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The Hon. Jody Wilson Raybould  
Attorney General of Canada  
Department of Justice Headquarters, 284 Wellington St.  
Ottawa, ON K1A

November 24, 2017

**Re: Justice Department's Ongoing Obstruction of Rights for St. Anne's Residential School Survivors**

Dear Minister Wilson-Raybould,

I am writing to you to express my deep concern that a culture of obstruction continues to exist within your department regarding the legal obligations to survivors of St. Anne's residential school. You may recall that our first conversation, after you were named Minister of Justice and Attorney General, was about the need for the new government to remediate the decisions by Justice Department lawyers (DOJ) that breached the Attorney General's legal obligations to the survivors of St. Anne's. Unfortunately, no steps were taken to address the impacts of the legal breaches and, in fact, the adversarial attitude against St Anne's claimants appears to be even more entrenched.

Under the terms of the Indian Residential School Settlement Agreement (IRSSA), the Justice Department acted for the defendant (Canada) and exercised the legal duty to prepare evidence narratives for claimants and adjudicators. In the case of St. Anne's, the DOJ opted to suppress thousands of pages of evidence that had been obtained from the police investigation, criminal proceedings and civil proceedings.

The DOJ decision to withhold evidence and to present a false evidence narrative to adjudicators and claimants in the Independent Assessment Process (IAP) was a breach of the government's legal obligations under the IRSSA and it compromised the ability of survivors to receive justice under the terms of the IAP.

But these actions represented an even deeper breach – of the promise of Parliament to acknowledge Canada’s complicity in the crimes committed against generations of First Nation children while those residential schools were in operation. It was a solemn promise made by the previous Prime Minister and the present Prime Minister to make things right.

In 2013, I wrote to one of your predecessors to ask why the DOJ suppressed over 12,000 documents containing evidence about institutional child abuse at St Anne’s. The Justice Department had this evidence in its possession since 2004, and used it to prepare the government’s defenses for possible trials in numerous cases of child assault, rape, torture and abuse.

This included over 1,000 former students’ witness statements or sworn testimonies identifying 180 perpetrators of sexual assault and abuse of children. The legal and professional obligation to disclose these documents to the claimant lawyers was clear. As former Crown Counsel, and as Attorney General of the nation, you are aware of the duty to disclose relevant evidence.

In January of 2014, the Ontario Superior Court ruled that Canada’s actions had compromised the ability of survivors to obtain justice under the agreed IAP process. The Justice Department was ordered to make these documents available to AANDC, who filed the documents and reports for the IAP and to the TRC. At the time, survivors asked the Court that a process be put in place for cases that had been adjudicated and prejudiced under the false narrative.

Unfortunately, in the wake of this ruling by Ontario Superior Court, DOJ officials continued to obstruct the hearings by presenting documents that blacked out the names of witnesses and perpetrators, and that failed to give meaningful summaries of these thousands of documents, making this evidence functionally useless to adjudicators and claimants. This is a well-known legal tactic called a “document dump”. Why your officials would engage in such tactics against survivors of St. Anne’s is unfathomable.

The St. Anne’s survivors were forced to return to court in June 2015, where they won further directions to the Justice Department to give meaningful reports that could be used. However, DOJ officials did not seek adjournments to allow for remedial disclosure that complied with the court orders, instead pushing survivors through a process that continued to be very adversarial in nature.

I am astounded to learn that in IAP claims that have been reopened, your officials have taken the extraordinary step of claiming that the very documents your officials were forced to provide are inadmissible unless the claimant can produce a witness to be questioned and tested for the veracity of that documentary evidence, even though these are signed witness statements recorded by the police and statements from civil pleadings.

Minister, in 2017 the horrific crimes committed against children at St. Anne’s should no longer be disputed. The documents that we are talking include statements by multiple survivors of child rape by specific perpetrators. You know the rules around similar fact evidence more than me. To ask these claimants to seek out other survivors to prove what has already been established in civil actions is a legal tactic to force survivors to go to extraordinary lengths to obtain justice. But even more to the point, such actions are cruel and a continued re-victimization of St. Anne’s survivors.

It is disturbing to learn is that in one case where a willing witness has come forward, your officials are now trying to block their ability to testify. Having read the latest factums prepared for Ontario Superior Court I am disturbed to see that the DOJ has put forward the position that the Crown doesn't need to disclose the testimony of this witness, because the testimony is protected due to "settlement privilege." Minister – this position is Kafkaesque in the extreme.

The court factums show that DOJ officials continue to oppose reopening IAP claims that had been thrown out or undercompensated, because your officials hid corroborating evidence. St. Anne's survivors who are attempting to have their cases reopened are now being forced to take their case to the courts of British Columbia, which had no involvement in the St. Anne's review in 2014 and 2015. Forcing survivors to take their cases to British Columbia is yet another attempt to deny survivors, who have few financial tools, access justice or compel them to go to extraordinary steps to get justice.

The crimes committed against children at St. Anne's continue to cast a dark shadow over my region and over the moral fabric of our nation. What is it about these crimes that has made your department so hostile to a just resolution? Since the St. Anne's survivors first came forward in 1992, the federal government has stonewalled justice and used every tool possible to obstruct people who suffered such egregious abuse as children.

On October 18<sup>th</sup>, you told me directly at a meeting of the Standing Committee on Justice that your government is committed to *"ensuring that we do everything we can to protect victims of sexual assault, to ensure that we provide and create the space as best we can for them to come forward."*

Your department's actions in the matter of St. Anne's IRS have failed to live up to your promise, and in fact, your officials are doing great harm to people who have spent their lives being silenced and/or disbelieved.

We are and can be better as a country than the actions of the Justice Department towards St. Anne's survivors under the IRSSA. All citizens, both Indigenous and non-Indigenous, should be able to trust that Department of Justice officials will do the upmost to protect the rule of law and to fulfill the promises of truth and reconciliation.

If Canada cannot look at the most shameful chapters of its past without the added shame of current obfuscation and downright deceit, what hope is there for reconciliation between Indigenous and non-Indigenous Canadians and what hope is there for transparency and truth in future relations?

In the name of justice, I ask you will take all steps necessary to end this pattern of obstruction and assure the survivors of St. Anne's that your government not only believes the horrors that happened to hem, but your government will work with them to ensure any miscarriages of justice are properly addressed.

Sincerely,

*C Angus*

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