Dear Sir/Madam:

On June 20, 2017, the Senate requested that the Government table a comprehensive response to the Nineteenth Report of the Standing Committee on Legal and Constitutional Affairs entitled *Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court delays in Canada (Final Report).* I would like to thank the Committee for its comprehensive study of the factors contributing to delays and its recommendations to reduce such delays and address inefficiencies in Canada’s criminal justice system. On behalf of the Government, and pursuant to Rule 12-24(3) of the Senate of Canada, I am pleased to provide the Government Response to the Committee’s Final Report.

As the Committee has recognized, the criminal justice system is a shared responsibility in Canada and all levels of government have an important role to play in addressing delays. Provinces and territories (PTs) have taken, and continue to take, various steps to address delays within their jurisdictions and have been engaging with their prosecutors, their judiciary, court services and the defence bar to develop and implement new measures to address delays. For example, many appointed additional provincial court judges, hired more Crown prosecutors, increased funding for duty counsel, and increased the use of extra-judicial measures for less serious cases. The Government is committed to playing its part and recognizes the importance and necessity of working closely with PT partners. Indeed, during our April and September 2017 meetings, all federal, provincial and territorial (FPT) Ministers Responsible for Justice agreed on the need for urgent and bold reforms to reduce delays, including reforms in the following areas: (1) bail; (2) administration of justice offences; (3) preliminary inquiries; (4) reclassification of offences; and (5) mandatory minimum penalties. In addition, during our September 2017 meeting, we further agreed that legislative enhancements to judicial case management were needed to help address delays.

Many of these specific issues were considered by the Committee during its study and are the subject of specific recommendations. More broadly, the Final Report’s fifty recommendations identify actions for addressing delays under five overarching themes: (1) Legislative Amendments; (2) Judiciary; (3) Programs and Funding; (4) Data and Research; and (5) Systems and Operational Improvements.
Many of these recommendations align with my multipronged and comprehensive federal strategy to reduce delays in the criminal justice system, including working with my colleagues on identifying best practices and innovative approaches, litigation strategies, programmatic measures, judicial appointments and legislative measures.

**Legislative Amendments**

The Committee’s Final Report highlights the importance of law reform as one way to address delays. To this end, I have been working closely with my PT colleagues to identify ways to reform the criminal law to make our system more effective and efficient while at the same time maintaining public safety, addressing victims’ needs and respecting the rights of the accused.

Further to the FPT Ministers meetings held in April and September 2017, I am committed to continuing to work with my PT colleagues on the above-noted six priority areas of reform for reducing delays.

More broadly, the Government recognizes the importance of ensuring that the criminal law remains fair, clear and accessible. That is why we have taken steps to modernize the Criminal Code, including through Bills C-39, *An Act to amend the Criminal Code (unconstitutional provisions)* and to make consequential amendments to other Acts and Bill C-51, *An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act*, which, amongst other things, seek to remove unconstitutional laws from the Criminal Code. Bill C-51 also seeks to clarify the law concerning sexual assault in order to help reduce potential misapplications. Such changes are expected to improve victims’ experience but are also expected to reduce confusion amongst criminal justice system participants and thus contribute to a more efficient criminal justice system.

We will continue to examine ways, in collaboration with our PT partners, to improve the criminal law, consistent with the Committee’s recommendations to review the Criminal Code. For example, as part of my ongoing review of the criminal justice system, I have held roundtable discussions in all jurisdictions, bringing together criminal law experts, academics and key criminal justice system stakeholders to discuss how to modernize and reform the Criminal Code. This work remains ongoing and the results of this broad-based engagement will continue to inform the Government as it seeks to introduce future changes to the law.

**Judiciary**

The Government understands that judicial vacancies can affect a court’s effectiveness and that a full judicial complement is key to providing access to justice to Canadians. As part of our efforts at maintaining the efficiency of the justice system, the Government committed $55 million over five years, and $15.5 million per year thereafter, to create 28 new federally appointed judicial positions. Since October 2015, the Government has appointed 132 superior court judges to appellate and trial courts across the country (including both new and elevated judges). I will continue to work diligently to fill existing vacancies on the superior courts as quickly as possible.
I am confident that the reforms the Government introduced to the superior courts’ judicial appointments process in October 2016 will reinforce public confidence in the judiciary while continuing to identify outstanding judicial candidates who reflect Canada’s diversity and a gender balance.

Among the reforms are measures allowing for a more accurate picture of the official language capacity of candidates. Applicants are asked to identify their capacity to communicate in both official languages, and they may be assessed. I also remain committed to consulting with chief justices regarding the bilingual capacity needs of their respective courts. Finally, on September 25, 2017, I announced a seven-point Action Plan intended to enhance the bilingual capacity of the superior court judiciary. The measures include concrete steps to increase awareness regarding the linguistic rights of litigants, respond to recommendations made by the Commissioner of Official Languages, and ensure access to justice in both official languages.

The Committee’s Final Report highlights the importance of judicial education. The Government is firmly committed to upholding and protecting the independence of the judiciary and recognizes that it is the judiciary itself that is responsible for judicial education. The National Judicial Institute (NJI) provides training to judges at arm’s-length from the Government. The Canadian Judicial Council (CJC) is also mandated to promote efficiency and uniformity and to improve the quality of judicial services in superior courts. The Government provides funding to both the CJC and the NJI in support of various programs, including an announcement in Budget 2017 for $2.7 million over five years to the CJC, and $0.5 million per year thereafter, to support programming on judicial education, ethics, and conduct. In addition, the Government continues to support projects currently underway through the Justice Canada Partnership and Innovation Program and the training pillar of the Access to Justice in Both Official Languages Support Fund.

I welcome the Committee’s suggestion that all governments work together and with the judiciary to create a standardized set of statistical measures that would facilitate the tracking of the capacity of current judicial complements to keep up with incoming caseloads. Such proactive reporting would supplement the work that already has been done at the federal level to improve its capacity to objectively assess requests for additional judges.

**Programs and Funding**

I appreciate the Committee’s consideration of issues relating to victims, Indigenous overrepresentation, restorative justice, mental health and substance use, and legal aid. Some recommendations included in the Committee’s Final Report could have a significant impact on FPT budgets in the area of justice but are of great concern to the Government and partners. I will continue to pursue, in partnership with my FPT partners, our efforts in addressing concerns and solutions relating to these issues.

**Funding for victims of crime**

Although PTs are principally responsible for the delivery of victim services, the Government provides funding to PTs to assist them in the delivery of victim services and to support projects related to the delivery of integrated services to victims (e.g., victims of human trafficking or victims of sexual violence). I welcome the Committee’s recommendations relating to victims of
crime, and I will continue to collaborate with PTs on this important work, specifically to examine the possibility of expanding the availability of victims’ integrated services and advocacy centres in their respective jurisdictions.

**Indigenous overrepresentation**
The Government, through Budget 2017, committed $65.2 million over five years, starting in 2017-18, and $10.9 million per year ongoing, to help reverse the trend of Indigenous overrepresentation in Canada’s criminal justice system and help previously incarcerated Indigenous Peoples heal, rehabilitate and secure employment. Work is under way in my department, and that of my colleague, the Minister of Public Safety and Emergency Preparedness, to support community-based alternatives to incarceration and reintegration support for Indigenous offenders. In addition, the Government has committed, through Budget 2017, to fund the Indigenous Justice Program ($55.5 million over five years, starting in 2017-18, and $11.1 million per year ongoing) for community-based programs that use restorative justice approaches as an alternative to the mainstream justice and correctional systems.

**Restorative justice**
I welcome the Committee’s recommendations on this important issue, and I am committed to increasing the use of restorative justice processes at all stages of the criminal justice system. Discussions and calls for action will continue with key stakeholders, including FPT partners, criminal justice system officials, Indigenous Peoples, and victim service workers. This fall, my officials will launch a directory of restorative justice programs, as well as a five-year research plan with other federal departments and agencies to address the gaps in empirical research. As well, I am pleased to note that Canada’s 2016 Resolution to the United Nations Commission on Crime Prevention and Criminal Justice on Restorative Justice in Criminal Matters was ultimately adopted by the Economic and Social Council in July 2016. In support of these efforts, Canada will host a United Nations Experts Meeting on Restorative Justice in November 2017, following Canada’s annual National Symposium on Restorative Justice.

**Addressing mental health issues and substance use in the criminal justice system**
The Government is delivering on its commitment to improve access to mental health services for Canadians. Budget 2017 confirmed an investment of $5 billion over ten years to support PTs in improving access to mental health services. In order to meet this commitment, my officials will commence bilateral discussions with PT counterparts to examine approaches that fall under our respective areas of responsibility. Health Canada’s Substance Use and Addictions Program, under the Canadian Drugs and Substances Strategy, will continue to provide financial support to PTs, non-governmental organizations and key stakeholders to strengthen responses to drug and substance use issues in Canada. Public Safety Canada, through the National Crime Prevention Strategy and its work with the FPT Ministers National Action Plan on Crime Prevention, will also continue supporting programs and tools to help address these important issues. In addition, I continue to work with my colleague, the Minister of Health, on the Opioid Response Strategy and continue to support the Drug Treatment Court Funding Program.

**Legal aid**
I appreciate the Committee’s consideration of this issue. My officials will also continue their ongoing work on reporting and monitoring legal aid funding, reviewing data collection, including legal representation data in criminal courts, and supporting PTs in implementing
innovations. As well, work to develop indicators to measure legal aid performance outcomes on a national basis, in collaboration with the FPT Working Group on Legal Aid, will continue. Research activities that will provide a better understanding of the legal aid needs of specific overrepresented populations will be undertaken, and discussions on current and future legal aid research will be pursued with our partners.

Data and Research

Having accurate, reliable and current data about the criminal justice system is critical to evaluating its effectiveness and to informing the development of laws, programs and policies. The Government believes that changes to the criminal justice system must be evidence-based and provide good value to Canadians. We know, for example, that crime rates continue to generally decrease and are at approximately the same level they were in 1969. Despite this general decrease, we also know that the criminal justice system is increasingly more costly and is not as efficient as it could be. The Government recognizes that Canadians should not have to pay more and get less from their criminal justice system.

In Canada, Statistics Canada is responsible for the development of statistical systems, and the Canadian Centre for Justice Statistics (CCJS) is responsible for the collection of core national data on the justice system. The CCJS organizes and carries out the work of the National Justice Statistics Initiative, and members include FPT officials, Statistics Canada and CCJS representatives, and a representative of the Canadian Association of Chiefs of Police. FPT officials are regularly consulted as part of the CCJS work, including survey redesign initiatives. As well, I am pleased to report that my officials are currently developing an annual State of the Criminal Justice System Report, which would establish targets and performance measures related to the criminal justice system.

Mental health data

The Government agrees that sufficient and reliable data, including data collection regarding mental health issues in the criminal justice system, is important. While the Mental Health Commission of Canada is not currently mandated to report on screening for mental health issues by the courts, screening for mental health issues by the courts is a shared jurisdiction between provincial/territorial and federal governments. Further examination on how to best respond to data needs in this area is warranted and will be undertaken in collaboration with PT officials.

Some data are available on mental health in the criminal justice system through the CCJS’ Integrated Criminal Court Survey. There is, however, significant disparity in the way data are captured and stored by PTs as well as important data limitations. The Government is committed to working with key criminal justice system partners, including with the PTs, to pursue ways to promote consistency in data collection relating to the criminal justice system.

Systems and Operational Improvements

Ensuring the efficiency and effectiveness of the criminal justice system is a shared responsibility of the FPT governments. While I am committed to play a coordinating role in facilitating discussion amongst FPT Ministers of Justice, analyzing best practices, and ensuring that such input is considered in the collaborative work with the PTs, some of the Committee’s
recommendations relating to measuring courthouse performance and efficiency, developing a software program for management and disclosure of evidence, and reviewing court scheduling practices, would fall under the responsibility of each PT.

The Government agrees that an important component of improving the efficiency of the criminal justice system is to look at ways to modernize its use of information technology in cooperation with the PTs. I will continue the dialogue with my officials and PT counterparts regarding better use of technology in the criminal justice system. I will examine ways in which existing programs, such as the Access to Justice Services Agreements in the Territories, could respond to some of the Committee's recommendations regarding information technology.

**Conclusion**

The Government is committed to ensuring that our criminal justice system contributes to public safety, shows compassion for victims, meets the needs of vulnerable persons and develops integrated approaches that respond to the causes and consequences of crime. To succeed, our system must be efficient and adapt to the changing realities of today's Canada. The Government will continue to work closely with our provincial and territorial partners and stakeholders to find ways to ensure a timely, effective, efficient and fair criminal justice system.

Respectfully,

[Signature]

The Honourable Jody Wilson-Raybould, P.C., Q.C., M.P.
Minister of Justice and Attorney General of Canada