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January 15, 2016

Via email: InfoPubs@aadnc-aandc.gc.ca

The Honourable Doctor Carolyn Bennett, P.C., M.P.  
Minister of Indigenous and Northern Affairs  
Les Terrasses de la Chaudière  
North Tower, 10 Wellington Street  
Gatineau, QC K1A 0H4

Dear Minister Bennett:

I am writing for the Canadian Bar Association's Aboriginal Law Section (CBA Section) to extend our congratulations on your new portfolio. The CBA is a national association representing over 36,000 jurists, including lawyers, notaries, law teachers and students across Canada. Our primary objectives include improvement in the law and the administration of justice. The CBA Section represents lawyers specializing in legal issues pertaining to Indigenous people from across Canada.

We share several concerns expressed by the Prime Minister on issues relevant to your portfolio. We look forward to working with you and your officials to convey the perspective of the legal profession on issues of mutual interest. We can offer the unique perspective of a network of lawyers with particular expertise on how the law in this area touches the lives of Canadians every day. As current priority issues, we mention specifically:

#### **Implementation of the Truth and Reconciliation Commission's Calls to Action**

Along with others, the CBA has called for comprehensive measures to address the legacy of Canada's residential schools. Measures aimed at being remedial and promoting reconciliation must not be arbitrarily limited so as to exclude certain survivors who, for example, may have also suffered abuse at the hands of authority figures, but attended residential schools as day students. The CBA is now preparing our own response to the Commission report, to commit our support in moving ahead with those calls to action where the legal profession has a role to play.

#### **An Inquiry into Murdered and Missing Indigenous Women and Girls**

The CBA has also called for an inquiry into murdered and missing Indigenous women and girls, and we appreciate your government's commitment and prompt action in launching an inquiry. This systemic problem calls for a comprehensive response to be effectively and appropriately addressed, to avoid more senseless tragedies.

**Recent Legislative Changes**

We have expressed serious concerns about several recent legislative proposals that impact First Nations, many which nonetheless became law. We urge a comprehensive review, with amendments or repeal of any legislation that fails to live up to Canada's commitments to its Indigenous people.

In addition to reviewing laws explicitly dealing with Indigenous issues, we support a review of the negative impact of changes to criminal and corrections law over the past decade. The Truth and Reconciliation Commission highlights that mandatory minimum sentencing has exacerbated already serious problems inside Canada's institutions, and notably worsens the longstanding problem of over-incarcerating Indigenous people. The CBA has also called for very limited use of solitary confinement, and for culturally appropriate programming within penal institutions. We look forward to working with your colleague Minister Wilson-Raybould on these issues.

**Equal Justice**

The CBA's 2013 Reaching Equal Justice report highlights that the most marginalized people are those least likely to seek help with their legal issues, and most likely to distrust the justice system, viewing it as a tool used to oppress them rather a system that safeguards their rights. The report notes that unresolved legal problems grow, and spread to other areas of life, including health, relationships and employment. These findings are particularly relevant to Indigenous people, both in terms of civil legal problems linked to poverty and disadvantage, and to the impact of the criminal law, mentioned above. We urge federal leadership and support for a more robust legal aid system in Canada, one that will advance social equality rather than perpetuate social inequality.

We welcome an opportunity to discuss these important issues in more detail at your convenience and, in particular, how we might offer our expertise to assist in your new portfolio.

Yours truly,

*(original letter signed by Gaylene Schellenberg for Ming Song)*

Ming Song  
Chair, CBA Aboriginal Law Section