



democracy Watch
émocratie en surveillance

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Office of the Conflict of Interest and Ethics Commissioner
ATTN: Mario Dion, Commissioner
Parliament of Canada
Centre Block, P.O. Box 16
Ottawa, Ontario
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Email: ciec-ccie@parl.gc.ca

March 4, 2019

RE:

- 1. Request that you recuse yourself from conducting inquiry and ruling on the above matter because you were appointed by the Trudeau Cabinet, and also because of your statements showing bias against effective enforcement;**
- 2. Request for expansion of inquiry into everyone named by former Attorney General as trying to influence her decision concerning the prosecution of SNC-Lavalin, for violations of sections 9, and sections 7 and 8, of the *Conflict of Interest Act***

Dear Commissioner Dion:

Thank you for your letter dated February 26, 2019 confirming that you are investigating Democracy Watch's complaint filed with you on February 8, 2019 alleging that section 9 of the *Conflict of Interest Act* was violated by members of the Office of the Prime Minister (PMO) trying to influence the decision of the Attorney General of Canada Jody Wilson-Raybould concerning intervening in the prosecution of SNC-Lavalin by the Public Prosecution Service of Canada, as reported February 8, 2019 in print edition of the *Globe and Mail* and also the online edition at:

<https://www.theglobeandmail.com/politics/article-pmo-pressed-justice-minister-to-abandon-prosecution-of-snc-lavalin/>

As set out in Democracy Watch's February 8th letter to you, Democracy Watch's position remains that you should recuse yourself from investigating and ruling on

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this matter because you were hand-picked by the Trudeau Cabinet through a secretive, partisan, Cabinet-controlled process, and because of your statements before the House Ethics Committee in December 2017.

There is a reasonable apprehension of bias on your part because you were hand-picked by the Trudeau Cabinet through a very questionable process, and because in your statements before the Committee you expressed the belief that “people are fundamentally honest.”

For these reasons, Democracy Watch requests that you delegate the investigation to a provincial ethics commissioner who has no ties to any of the federal political parties.

I am writing you today to request also that you ensure an expanded investigation into the situation, an investigation of the actions not just of people in the Prime Minister’s Office as Democracy Watch requested in its February 8th letter, but of the actions of all the people named by Jody Wilson-Raybould in her testimony before the House of Commons Justice Committee on February 27, 2019, as they are all covered by and required to comply with the *Conflict of Interest Act*.

As well, Ms. Wilson-Raybould’s testimony cited emails, texts and other communications, highlighting that the investigation must include a review of all communications between the people named by Ms. Wilson-Raybould and her through the entire time period of early September 2018 when the Director of Public Prosecutions decided to prosecute SNC-Lavalin through to her resignation from Cabinet on February 12, 2019.

In addition, I am writing to ensure you have clear information concerning how improper it is for anyone to pressure the Attorney General in any way concerning prosecutions. As set out in subsection A(i) of this article by The Honourable Marc Rosenberg:

http://www.ontariocourts.ca/coa/en/ps/publications/attorney_general_prosecution_function.htm

the Shawcross doctrine prohibits anyone from pressuring the Attorney General concerning a prosecution.

Section 9 of the *Conflict of Interest Act* states:

“Influence

9. No public office holder shall use his or her position as a public office holder to seek to influence a decision of another person so as to further the public office holder’s private interests or those of the public office holder’s relatives or friends or to improperly further another person’s private interests.”

It is clearly improper for the Prime Minister or any member of the PMO to try to influence a decision of the Attorney General of Canada not to intervene in the decision of the Public Prosecution Service of Canada (PPSC) concerning a prosecution. The PPSC was established explicitly to prevent the Attorney General, who is also the Minister of Justice and a member of the Cabinet, from

controlling prosecution decisions in order to protect those decisions from political influence.

The private interest in this situation is clear – SNC-Lavalin’s interest in not being prosecuted.

And although “person” is not defined in the *Act*, “person” is generally defined in law as including corporations. Former Ethics Commissioner Mary Dawson stated this clearly on page 5 of her January 13, 2010 report referred to as the “Discontinuance Report” which you can see at:

<http://ciec-ccie.parl.gc.ca/Documents/English/Public%20Reports/Examination%20Reports/The%20Discontinuance%20Report.pdf>

As a result, the attempt by anyone to influence the Attorney General’s decision not to intervene in the prosecution of SNC-Lavalin was an attempt to “use his or her position as a public office holder to seek to influence a decision of another person so as to... improperly further another person’s private interests.”

Anyone who took part in this attempt to influence the former Attorney General was clearly in violation of section 9 of the *Act*.

Democracy Watch also requests an investigation into whether anyone used secret information they learned from their position in government in an effort to influence the Attorney General (which would violate section 8 of the *Act*), and whether anyone from SNC-Lavalin has a relationship with anyone in the government that would cause them to give them preferential treatment by trying to influence the Attorney General (which would violate section 7 of the *Act*).

Sincerely,



Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch