Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [JPS/108/2016]

On August 29, 2016, the Department of Justice and Public Safety received your request for access to the following records:

"All correspondence from Minister Andrew Parsons and/or his officials to the Prime Minister and/or his office, Minister Jody Wilson-Raybould and/or her officials regarding appointments to the Supreme Court of Canada. This request would cover the time period between December 1, 2015 and August 28, 2016."

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Justice and Public Safety to provide access to the requested records. In accordance with your request for a copy of the records, the appropriate document has been enclosed.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).
If you have any questions, please feel free to contact me by telephone at 709-729-7906, or by email at ncrke@gov.nl.ca.

Sincerely,

[Signature]

Neil Croke
ATIPP Coordinator
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.
(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
Dear Minister Wilson-Raybould:

I am writing further to the announcement by Justice Cromwell of the Supreme Court of Canada that he will be retiring as of September 2016. His great contributions from the bench will certainly be missed.

By convention, the seat currently occupied by Justice Cromwell is filled by an appointment from the Atlantic Provinces and I am writing to advocate that it is time for that seat to be filled by an appointment from Newfoundland and Labrador.

Since 1875, New Brunswick has had six appointments to the SCC and Nova Scotia has had five including Justice Cromwell. PEI has had one: Sir Louis Henry Davies, who was actually that province's Premier at one point in time. He later went on to become Chief Justice.

As it stands, of the last four Atlantic Canadian SCC appointees since 1949 (coincidentally the year Newfoundland and Labrador joined Canada), two were from New Brunswick and two were from Nova Scotia. This mirrors the circumstance facing the Prime Minister at the time of Sir Louis Davies’ appointment from PEI in 1901. Perhaps at that time, Prime Minister Wilfrid Laurier recognized the imbalance and rectified it with Davies’ appointment.

It is worth noting that it took PEI just 28 years from their date of Confederation to have representation on the SCC bench. By comparison, it has now been 67 years since Newfoundland and Labrador’s Confederation and we remain the only Atlantic Canadian Province to have never had representation on the SCC bench.

As we approach the April 1 anniversary of Newfoundland and Labrador becoming the country’s tenth province, I can think of no better recognition of our considerable contributions to the federation than the appointment of a Supreme Court Justice from here. While there are undoubtedly strong candidates across Atlantic Canada worthy of consideration, I strongly feel, as do many Newfoundlanders and Labradorians, our time has come.

Through the impact of its decisions, the SCC plays an increasingly important part in the
daily lives of all Canadians. This has always been true in Newfoundland and Labrador, where
decisions by the Court on a number of fundamental issues has shaped the Province’s economic
future and its relationship with Canada as a whole.

I believe that our Province has a number of eminently qualified jurists and practitioners,
any one of whom would be an asset to the SCC, and who would be a benefit to the country
through both the application of their legal skills and their Atlantic Canadian perspective.

Through such an appointment you have the opportunity to make history and complete
one of the outstanding actions of inclusiveness from Newfoundland and Labrador’s joining
Canada 67 years ago.

Thank you for your consideration of this recommendation.

Sincerely,

ANDREW PARSONS
Minister of Justice and Public Safety
Attorney General

CC:

The Right Honourable Justin P. J. Trudeau
Office of the Prime Minister
Government of Canada
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Judy M. Foote
Minister of Public Services and Procurement
11 Laurier Street
Place du Portage, Phase III,
Floor 18A1
Gatineau, Quebec
K1A 0S5

The Honourable Dwight Ball
Premier of Newfoundland and Labrador
8th Floor, East Block
Confederation Building
P.O. Box 8700
St. John’s, NL
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