

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et procureur général du Canada

The Honourable / L'honorable Arif Virani, P.C., M.P. / c.p., député
Ottawa, Canada K1A 0H8

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David A. Cameron, M.D.
Regional Supervising Coroner – Inquests
Office of the Chief Coroner
Ontario Forensic Pathology Service

(by email)

Dear Dr. Cameron:

Thank you for your correspondence and enclosed documents concerning the inquiry into the femicides of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam. At the outset, I wish to convey my profound sadness over these tragic events and my extreme sorrow for the families and loved ones of these three women, as well as for the communities in which they lived and to which they contributed.

Gender-based violence (GBV), including intimate partner violence (IPV), is unacceptable and has no place in our country. The Government of Canada is committed to ending the GBV epidemic in all its forms, and is working to address any gaps in the *Criminal Code* to ensure a robust justice system response. To that end, I welcome the inquest jury's recommendations and I agree that more must be done to protect against IPV. I would like to take this opportunity to share how we are addressing the important issues raised by the jury's recommendations to the Government of Canada, and our plans for future work on those issues.

I am pleased to note that the jury's recommendations to create a new offence targeting coercive control (recommendation 85) and to review the criminal harassment offence (recommendation 81) are aligned with the Government's ongoing efforts to prevent and eradicate GBV. In September 2022, the Government provided its response to the April 2021 report of the House of Commons Standing Committee on Justice and Human Rights entitled *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships* (<https://www.ourcommons.ca/DocumentViewer/en/44-1/JUST/report-1/response-8512-441-56>). In its response, the Government indicated that it is open to the report's recommendation to develop a new coercive control criminal offence and to monitor the experience of other jurisdictions that have done so, such as the United Kingdom and Scotland. Accordingly, my predecessor committed to engaging with provincial and territorial (PT) counterparts with a view to developing a coercive control offence, which he has done. Further to that engagement, Justice Canada officials are working with their PT

counterparts on the issue of enacting a new offence prohibiting coercive control, consistent with the Committee’s recommendation, and are engaging academics, GBV advocates, service providers, and individuals to inform this work. It will also be informed by the insights of the Mass Casualty Commission (MCC), which led the Joint Public Inquiry examining the April 18-19, 2020, mass casualty in Nova Scotia.

In March 2023, the MCC issued its final report setting out a series of recommendations to help prevent and respond to events of this nature and to keep communities safe. Several of these recommendations address the issue of coercive control, including the importance of improving data collection around perpetrator history of coercive control; increasing public awareness of coercive control; incorporating the concept of coercive control in both criminal and family law; and ensuring coercive control is carefully considered by police and prosecutors in the context of laying criminal charges. On May 31, 2023, the Honourable Marco Mendicino, the then Minister of Public Safety, and the Honourable Brad Johns, Nova Scotia Attorney General and Minister of Justice, announced the establishment of an independent body to monitor the progress on advancing key findings of the MCC’s report. I will be following that work closely and Justice Canada officials will provide any necessary support.

In the context of ongoing Federal-Provincial-Territorial (FPT) work on coercive control, officials will also be reviewing the criminal harassment offence with a view to ensuring that it is as responsive as possible to modern manifestations of harassing behaviour, consistent with the jury’s recommendation and a resolution on that issue by the Uniform Law Conference of Canada in 2022 (BC2022-02) (<https://www.ulcc-chlc.ca/ULCC/media/Criminal-Section/Criminal-Section-Resolutions-2022.pdf>). Criminal harassment and coercive control offences are both perpetrated through a pattern of conduct that negatively impacts those who are subjected to it, including in the context of intimate relationships. These behaviours may be a precursor to escalating physical or even lethal violence and, as a result, they require urgent attention.

The jury recommended that the term “femicide” be included in the *Criminal Code* (recommendation 79). I note that, while there is no single agreed-upon definition of “femicide” in the national or international context, the term is widely understood to refer to the killing of women, primarily by men, because of their gender. I agree with the United Nations and the Canadian Femicide Observatory for Justice and Accountability when they note that femicide is the most extreme form of violence and discrimination against women and girls.

As you are aware, under the *Criminal Code*, first and second degree murder is punishable by a mandatory penalty of life imprisonment. For those convicted of first degree murder, there is no parole eligibility for 25 years and for those convicted of second degree murder, there is no parole eligibility for between 10 and 25 years. Similarly, manslaughter is punishable by a maximum penalty of life imprisonment and parole ineligibility is based upon the sentence imposed. In addition, the *Criminal Code* is designed to ensure that offenders of violence against women and girls receive sentences that are proportionate to the gravity of the offence and the degree of responsibility of the offender, taking into account aggravating factors (see, for example, section 718.2 of the *Criminal Code*). These can include evidence that the offence was motivated by bias, prejudice, or hate based on sex or gender identity or expression,

or evidence that the offender abused their intimate partner, a member of the victim's family, or a member of their own family. In the context of a conviction for second degree murder, the presence of aggravating factors may increase the offender's parole ineligibility period, and in the context of a conviction for manslaughter, aggravating factors may result in the imposition of longer sentences. Justice Canada officials are currently examining how the criminal justice system's responses to femicide cases can be strengthened.

I acknowledge the importance of identifying femicide cases, including in order to raise awareness and assist in developing appropriate responses. For that reason, Statistics Canada works to track all gender-related homicides in Canada. For example, in April 2023, Statistics Canada released a Juristat on that issue (<https://www150.statcan.gc.ca/n1/pub/85-002-x/2023001/article/00003-eng.htm>). Justice Canada officials are working with Statistics Canada to see what more can be done to improve our knowledge of femicide in Canada, including through enhanced data collection measures in line with the statistical framework developed by the United Nations Office on Drugs and Crime, which seeks to standardize the collection of femicide data across communities, regions, and countries.

I have carefully reviewed the jury's proposal to amend the *Criminal Code*'s dangerous offender provisions to include a new classification that takes into account risk factors for serious violence and lethality in the IPV context (recommendation 80). Although the existing dangerous offender provisions allow for an IPV offender to be designated a Dangerous Offender (see, for example, *R v. Primmer*, 2021 ONCA 564 (<https://www.canlii.org/en/on/onca/doc/2021/2021onca564/2021onca564.html>) and *R v. Moore*, 2016 MBQB 116 (<https://www.canlii.org/en/mb/mbqb/doc/2016/2016mbqb116/2016mbqb116.html>), in which such designations were secured), Justice Canada officials are examining ways to strengthen these provisions as they apply to the IPV context.

I have noted the jury's recommendation that alternate means to testify in court, such as by video conferencing, be made available to victims (recommendation 82). We know that testifying in court can be experienced as a form of re-victimization and that testimonial aids form a critical part of supporting victims through the criminal justice system. For this reason, the *Criminal Code* contains a number of provisions that make it easier for victims and witnesses to provide their testimony in court proceedings. For instance, victims and witnesses may testify by audio or videoconference if appropriate. In determining whether this is appropriate, the court must consider several factors, including the location and personal circumstances of the victim, the nature of their anticipated evidence, and the nature and seriousness of the offence.

Although testifying by videoconferencing is already available to victims, as are other testimonial aids, Justice Canada officials are examining ways to strengthen the ability of the criminal justice system to support victims who testify in court. I welcome any further specific recommendations that would make the court process easier for victims in this regard. Currently, available testimonial aids can include allowing victims and witnesses to testify outside the courtroom by closed-circuit television or inside the courtroom behind a screen, which protects them from seeing the accused. In addition, testimonial aids may include allowing a support person to be present while victims and witnesses testify. All victims and

witnesses under the age of 18 years, or any witness with a mental or physical disability that makes it difficult for them to give their testimony, will receive testimonial aids when requested. Other victims and witnesses may receive a testimonial aid if the court believes that it would facilitate the giving of a full and candid account by the witness or would otherwise be in the interests of the proper administration of justice. The Court will consider factors such as the witness's age, the nature of the offence, the nature of any relationship between the witness and the accused, and whether the testimonial aid is needed for the witness's security.

The jury recommended the establishment of a Royal Commission to review and recommend changes to the criminal justice system to make it more victim-centered (recommendation 84). I would like to assure you that the Government is engaged in collaborative work with partners and stakeholders to strengthen victims' rights under the *Canadian Victims Bill of Rights* and other federal legislation, and to support improved responses to victims in the criminal justice system. More information on the Government's efforts in this regard is available in the Government Response to the December 2022 report of the Standing Committee on Justice and Human Rights entitled *Improving Support for Victims of Crime*, under the heading *Collaboration and Consultation*

https://www.ourcommons.ca/content/Committee/441/JUST/GovResponse/RP12336076/41_JUST_Rpt07_GR/VictimsOf%20Crime-e.pdf.

As noted in the Government Response, recent amendments to the *Criminal Code* have strengthened the law's ability to support and protect victims of sexual violence and GBV:

- *An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act* (former Bill C-51), which received Royal Assent on December 13, 2018, and clarified and strengthened Canada's sexual assault laws relating to consent, admissibility of evidence, and legal representation for complainants;
- *An Act to Amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts* (former Bill C-75 which received Royal Assent on December 18, 2019, and enacted amendments that strengthened criminal laws and enhanced victim safety in the context of IPV, including by imposing a reverse onus on bail where an accused is charged with an IPV offence and has been previously convicted of such an offence. Former Bill C-75 also ensured that strangulation, a form of violence often committed in the IPV context, constitutes a more serious form of assault, or a more serious form of sexual assault if committed in that context; and,
- *An Act to amend the Judges Act and the Criminal Code* (former Bill C-3), which received Royal Assent on May 6, 2021, and requires participation in training on matters related to sexual assault law and social context to be eligible to become a superior court judge in a province.

Government efforts to strengthen protections for victims of crime continue through Bill C-48, *An Act to amend the Criminal Code (bail reform)*, which was introduced on May 16, 2023, and Bill S-12, *An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act*, which was introduced by the Government in the Senate on April 26, 2023. Bill C-48 would further

strengthen the bail regime's response to IPV by broadening the existing reverse onus to apply to persons who were previously discharged of an IPV-related offence, and Bill S-12 proposes changes to the *Criminal Code* to empower victims and survivors by improving the law related to publication bans and victim rights to information. These proposed amendments would support victims' dignity and rights, including by specifying clear processes to be followed by the prosecutor and courts with respect to the making of publication ban orders; providing a clearer pathway to vary or revoke a ban that has been imposed; exempting them from criminal prosecution should they breach the order protecting their own identity where it did not negatively impact the privacy of other victims and witnesses; and requiring sentencing courts to inquire into whether the victim of an offence would like to receive information about the administration of the offender's sentence, all the while ensuring that a victim's wishes are at the center of these processes.

The jury stressed the importance of implementing the National Action Plan on Gender-Based Violence (recommendation 83). In November 2022, the FPT ministers responsible for the Status of Women launched the National Action Plan to End Gender-based Violence (<https://femmes-egalite-genres.canada.ca/en/gender-based-violence/intergovernmental-collaboration/national-action-plan-end-gender-based-violence.html>). The National Action Plan was informed by over 1,000 recommendations through years of engagement with Indigenous partners and a wide range of stakeholders, including victims/survivors, front-line service providers, community leaders, experts, academics, and civil society. This 10-year plan is a strategic framework for action within and across jurisdictions to support victims, survivors, and their families no matter where they live. Budget 2022 provided \$539.3 million over five years, including \$525 million to support the PTs in their efforts to implement the National Action Plan to End Gender-Based Violence. The Government of Canada is working with the PTs to establish bilateral funding agreements to support implementation of the National Action Plan with this funding. As of August 2, 2023, Canada has announced bilateral funding agreements with the Governments of Manitoba, Saskatchewan, and Prince Edward Island. More announcements are forthcoming. These agreements will be flexible and support jurisdictions in addressing their respective challenges, needs, and individual priorities under five pillars that guide cross-country efforts to end GBV: support for victims, survivors, and their families; prevention; responsive justice system; Indigenous-led approaches; and social infrastructure and enabling environment. I have copied my colleague the Honourable Marci Ien, Minister for Women and Gender Equality and Youth, on this correspondence as she is responsible for implementation of the National Action Plan.

I note that the jury similarly made a number of recommendations regarding firearms and I thank them for doing so. The MCC also made a number of important recommendations concerning firearms. Although the jury's recommendations are directed at other parties, I wish to note that the federal government is pursuing a comprehensive approach to address firearms-related violence. This approach includes changes to the *Criminal Code* and the *Firearms Act* through Bill C-21, *An Act to amend certain Acts and to make certain consequential amendments (firearms)* (<https://www.parl.ca/DocumentViewer/en/44-1/bill/C-21/third-reading>). These changes would create red flag laws to allow any person to seek a court order to temporarily remove firearms from a firearms licensee in circumstances in which the licensee poses a risk to themselves, their family, or to public safety (including GBV or other violence). Further changes would create new offences to

combat the illicit manufacture of untraceable firearms (*i.e.*, ghost guns), criminalize altering a cartridge magazine to exceed lawful capacity, and prohibit newly designed and manufactured assault-style firearms from entering Canada. In October of 2022, the Government of Canada implemented a national freeze on the sale, purchase, and transfer of handguns in Canada by regulation. While this remains in effect today, Bill C-21 would also codify the national handgun freeze in the federal *Firearms Act*. Furthermore, Bill C-21 would introduce new measures in the *Firearms Act* to combat GBV by means of a firearm. These include measures to require Chief Firearms Officers to revoke a firearms license within 24 hours where there are reasonable grounds to suspect that the licensee may have engaged in an act of domestic violence or stalking. Moreover, Bill C-21 would deem as ineligible to hold a firearms licence any individual who is subject to a protection order or has been convicted of an offence in the commission of which violence was used, threatened, or attempted against their intimate partner or any member of their family. I have taken the liberty of copying my colleague the Honourable Dominic LeBlanc, Minister of Public Safety, on this correspondence given his responsibilities for firearms policy.

I appreciate the opportunity to engage with you on these important issues. I welcome any further input you may have as the Government continues its work to strengthen the criminal justice system's response to IPV.

Thank you again for writing and for the important work you do.

Sincerely,



The Honourable Arif Virani, P.C., M.P.
(he/him)
Minister of Justice and Attorney General of Canada

c.c.: The Honourable Marci Ien, P.C., M.P.
Minister for Women and Gender Equality and Youth

The Honourable Dominic LeBlanc, P.C., M.P.
Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs