dealings in Libya. Prosecutors alleged in February, 2015, that SNC paid millions of dollars in bribes to public officials in Libya between 2001 and 2011 to secure government contracts. The engineering company says executives who were responsible for the wrongdoing have left the company, and it has reformed ethics and compliance rules.

After the charges, SNC-Lavalin lobbied officials in Ottawa, including senior members in the office of Mr. Trudeau, to secure a deal known as a "deferred prosecution agreement" or "remediation agreement" that would set aside the prosecution. In such deals, which are used in the United States and Britain, a company would accept responsibility for the wrongdoing and pay a financial penalty, relinquish benefits gained from the wrongdoing and put in place compliance measures. "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," SNC argued in a brief to federal officials in October, 2017.

But in October, 2018, SNC-Lavalin hit a major obstacle. The federal director of public prosecutions refused to negotiate a remediation agreement that would have resolved the Libyan fraud and corruption charges without prosecution. SNC-Lavalin has 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."

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Sources say Ms. Wilson-Raybould, who was justice minister and attorney-general until she was shuffled to Veterans Affairs early this year, came under heavy pressure to persuade the

Public Prosecution Service of Canada to change its mind.

Ms. Wilson-Raybould was unwilling to instruct the director of the public prosecution service, Kathleen Roussel, to negotiate a remediation agreement with SNC-Lavalin, according to sources who were granted anonymity to speak directly about what went on behind-the-scenes in the matter.

The Prime Minister's Office issued a short statement when asked to comment on efforts to persuade Ms. Wilson-Raybould to intervene.

"Prime Minister's Office did not direct the attorney-general to draw any conclusions on this matter," press secretary Chantal Gagnon said in an e-mail to The Globe and Mail on Wednesday evening.

On Thursday at a transit-related appearance in Vaughan, Ont., Mr. Trudeau further denied that senior officials in the PMO "directed" Ms. Wilson-Raybould in her previous roles to intervene in the SNC-Lavalin case, but he would not say whether they tried to influence her to abandon a prosecution and trial of the Montreal corporate giant.



Prime Minister Justin Trudeau is denying that his office 'directed' former attorney general Jody Wilson-Raybould to help SNC-Lavalin avoid a criminal prosecution. The Globe and Mail never reported that officials in Mr. Trudeau's office had directed Ms. Wilson-Raybould to take action – only that she was pressured to do so and declined.

"The allegations reported in the story are false. At no time did I or my office direct the current or previous attorney-general to make any particular decision in this matter," Mr. Trudeau told reporters.

The Globe and Mail never reported that officials in Mr. Trudeau's office had directed Ms. Wilson-Raybould to take action – only that she was pressured to do so and declined.

Asked if the PMO exerted any influence whatsoever, Mr. Trudeau said: "As I've said, at no time did we direct the attorney-general, current or previous, to make any decision whatsoever in this matter."

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When asked about any conversations with Ms. Wilson-Raybould about the SNC-Lavalin prosecution, Mr. Trudeau would only say "we have a tremendous, positive working relationship with all members of our cabinet."

Sources say officials from Mr. Trudeau's office, whom they did not identify, had urged Ms. Wilson-Raybould, Canada's first Indigenous justice minister, to press the public prosecution office to abandon the court proceedings.

The Public Prosecution Service of Canada's website says with the exception of Canada Elections Act matters, the attorney-general "can issue a directive to the director of public prosecutions about a prosecution or even assume conduct of a prosecution, but must do so in writing and a notice must be published in the Canada Gazette."

Ms. Wilson-Raybould trusted the judgment of the public prosecutor and did not believe it was proper for the attorney-general to intervene, especially if there could be any suggestion of political interference, sources say. The Trudeau Liberals had criticized the former Harper government for undermining independent agencies and vowed to respect their decisions. The government has also invoked the independence of the judicial system as a reason for not intervening in the case of Huawei Technologies Co. Ltd. executive Meng Wanzhou, who was arrested at the Vancouver airport on an extradition request from the United States.





Prime Minister Justin Trudeau speaks to the media at the Go station in Vaughan, Ont., on Feb. 7, 2019.

NATHAN DENETTE/THE CANADIAN PRESS

SNC-Lavalin, Canada's largest engineering and construction management company, is one of Quebec's biggest corporations and has a reputation for holding political sway in Quebec City and Ottawa.

One well-connected Liberal with close ties to SNC-Lavalin said Ms. Wilson-Raybould "blew off the PMO" requests. The company had told the government it was in dire circumstances and required a suspension of criminal charges to ensure it continued on a solid footing.

The Trudeau government in 2018 amended the Criminal Code to allow deferred-prosecution agreements that let prosecutors suspend criminal charges against Canadian companies found to have committed wrongdoing. The measure was inserted in the 2018 budget after a brief consultation in 2017.

Liberal insiders said Ms. Wilson-Raybould knew this legislative change was meant to help SNC-Lavalin out of the legal troubles that were weighing on the price of its shares. A conviction on the fraud and corruption charges could result in a 10-year ban from federal government contracts – a development that would lead to layoffs.

Since the beginning of 2017, representatives of SNC-Lavalin met with federal government officials and parliamentarians more than 50 times on the topic of “justice” and “law enforcement,” according to the federal lobbyists registry. This includes 14 visits with people in the PMO. Those they met included Gerald Butts, principal secretary to the Prime Minister, and Mathieu Bouchard, Mr. Trudeau’s senior adviser on Quebec – whom they met 12 times. Mr. Trudeau’s senior policy adviser, Elder Marques, also met with company representatives.

Sources at SNC-Lavalin told The Globe the PMO was furious with the justice minister’s intransigence on the remediation agreement and that the company was pleased to see her moved out of the portfolio.

After a request from The Globe, Ms. Wilson-Raybould was unwilling to discuss the political pressure she endured aimed at persuading her to arrange a remediation agreement for SNC-Lavalin.

“That is between me and the government as the government’s previous lawyer,” she said in an interview.

Asked if she had been approached to direct the Public Prosecution Service to negotiate a remediation agreement, Ms. Wilson Raybould said: “I don’t have a comment on that.”

The Globe also asked whether she had refused such a request. “I cannot comment on that. That is legal advice between me and the government at the time.”

Sources said the justice minister was also encouraged to hire an outside legal expert to furnish an opinion on the suitability of a remediation agreement. Ms. Wilson-Raybould said she could not comment on whether such a request was made.

Montreal Liberal MP David Lametti, a former law professor, became Justice Minister and Attorney-General when Mr. Trudeau shuffled his cabinet on Jan. 14. Mr. Lametti’s promotion from the backbench bolsters Quebec’s representation in cabinet and could encourage SNC-Lavalin’s hopes for a remediation agreement, although the company said it is pursuing the judicial review at the moment.

Asked whether SNC-Lavalin believes Mr. Lametti might revisit the decision, Daniela Pizzuto, the company’s director of external communications, said: “I cannot provide you with any guidance on this topic.”

A lawyer for SNC-Lavalin, William McNamara of the law firm Torys, filed an application in October aimed at overturning the ruling and seeking a court order requiring the director of public prosecutions to invite the company to negotiate a remediation agreement. In the Oct. 19, 2018, filing in the Federal Court in Montreal, Mr. McNamara called Ms. Roussel's decision an "unreasonable exercise of her discretion." Last week, federal prosecutors asked that SNC-Lavalin's appeal be dismissed.

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It is a pillar of our democracy that our system of justice be free from even the perception of political interference and uphold the highest levels of public confidence,” she wrote. “As such, it has always been my view that the attorney-general of Canada must be non-partisan, more transparent in the principles that are the basis of decisions, and, in this respect, always willing to speak truth to power. This is how I served throughout my tenure in that role.

— Jody Wilson-Raybould, in an online post on the day of her move from Justice to Veterans Affairs

After the cabinet shuffle, Ms. Wilson-Raybould released a lengthy statement listing her legislative accomplishments during her tenure at Justice. In an unusual move for a member of cabinet, she also underlined the need for independence in the portfolio.

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As justice minister, Ms. Wilson-Raybould ushered in the legalization of cannabis with an expansion of police powers to conduct roadside testing on drivers in what she described as among the world's toughest impaired-driving regimes. She introduced the first major reforms in a quarter-century to the law that protects sexual-assault victims from intrusive questioning, and redesigned the judicial-appointment process to stress diversity, and the numbers of women applying for the federal bench soared.

But sources say the B.C. politician angered the PMO in four speeches last fall that suggested politicians had engaged in doublespeak on Indigenous issues. The speeches earned her a

private rebuke from Privy Council Clerk Michael Wernick, the top federal civil servant, sources say.

While she did not point at anyone in particular, Ms. Wilson-Raybould did nothing to dispel the impression that she was talking about the government.

“Too often, we see the tendency – especially in politics – to use important words that have real meaning and importance carelessly,” she said in the first speech of the four, at the University of Saskatchewan, and also in Comox, B.C., on Sept. 27. “We see ‘recognition’ applied to ideas that actually maintain denial. We see ‘self-government’ used to refer to ideas or processes that actually maintain control over others. We see ‘self-determination’ applied to actions that actually interfere with the work of Nations rebuilding their governments and communities. We see ‘inherent’ in the same breath as the contradictory idea that rights are contingent on the courts or agreements.”

In the third speech, in Ottawa on Oct. 30, she implied she has not always received the respect she deserved from cabinet. “Indeed, in my own experience serving as the first Indigenous person to be Canada’s minister of justice and attorney-general, I have unfortunately had it reinforced that when addressing Indigenous issues, no matter what table one sits around, or in what position, or with what title and appearance of influence and power, the experience of marginalization can still carry with you.”

SNC TIMELINE

2015: The RCMP charge SNC-Lavalin and two subsidiaries with paying nearly \$48-million to public officials in Libya between 2001 and 2011 to influence government decisions under the Moammar Gadhafi regime. The RCMP also charged the Montreal-based company, its construction division and a subsidiary with fraud and corruption for allegedly defrauding Libyan organizations of about \$130-million.

May, 2015: Then-SNC Lavalin chief executive Robert Card says the company would like to arrange a deferred prosecution agreement with Ottawa to avoid prosecution and developments that might jeopardize the company’s work.

2016-2017: Federal lobbyist registry shows SNC-Lavalin representatives registered more than 50 meetings with federal officials and parliamentarians at which subjects included “justice” and law enforcement.”

September, 2017: Trudeau government launches consultations on whether to introduce deferred prosecution agreements, also called remediation agreements, as an “additional tool for prosecutors” to address corporate crime. Such deals suspend criminal prosecution if the accused admits to facts that would support a conviction, pays a penalty and co-operates with authorities.

February, 2018: The 2018 budget includes amendments to the Criminal Code to allow remediation agreements, which are already used in the U.K. and the United States.

June 21, 2018: Bill C-74, which includes remediation agreements, receives Royal Assent. Criminal Code amendments to take effect September 21, 2018.

Oct. 10, 2018: SNC-Lavalin announces the director of the Public Prosecution Service of Canada advised the company it would not be invited to negotiate a remediation agreement.

Oct. 19, 2018: SNC-Lavalin files with Federal Court an application for judicial review of the director’s decision.

Jan. 14, 2019: Jody Wilson-Raybould is shuffled from minister of justice and attorney-general to Minister of Veterans Affairs and Associate Minister of National Defence.

With a report from Canadian Press

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