

25 May 2018

The Honourable Jody Wilson-Raybould, P.C., M.P.  
Minister of Justice and Attorney General of Canada  
House of Commons  
Ottawa, ON K1A 0A6

Dear Minister Wilson-Raybould,

I am writing on behalf of Mennonite Central Committee (MCC) Canada to urge the Canadian government to meaningfully address the systemic injustices Indigenous Peoples face within the criminal justice system. As an organization committed to reconciliation and to the implementation of the Truth and Reconciliation Commission's (TRC) Calls to Action, MCC affirms your recent statement that "as a country, we can and must do better."

For over forty years, MCC has worked to build right relations between Indigenous and non-Indigenous Canadians, to reflect on our own colonial history, to listen deeply to Indigenous voices, and to advocate for concrete policy change in Canada.

Indigenous leaders and legal experts alike have long identified the unfair and discriminatory treatment of Indigenous Peoples within the criminal justice system. Indeed, the failures of Canada's criminal justice system for Indigenous Peoples are well-documented, having been the subject of dozens of provincial and national inquiries dating back 30 years.<sup>i</sup> As the recent verdicts for the murders of Colten Boushie and Tina Fontaine demonstrate, the continued absence of legal justice remains a serious issue for Indigenous Peoples across the country.

To address the well-documented failures of the criminal justice system, MCC urges the Government of Canada to take concrete action to ensure fairer, more equitable treatment of Indigenous Peoples by heeding and implementing the outstanding recommendations tabled not only in dozens of past inquiries, but clearly outlined in the TRC's Calls to Action #25-42. We echo the wisdom of Kent Roach, Law Professor at the University of Toronto, when he states: "The failure of the justice system for Indigenous people has already been studied to death."

We respectfully call on the federal government to work with its provincial and territorial counterparts to implement those recommendations pertaining to areas of: Policing; Prosecution; Jury Selection; and Respect for Aboriginal Justice Systems.

**Policing:** Racism has been well-documented as a systemic problem within Canadian police forces. Indigenous Peoples often experience "under-policing"—inadequate responses to violence and other crimes in their communities. To cultivate trust and fairer policing, MCC encourages the government to implement community policing models; skills-based training in inter-cultural competency; and conflict resolution, human rights, and anti-racism training for all police officers. Further, we call on the government to increase the number of Indigenous police officers and to improve investigation and handling of complaints of police misconduct.

**Prosecution:** Prosecutorial decisions are to be made in the public interest yet have been identified as a key factor in the discrimination against Indigenous Peoples in the criminal justice system. MCC supports the recommendations from multiple inquiry reports and the TRC Call to Action #27, which call for skills-based training in intercultural competency, conflict resolution, human rights and anti-racism training for prosecutors; strict adherence to principles of fairness and justice; and an examination of Crown policies and their impact on Indigenous Peoples.

**Jury Selection:** The lack of Indigenous Peoples' representation on juries has been highlighted for decades and contributes to a crisis of confidence in the administration of justice. MCC welcomes the government's recent effort through Bill C-75 to eliminate peremptory challenges—a key method by which visibly Indigenous Peoples have been excluded from juries. We strongly encourage the government to eliminate other barriers for Indigenous Peoples to serve on juries by investing in interpretation, transportation and child care, and take further steps to increase the number of Indigenous Peoples on jury rolls.

**Aboriginal Justice Systems:** Multiple reports and the TRC's Call to Action #42 call for Aboriginal Justice Systems to be honoured and implemented "in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*." This calls for a profound reorientation towards respecting centuries of Indigenous knowledge, practice, and ways of governance, which are primarily restorative and community-based in nature. To that end, we urge the enactment of a legislative framework that enables Indigenous communities to establish and run their own criminal justice processes, with long-term funding provided.

MCC is deeply concerned with the continued failures and systemic inequities Indigenous Peoples experience in the criminal justice system. Without meaningful and concrete action, these systemic injustices will persist, hampering our momentum toward reconciliation.

As Mary Culbertson, Treaty Commissioner of Saskatchewan, has poignantly stated, *There is frustration and disappointment in a flawed system and process that doesn't treat all people fairly. Today people are crying out that they have not seen justice done in the death of a young man [Coltan Boushie]. Now, more than ever we need to come together as a nation and province-wide community. Reconciliation efforts are not one-sided, it must grow from people together. Reconciliation is about learning the past and choosing to build a better future. It's understanding each other. It's building trust.*

We believe that Canada's federal, provincial, and territorial governments must work together to carve out a new path of fair and equitable justice for and with Indigenous Peoples—one based on the roadmap provided by decades of inquiry reports and the TRC Calls to Action (#25-42). To that end, we are copying this letter to provincial Attorneys General in those regions where MCC's provincial offices also stand behind these calls to action. By choosing this path of justice and equity, governments will greatly enhance the well-being of Indigenous Peoples, not only now but for the tomorrows to come.

As an organization dedicated to reconciliation, we commit to walking this path with you.

Sincerely,



Rick Cober Bauman  
Executive Director  
MCC Canada

CC: Hon. Kathleen Ganley, Minister of Justice and Solicitor General of Alberta  
Hon. Don Morgan, Minister of Justice and Attorney General of Saskatchewan  
Hon. Heather Stefanson, Minister of Justice and Attorney General of Manitoba  
Hon. Yasir Naqvi, Minister of Justice and Attorney General of Ontario

Hon. Stéphanie Vallée, Minister of Justice and Attorney General of Québec  
Hon. Serge Rouselle, Attorney General of New Brunswick and Lee Bell-Smith, Deputy Attorney General of New Brunswick  
Hon. Andrew Parsons, Minister of Justice and Public Safety and Attorney General of Newfoundland and Labrador  
Hon. Mark Furey, Minister of Justice and Attorney General of Nova Scotia  
Hon. Jordan Brown, Minister of Justice and Public Safety and Attorney General of Prince Edward Island

Thomas Coldwell, Executive Director, MCC Alberta  
Eileen Klassen Hamm, Executive Director, MCC Saskatchewan  
Darryl Loewen, Executive Director, MCC Manitoba  
John Head, Executive Director, MCC Ontario  
Jean-Victor Brosseau, MCC Eastern Canada Coordinator

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<sup>i</sup> These reports include but are not limited to: “Locking Up Natives in Canada”, CBA report (1989); Aboriginal Justice Inquiry of Manitoba (1991); “Justice on Trial: Task Force on the Criminal Justice System and its Impact on Indian and Metis People of Alberta” (1991); “Bridging the Cultural Divide: a report on Aboriginal people and criminal justice in Canada”, RCAP, 1995; Aboriginal Justice Implementation Commission of Manitoba (2001); Stonechild Inquiry (2004); Saskatchewan’s Commission on First Nations and Metis Peoples and Justice Reform (2004); Ipperwash Inquiry (2007); “First Nations Representation on Ontario Juries” report by Hon. Frank Iacobucci (2013); Truth and Reconciliation Commission Final Report and Calls to Action #25-#42 (2015); and the Debwewin interim report (2018).