



December 19, 2016

Via email: mcu@justice.gc.ca

The Honourable Jody Wilson-Raybould, P.C., M.P.
Minister of Justice
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister:

Re: Shortage of Judges

The CBA welcomed recent appointments to fill judicial vacancies in the superior courts of many provinces and territories. However, the Commissioner of Federal Judicial Affairs reports that there are currently 43 unfilled vacancies affecting all provinces and one territory. Further, since well before the issue came to a head in *R. v. Jordan*, 2016 SCC 27, chief justices across the country have been advising that workloads are unmanageable without the creation of additional judicial positions.

The shortage of judges is contributing to an acute access to justice problem in Canada. It is an important factor in delays that have seriously undermined public confidence in our justice system. It has contributed to the stress experienced by victims, witnesses and accused caught up in the criminal justice system. It has adversely affected individuals, families, children and businesses trying to access the civil justice system. Indeed, when Chief Justice McLachlin spoke to the CBA Council in August, she expressed concerns that civil justice delays will drive users with means to private dispute resolution, while adding further strain and indignity to those who have no option but to suffer unnecessarily prolonged proceedings.

In August 2013, the CBA Council unanimously urged the federal government to take steps immediately to fill additional judicial positions identified by the governments of Alberta and Quebec. Some, but not all, of the requested positions were added to the *Judges Act*. In August 2016, the CBA Council again urged the federal government to consider the serious problems created by unfilled vacancies and to maintain full judicial complements as a critical component of a properly functioning justice system. The CBA welcomes the 39 superior court judicial appointments made in 2016. We remain deeply concerned that current efforts are insufficient to address urgent needs across the country.

By way of illustration, I mention the situation in Quebec, which currently has four vacancies, some going back to 2012. The Quebec government has now introduced Bill 125, which would add two judicial positions to the Court of Appeal and five to the Superior Court. We were pleased to learn from your recent interview with La Presse journalist Vincent Brousseau-Pouliot that you are committed to filling the existing West Quebec vacancies by early February 2017. This is welcome news, as our Quebec colleagues have described the current situation as a crisis that has rocked the foundations of the justice system, prompting the chief justices to make a rare public appeal for additional resources and prompt appointments to fill the vacancies.

However, this does not resolve the critical need for increased judicial complements in Quebec and elsewhere. The CBA appreciates the checks and balances involved in the creation of new superior court positions due to the shared responsibilities of the federal, provincial and territorial governments. These must not be allowed to become barriers to the functioning of our justice system.

In the interim, I cannot stress enough the urgency of implementing a full range of measures to relieve the current pressure on courts across the country. Immediately filling all existing vacancies and permanently increasing judicial complements where the need has already been identified are essential first steps. Complementary measures, such as the appointment of deputy judges and maximizing opportunities to more fully engage supernumerary and retired (but age-eligible) judges could go some way to providing temporary relief. I am confident that additional creative solutions can be found while more durable solutions to the chronic issues are addressed. The Canadian Bar Association is prepared, as always, to assist in any way that would be helpful.

Yours truly,

(original letter signed by René J. Basque)

René J. Basque, c.r./Q.C.