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**AUG 16 2018**

Our Reference #: M-2018-640

Mr. Joseph Hickey  
Executive Director  
Ontario Civil Liberties Association  
Email: joseph.hickey@ocla.ca

Dear Mr. Hickey:

Thank you for your emailed letter dated July 24, 2018, concerning certain charges that received the consent of my predecessor. While it would be inappropriate for me to provide comment on any matter that is currently before the court, I will take this opportunity to offer some clarification regarding the process.

As you may be aware, if police believe that a hate crime has been committed, they will conduct an investigation and, where appropriate, lay a criminal charge. For certain types of hate crimes offences, namely those under sections 318(1) and 319(2) of the *Criminal Code*, the *Code* requires that the police seek the Attorney General's formal consent before instituting criminal proceedings. This requirement offers a safeguard for free expression and can be seen as Parliament's recognition of the important, and often competing, values at stake in such prosecutions. It also recognizes that the Attorney General has a special responsibility as the guardian of the Rule of Law.

The task undertaken by the Attorney General is based on the legal requirements for such offences, with attention to fairness and the broader public interest. In order to consent to the initiation of a prosecution of wilful promotion of hatred, there must be a reasonable prospect of conviction, and the prosecution must be in the public interest. Once criminal charges are laid, the Crown has an ongoing obligation to carefully review the charges and to continually assess the strength of a case throughout a prosecution.

When considering a request for consent, the Attorney General exercises discretion in a just, honourable, and conscientious manner, unmoved by irrelevant considerations or partisan motives.

I trust this information is helpful. Once again, thank you for writing.

Sincerely,

A handwritten signature in cursive script that reads 'Caroline Mulroney'.

Caroline Mulroney  
Attorney General

c: The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada