



April 27, 2016

Via email: justin.trudeau@parl.gc.ca

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Langevin Building
80 Wellington Street
Ottawa, Ontario K1A 0A2

Dear Prime Minister,

Re: Governor in Council appointments

The Canada Bar Association (CBA) welcomes the government's announcement of a new approach to Governor in Council (GiC) appointments. We support an open, transparent and merit-based selection process that provides gender parity and better reflects Canada's diversity and unique relationship with Indigenous peoples. We commend the government for signaling the need to move quickly on this high priority issue, and take this opportunity to offer the CBA's assistance as the contours and details of the new approach are developed.

The CBA is a national association of 36,000 lawyers, Québec notaries, law teachers and students, with a mandate to promote improvements in the law and the administration of justice. GiC appointment processes are a long-standing interest of the CBA, which has just marked the 25th anniversary of its *Task Force on the Independence of Federal Administrative Tribunals and Agencies in Canada* (the Ratushny Report). I write today in the context of this report, with a request for a further commitment on issues related to GiC appointments.

Professor Ratushny was initially approached by the CBA to give an overview of problems associated with appointments to federal tribunals and agencies. However, he quickly concluded that appointments were only one aspect of a much broader issue that undermined the independence and impartiality of tribunals and their members.

The Ratushny Report identified concerns that the piecemeal approach to federal tribunals, boards, agencies and commissions created "too many gaps and too many opportunities for abuse." It concluded that "the current approach of relying on constituent statutes on an ad hoc basis to protect the independence of tribunals and agencies is not working. There is a need for a generic statute to

establish standards of independence which will not be subject to arbitrary variation.” The Report also made comprehensive recommendations for reform on issues such as the method of appointment of tribunal members, their tenure and remuneration, accountability mechanisms, the budgetary process, and the need for training and continuing education.

Sadly, the recommendations of the Ratushny Report remain very current. While a new approach to GiC appointments is an important first step, the CBA believes the best results will come from attention to the underlying issues which affect the perceived integrity of GiC appointees, particularly in the adjudicative tribunals sector. We would welcome an opportunity for substantive discussion about approaches that might help to advance not only competence and diversity in GiC appointments, but also independence and impartiality in a sector that has an important bearing on the everyday concerns of Canadians.

Yours truly

A handwritten signature in black ink, appearing to read 'Janet', with a long horizontal flourish extending to the right.

Janet M. Fuhrer

cc : The Honourable Dominic LeBlanc, P.C., M.P. info@pco-bcp.gc.ca , dominic.leblanc@parl.gc.ca
The Honourable Jody Wilson-Raybould, P.C., M.P. mcu@justice.gc.ca ; Jody.Wilson-Raybould@parl.gc.ca