



December 20, 2019

Via email: David.Lametti@parl.gc.ca; mcu@justice.gc.ca

The Honourable David Lametti, P.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister Lametti:

I am writing on behalf of the Canadian Bar Association to congratulate you on your re-appointment as Attorney General of Canada and Minister of Justice. As we pursue our shared goal of advancing the rule of law, and improving legislation and the administration of justice, the CBA welcomes the opportunity to continue to work with you and your officials.

I would ask that we schedule a meeting in the near future to discuss how we can best be of assistance on these issues of mutual interest. The CBA can offer the perspective of the legal profession and the expertise of our members who specialize in various areas of law and practice. We have reviewed the mandate letter you most recently received from the Prime Minister, and we see that many areas are consistent with CBA priorities. A few key examples are addressed below.

Administration of, and Access to Justice

The CBA supports measures to address court delays and align courts with other critical social services. There are many ways to improve access to justice, including the steps your government have already taken to fund public legal education, offer short term funding for refugee legal aid, and fill judicial vacancies with candidates who better reflect the diversity of Canada's population.

In our view, publicly funded legal aid is the most fundamental and important access to justice program. We believe the federal government can and should show greater leadership and financial commitment for all three legal aid programs – civil, criminal, and immigration and refugee. With the government commitments to enhance funding for prosecution services and new judges, and to provide free legal advice and support to all survivors of sexual assault and intimate partner violence, a corresponding commitment to criminal legal aid may well be necessary to guarantee *Charter* rights to a fair trial for people accused of those serious offences.

Sentencing Reform

We are pleased to see the government's commitment to evidence-based policy making and we support a reinstated Law Reform Commission of Canada. We note that your last mandate letter included a direction to eliminate mandatory minimum sentences, which have not improved public safety but have unfortunately exacerbated unfairness toward already marginalized people, most notably Indigenous people in Canada. We are also disappointed that other effective sentencing options, like conditional sentencing orders, are not part of your mandate letter. The proposed alternative approach for first time, non-violent offenders charged with simple possession of drugs is a positive step. That said, making that approach contingent on the availability of drug treatments courts requires that those courts be more uniformly available across the country.

MAID

The CBA is committed to clarifying the law about end-of-life decision-making and developing a fair and effective pan-Canadian approach. In light of the recent Quebec Superior Court decision in *Truchon v. Canada*, we support the government's commitment to lead an immediate and inclusive collaboration with provinces and territories to align eligibility to medical assistance in dying with that decision, so proximity of death is not a criterion. We would be pleased to participate in your work on end of life issues, including mature minors, advance requests and eligibility of persons whose sole underlying condition is mental illness.

HIV Non-Disclosure

We would like to raise the issue of the criminalization of HIV non-disclosure. This is an area that requires urgent reform, in consultation with the HIV community, to bring the existing law in line with science and human rights and in a manner that is supportive of current HIV care, treatment and prevention.

Once again, congratulations on your continuing role as Attorney General of Canada and Minister of Justice. I look forward to meeting with you in the near future to discuss these issues and others in your mandate, which impact the rule of law, legislation, administration of justice and the Canadian legal community.

Yours truly,

(original letter signed by Vivene Salmon)

Vivene Salmon