



Canadian Association of Refugee Lawyers  
Association canadienne des avocats et avocates en droit des  
réfugiés



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The Honourable Bill Blair, P.C., M.P.  
Minister of Public Safety and Emergency Preparedness  
269 Laurier Avenue West  
Ottawa, Canada  
K1A 0P8

The Honourable Marco Mendicino, P.C., M.P.  
Minister of Immigration, Refugees, and Citizenship  
365 Laurier Avenue West  
Ottawa, Ontario  
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November 26, 2020

Dear Minister Blair, Minister Mendicino,

We write to renew our calls for the establishment of an independent, civilian-led oversight commission with a mandate to provide real-time oversight for the Canada Border Services Agency (CBSA). The CBSA remains the only major law enforcement agency in Canada without an external oversight body. For years your government has stated its support for the creation of an accountability mechanism, and in fact has twice introduced legislation to create a CBSA review body. The need for an oversight body is long overdue and urgent.

This urgency has been made clear this last week by the case of Ebrahim Toure. Mr. Toure was first detained from February 2013 through September 2018, the vast majority of which was spent on immigration hold in a maximum security prison. He was transferred to an immigration holding centre in October 2017 after the Ontario Superior Court of Justice determined that his treatment constituted cruel and unusual treatment contrary to s. 12 of the *Charter*. Mr. Toure was re-detained this month, and his most recent detention review hearing brought to light serious misconduct on the part of CBSA in handling his case.

When testifying at the hearing, the CBSA officer detailed how he sought to secure a travel document for Mr. Toure while he was in Gambia for other purposes, but failed to take notes of his meetings; received a passport delivered in an envelope with no official correspondence; used his personal email and personal WhatsApp messaging application to communicate with Gambian government officials and a confidential informant; and relied on information from the confidential informant despite having no knowledge about the CBSA policy regarding their use. This testimony, combined with facial irregularities on the alleged Gambia documents procured by CBSA, led the Immigration Division to conclude that the officer's evidence failed to meet the standard of credible and trustworthy as required under section 173(d) of the *Immigration and Refugee Protection Act*.

The Immigration Division does not have the jurisdiction to address the gross misconduct of the CBSA officer in this case. This highlights the need for an effective accountability mechanism.


This summer's prorogation of Parliament terminated the latest legislative attempt to create a CBSA review body. We note with great concern that the legislation is not back on the parliamentary agenda, despite repeated promises for an accountability mechanism, and the continued unchecked egregious conduct of CBSA. This includes commissions and omissions leading to the death of immigration detainees and mistreatment of people while detained, unnecessary detention, and the conditions of detention. Changes made with respect to the policy and practice of immigration detention must be accompanied by robust, independent and external oversight of CBSA, preferably in a renewed bill that addresses the shortcomings of last session's Bill C-3. The government must ensure that the accountability mechanism for CBSA is adequately funded and effective, to avoid reproducing the kinds of deficiencies, capacity issues and delays evident in other federal law enforcement accountability bodies. The introduction of an oversight body is only one of many changes required to ensure that people are treated justly by the CBSA.

Mr. Toure's case is a reminder that an independent accountability mechanism for CBSA cannot wait. We call on your government to re-introduce legislation to create such a mechanism, and to prioritize its consideration by committee in the coming months.

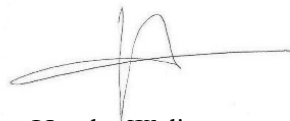
In addition, we request that an independent, thorough and transparent investigation be conducted into CBSA's actions in Mr. Toure's case, and that Mr. Toure not be removed while this investigation is pending.

We would appreciate the opportunity to meet with you to at your earliest convenience to discuss these issues.

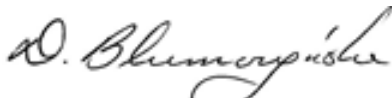
Yours Sincerely,



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