

July 31, 2006

The Hon. James Flaherty  
Minister of Finance  
House of Commons  
Ottawa, Ontario K1A 0A6

Dear Mr. Flaherty:

**Re: Amending the *Criminal Code* hate propaganda law to include gender**

When you were Attorney General of Ontario, you wrote to the federal Justice Minister asking her to amend the *Criminal Code* hate propaganda law to include gender. In a letter to me you said:

*"I have written to the Federal Minister of Justice, the Honourable Anne McLellan, calling for amendments to be made to section 319 of the Criminal Code. I will continue to ask the federal government to expand the definition of identifiable groups to include gender.*

*"We must have the tools to bring to justice those who spread hatred against others. It is time for the federal government to provide such tools to prosecute those promoting hatred against women by amending the Criminal Code. The public has a right to be safe."*

As you know, the Liberals did not change the law to add gender, although they did amend it to include sexual orientation. I am therefore writing to ask you to follow up on your commitment and again ask the federal government to expand the definition of identifiable groups to include gender. Enclosed is a brief that provides a bit of background on the situation.

I look forward to hearing from you.

Sincerely,



Valerie Smith

Encl.

cc The Hon. Vic Toews, Attorney General  
The Hon. Stockwell Day, Minister of Public Safety  
The Hon. Bev Oda, Minister of Canadian Heritage and Status of Women  
All Members of Parliament  
The Hon. Michael Bryant, Attorney General of Ontario

“THE PUBLIC HAS A RIGHT  
TO BE SAFE”

SUBMISSION TO  
THE HON. JAMES FLAHERTY

RE

AMENDING THE CRIMINAL CODE HATE PROPAGANDA LAW TO  
INCLUDE GENDER

*“Of course, the fact that we have hate propaganda legislation that prohibits hate propaganda on certain grounds but excludes gay and lesbian people sends out the very clear message that somehow we are less than equal. The failure to include gay and lesbian people sends out the message that we are in fact second class citizens in our own country. That, as well, is clearly not acceptable.”* (MP Svend Robinson)

July 31, 2006

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### **Exhibits:**

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- **Letter from The Hon. James Flaherty, Attorney General of Ontario, December 20, 2000**
- **Bryant Raps Rapper's Violent Message, MPP Michael Bryant news release, October 25, 2000**

## Introduction

The *Criminal Code* currently prohibits the incitement of hatred against "identifiable groups", those being any "section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation". Adding "sex" or "gender" to the protected groups has been recommended for the past twenty years by the National Action Committee on the Status of Women (1983), Canadian Advisory Council on the Status of Women (1985), Special Committee on Pornography and Prostitution (1985), Law Reform Commission of Canada (1986), Raymond Hnatyshyn, Minister of Justice (Bill C-54 1987), B'nai Brith League for Human Rights (1994), James Flaherty, Attorney General of Ontario (2000), and MPP Michael Bryant, Ontario Liberal Party Attorney General Critic (2000). James Flaherty and Michael Bryant are now, respectively, the federal Minister of Finance and the Attorney General of Ontario.

The impact of hate propaganda is discussed in the Supreme Court of Canada's decision upholding the constitutionality of the hate propaganda law (*Keegstra*):

*Parliament's objective of preventing the harm caused by hate propaganda is of sufficient importance to warrant overriding a constitutional freedom. Parliament has recognized the substantial harm that can flow from hate propaganda and, in trying to prevent the pain suffered by target group members and to reduce racial, ethnic and religious tension and perhaps even violence in Canada, has decided to suppress the willful promotion of hatred against identifiable groups. Parliament's objective is supported not only by the work of numerous study groups, but also by our collective historical knowledge of the potentially catastrophic effects of the promotion of hatred. Additionally, the international commitment to eradicate hate propaganda and Canada's commitment to the values of equality and multiculturalism in ss. 15 and 27 of the Charter strongly buttress the importance of this objective.*

*Section 319(2) serves to illustrate to the public the severe reprobation with which society holds messages of hate directed towards racial and religious groups. It makes that kind of expression less attractive and hence decreases acceptance of its content. Section 319(2) is also a means by which the values beneficial to a free and democratic society in particular, the value of equality and the worth and dignity of each human person can be publicized.*

*... while other non-criminal modes of combating hate propaganda exist, it is eminently reasonable to utilize more than one type of legislative tool in working to prevent the spread of racist expression and its resultant harm. To send out a strong message of condemnation, both reinforcing the values underlying s. 319(2) and deterring the few individuals who would harm target group members and the larger community by communicating hate propaganda, will occasionally require use of the criminal law.*

Even while dissenting, Justice McLachlin acknowledged the impact on target groups:

*To view hate propaganda as "victimless" in the absence of any proof that it moved its listeners to hatred is to discount the wrenching impact that it may have on members of the target group themselves...*

*Keegstra* was also referenced in the Supreme Court of Canada's decision upholding the constitutionality of the *Criminal Code* obscenity law (*Butler*<sup>2</sup>), which the SCC did in order to protect women from the harm caused by obscenity. The intervener's factum filed with the SCC by the Attorney General of Ontario stated:

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<sup>1</sup> *R v. Keegstra*, Supreme Court of Canada, 1990

<sup>2</sup> *R v. Butler*, Supreme Court of Canada, 1992

*As this Court concluded in Keegstra, supra, "It is indisputable that the emotional damage caused by words may be of grave psychological and social consequence".*

*As this Court held in Keegstra, "a person's sense of human dignity and belonging to the community at large is closely linked to the concern and respect accorded the groups to which he or she belongs".*

*In sum, it is submitted that what this Court quoted with approval regarding hate propaganda applies a fortiori to obscenity:*

*The potential psychological and social damage ... both to a desensitized majority and to sensitive minority groups, is incalculable.*

These documents acknowledge the harm caused by hate propaganda, yet the federal government has, so far, refused to offer women protection from it. This is not just an oversight, but a deliberate exclusion. In 1993, MP Sheila Finestone was told during a national conference on television violence in Toronto that women were excluded from the protection of the hate propaganda law. She expressed surprise at this, yet when she was subsequently appointed Minister Responsible for the Status of Women, did nothing to change it. In 2000, Justice Minister Anne McLellan ignored a request from the Attorney General of Ontario to change the law to add gender, and when the federal government amended the hate propaganda law in 2003 to add "sexual orientation", a request to add women to the law was refused by the MP who introduced the Bill.

As a member state of the United Nations, Canada is obliged to uphold the *Universal Declaration of Human Rights*<sup>3</sup>, the *Declaration of the Elimination of Discrimination Against Women*<sup>4</sup> and the *Declaration on the Elimination of Violence Against Women*<sup>5</sup>. Further, Canada is a signatory state to the *Convention on the Elimination of All Forms of Discrimination Against Women*<sup>6</sup>, the *International Covenant on Economic, Social and Cultural Rights*<sup>7</sup> and the *International Covenant on Civil and Political Rights*<sup>8</sup>. Since women have been deliberately excluded from the *Criminal Code* hate propaganda law, it appears past federal governments have been somewhat less than committed to these documents.

## **Eminem - SkyDome Concert, October 2000**

In October 2000, when violent rapper, Eminem (aka Marshall Mathers), was scheduled to appear at Toronto's SkyDome, a complaint was filed with the Toronto Police Service hate crimes unit because of the misogyny in his lyrics. Although gender is not included in the protected groups, it was hoped that a court would "read" gender into the law in the same manner that a court had previously "read" sexual orientation into a different law.

The letter was copied to, among others, James Flaherty, Attorney General of Ontario and Michael Bryant, Attorney General critic for the Ontario Liberal Party. In response, Mr. Bryant held a press conference at Queen's Park denouncing Eminem's lyrics and urging the provincial government to "crack down on music that advocates violence and hate".<sup>9</sup> He identified steps that could be taken by Attorney General Flaherty to deal with the scheduled appearance, such as:

- *bringing an injunction to stop the rapper's show on the basis that he would be violating the Criminal Code by going ahead and performing; and*

<sup>3</sup> *Universal Declaration of Human Rights*, GA Res 217A (III), UN Doc A/810 (1948).

<sup>4</sup> *Declaration on the Elimination of Discrimination Against Women*, GA Res 2263 (XXII) (1967).

<sup>5</sup> *Declaration on the Elimination of Violence Against Women*, GA Res 48/104 (1993).

<sup>6</sup> *Convention on the Elimination of All Forms of Discrimination Against Women*, GA Res 34/180 (1979).

<sup>7</sup> *International Covenant on Economic, Social and Cultural Rights*, GA Res 2200A (XXI) (1966).

<sup>8</sup> *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171.

<sup>9</sup> *Bryant Raps Rapper's Violent Message*, Michael Bryant news release, October 25, 2000

- *prosecuting the rapper under the hate crime provisions of the Criminal Code or the indecency or obscenity provisions*<sup>10</sup>

When questioned by reporters later that day outside the Legislature, Mr. Flaherty told them that he had already instructed his staff to contact the federal government to see whether Eminem could be prevented from entering the country because of the violence against women he advocates.<sup>11</sup> According to Paul Rosenberg, Eminem’s manager, no country had ever attempted to bar the performer, so this was unprecedented.

*Then punch a bitch in the nose  
Until her whole face explodes  
There’s three things I hate:  
girls, women and bitches...*

Eminem lyrics

Mr. Flaherty told reporters, “I personally don’t want anyone coming to Canada who will come here and advocate violence against women.”<sup>12</sup> He also said that the federal hate crimes law should be changed so it could be used against artists and others who promote hatred toward women.<sup>13</sup> “We’ve been asking the federal government to expand the definition of identifiable groups to include sexual orientation and to include gender,” he said. “They haven’t done it... and now we’re faced with a situation where someone may come to Ontario and may advocate violence against women... That’s a problem.”<sup>14</sup>

Unfortunately, Mr. Flaherty was unsuccessful in stopping Eminem because of the exclusion of women from the hate propaganda law. In a letter he wrote:

*Federal hate crime legislation offers protection only on the basis of race, religion and ethnicity. This current inadequacy of the Criminal Code would make it difficult to proceed with a prosecution for an alleged hate crime relating to gender.*

***I have written to the Federal Minister of Justice, the Honourable Anne McLellan, calling for amendments to be made to section 319 of the Criminal Code. I will continue to ask the federal government to expand the definition of identifiable groups to include gender.***

***We must have the tools to bring to justice those who spread hatred against others. It is time for the federal government to provide such tools to prosecute those promoting hatred against women by amending the Criminal Code. The public has a right to be safe.***<sup>15</sup> (emphasis added)

At the time of the controversy, MP Stockwell Day was campaigning in a federal election as leader of the Canadian Alliance. When asked for a comment by reporters, he said, “I am not strong on censorship but when it comes to somebody who at least, from what I hear, promotes things such as domestic violence, I don’t have a whole lot of time for that. It wouldn’t bother me and I certainly wouldn’t interfere at the federal level if the province of Ontario was to deny entry to someone like that.”<sup>16</sup> Liberal Justice Minister Anne McLellan was also campaigning, but when contacted by reporters, refused to comment.<sup>17</sup>

In 2005, Mr. Day responded to the issue of misogynist rap music with these comments, “The government has been negligent about this issue. Please be advised that I will urge them to take action.”<sup>18</sup>

<sup>10</sup> Ibid

<sup>11</sup> *Eminem plays despite outcry from politicians*, National Post, October 27, 2000

<sup>12</sup> *Bar rap star from country, Ontario urges*, Toronto Star, October 26, 2000

<sup>13</sup> *Ban Eminem from Canada: Minister*, Ottawa Citizen, October 26, 2000

<sup>14</sup> Ibid

<sup>15</sup> Letter to Valerie Smith from The Hon. James Flaherty, Attorney General of Ontario, December 20, 2000

<sup>16</sup> *Eminem plays despite outcry from politicians*, National Post, October 27, 2000

<sup>17</sup> Ibid

<sup>18</sup> Letter to Valerie Smith from MP Stockwell Day, September 28, 2005

## Bill C-250 - An Act to Amend the Hate Propaganda Law

In September 2003, the House of Commons passed *Bill C-250* (formerly Bill C-415), an amendment to the hate propaganda law that added "sexual orientation" to the protected groups. This was a Private Member's Bill introduced by NDP MP, Svend Robinson. A request to NDP leader Jack Layton to have the Bill amended to include women was ignored, while a similar request made directly to Svend Robinson was refused outright with this explanation:

*I support the inclusion of "gender" in the law on hate propaganda, but unfortunately it was very clear that there was nowhere near the level of support for this change needed to move ahead in the House of Commons... I was certainly not prepared to table a bill that had absolutely no hope of support, when I do have some chance of getting through the more narrow bill including "sexual orientation".<sup>19</sup>*

This attitude is very disturbing. Politicians are elected to do the right thing, not the easy thing, plus he simply ignored the safety and equality rights of women in order to get his bill passed. Mr. Robinson now has protection from hate propaganda, but women and girls don't. To add insult to injury, NDP leader Jack Layton, one of the founding members of the White Ribbon campaign, a men's anti-violence group, issued a press release when Bill C-250 was passed saying, "It is a natural update of the criminal code's hate-crimes section and another victory for equality". Apparently, Mr. Layton's concept of equality doesn't include women or ensuring that legislation passed by the House of Commons conforms to the equality guarantee in the *Charter*. Disappointing, to say the least.

During debates in the House of Commons, Mr. Robinson made the following comments

*I hasten to add that in the future I would strongly support expanding this provision even further to include, for example, the grounds of sex, and physical and mental disability, to include the provisions that are covered by section 15 of the Charter of Rights."*

*...I would note it [the Bill] is important because the impact of hate literature is very destructive. Hate propaganda is very destructive."*

*Of course the fact that we have hate propaganda legislation that prohibits hate propaganda on certain grounds but excludes gay and lesbian people sends out the very clear message that somehow we are less than equal. The failure to include gay and lesbian people sends out the message that we are in fact second class citizens in our own country. That as well is clearly not acceptable.<sup>20</sup>*

He acknowledged that excluding certain groups from the law sends out a "very clear message" that those groups are "less than equal" and "second class citizens", but had no problem assigning women to that status. In October 2003, Mr. Robinson said in an email, "I wish to re-state that it is my intention in the next session of the House to introduce a Private Members Bill to include both gender identity and sex in the hate propaganda sections of the *Criminal Code*."<sup>21</sup> He had an opportunity to protect women from hate propaganda when his Bill was going through Committee, but he refused to act. Promising to do it in the future is just not good enough. And, since he wasn't re-elected, it turned out to be a completely useless promise.

MP Vic Toews also spoke during the debates and offered the following comments:

*...I would point to two specific concerns in the bill which must be addressed and which form the grounds of my opposition to the legislation.*

***First, the legislation would extend protection from hate propaganda to some groups while excluding others. While the bill would add sexual orientation to the list of groups who may claim protection from hate literature, a number of other Canadians who may be targeted for***

<sup>19</sup> Letter to Valerie Smith from MP Svend Robinson, January 20, 2003

<sup>20</sup> House of Commons Debates, Hansard, May 29, 2002 re Bill C-415

<sup>21</sup> Email to Valerie Smith from MP Svend Robinson, October 7, 2003

reasons of age, health, disability, social status or a number of other characteristics would not be afforded the same protection.

**What concerns me is not only the piecemeal way we are approaching the law, but the exclusion of a number of vulnerable groups in our society that are routinely subject to discrimination and inequality.**

**To address the issue there are two possible solutions. First, the definition of identifiable group could be expanded along the lines of our current standard in the Charter of Rights and Freedoms.** The Charter currently extends protection from discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

Amending the definition in this manner has been suggested in the past. In April, 1985 the Special Committee on Pornography and Prostitution recommended the definition be broadened to include sex, age, and mental or physical disability. **The Law Reform Commission of Canada recommended the same so the provisions would be consistent with the Charter of Rights and Freedoms. A broader definition would be consistent with international standards such as the Universal Declaration of Human Rights which guarantees that everyone is entitled to rights and freedoms: -- without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>22</sup> (emphasis added)**

## Excluding Women is Unconstitutional

The omission of 'sex' from the definition of identifiable groups violates Section 15 of the *Charter*, a violation that cannot be justified. The *Charter of Rights and Freedoms* is the supreme law of Canada and included in the *Charter* is protection of equality rights at Section 15(1) which states:

*Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.*

Most members of the House of Commons ignored this when they passed Bill C-250, thereby sending a "very clear message" that women are "less than equal" and "second class citizens".

## Evidence of Need

Women are routinely the subject of misogynist forms of expression. During the Eminem controversy, for example, a *Globe and Mail* editorial described his lyrics as "sick-making; they express an odious hatred of women,"<sup>23</sup> yet he performed at SkyDome before 20,000 young fans. He is one of the most popular recording artists in the world, having sold millions of CDs. And, he is just one of many similar violent rappers, so the influence of this genre of music is significant.



Because of the enormous popularity of violent rap, the abusive attitudes and language have spread into other aspects of society. Bell Mobility, for instance, introduced a line of spoken word cell phone ring tones called "Pimp Tones" that featured abusive language and threatened or featured violence against women, while Chrysler hired pimp rapper,

Snoop Dogg, to appear in advertisements. This embrace of misogynist products and performers by large, mainstream corporations sends the message that abusing women is socially acceptable.

<sup>22</sup> House of Commons Debates, Hansard, May 29, 2002 re Bill C-415

<sup>23</sup> *Confronting Eminem*, *Globe and Mail* editorial, October 27, 2000



"Hunting for Bambi" is another egregious example of hateful expression. In the United States, a company claims to offer men an opportunity to hunt naked women and shoot them with paintball guns, although "purposely shooting at persons not wearing clothing may result in significant bodily injury".<sup>24</sup> Physically harming real, live women is now being packaged as a "sport". Videos of women being hunted and shot are sold on line and the content of the web site is vile, as evidenced by the above illustration which appears on the Hunting for Bambi site. (Initially dismissed by some as a hoax, three years later the web site remains active and videos are still offered for sale on two web sites.)

Because the Canadian hate propaganda law is narrowly focussed, it's unlikely the change will result in a flood of prosecutions, especially since charges must be approved by the Attorney General. However, we should be able to prevent virulent misogynists like Eminem from coming to Canada. White supremacist hate rock bands are stopped at the border, while creators and sellers of hate rock music are prosecuted in Canada. Changing the law will only mean that women have the same protection as other vulnerable groups, something guaranteed to us under the *Charter*.

*Section 319(2) serves to illustrate to the public the severe reprobation with which society holds messages of hate... It makes that kind of expression less attractive and hence decreases acceptance of its content.*

Supreme Court of Canada

It should also have a much-needed chilling effect on Canadian companies that currently traffic unimpeded in products that promote violence and hate against women. After the law was amended to include sexual orientation, for example, organizers cancelled the Ontario concerts by Jamaican dancehall artist, Beenie Man, scheduled for London and Toronto, "due to ongoing concerns and pressures regarding Beenie Man's controversial lyrical

content".<sup>25</sup> Some of Beenie Man's lyrics advocate violence against gays and lesbians. The same month (August 2004), Egale Canada issued a press release calling on Judy Sgro, Canada's Immigration Minister, to deny entry to another performer, Sizzla, because of similar concerns over his lyrics, and their release cited the recently-amended *Criminal Code* hate propaganda laws.<sup>26</sup>

## Entertainer Declaration

In response to the homophobic lyrics of some performers, the Canadian High Commission in Jamaica introduced an Entertainer's Declaration that performers from that country are required to sign before they can come to Canada. "All entertainers going to Canada are required to sign a declaration that states that the entertainer will not engage in activities in Canada that will break the Canadian *Criminal Code*, or engage in or advocate the hatred of persons because of race, national or ethnic origin, colour, religion, sex or sexual orientation," states a release sent from the High Commission to the Jamaica On Line Star.<sup>27</sup> "Sex" is included in this document, but unfortunately, the Declaration is only required for Jamaicans, so it does nothing to prevent misogynist performers from other countries from coming to Canada.

Until the hate propaganda section is amended to include women, the government could order the Entertainer Declaration to be applied universally, so that performers from all countries who wish to work in Canada have to sign it.

## Conclusion

While in opposition, Vic Toews supported amending the hate propaganda law to conform to Section 15 of the *Charter* and offer protection to all Canadians, not just selected groups. Stockwell Day stated that the government has been negligent on the issue of hateful rap music that targets women, and he promised to

<sup>24</sup> *Brass Eagle Inc. Responds to "Hunting for Bambi"*, Brass Eagle Inc. news release, July 15, 2003

<sup>25</sup> *Beenie Man Shows Cancelled*, Toronto Sun, August 27, 2004

<sup>26</sup> *Songs of Hatred Not Welcome*, Egale Canada news release, August 25, 2004

<sup>27</sup> *No entry without signing*, Jamaica On Line Star, July 1, 2005

urge the government to take action. When he was Attorney General of Ontario, James Flaherty asked the federal justice minister to amend the hate propaganda law to include women. These men are now, respectively, Attorney General, Minister of Public Safety, and Minister of Finance, three of the most influential Ministers in the federal government. I will close with Mr. Flaherty's comments on the issue and ask him to act on his promise:

*"I will continue to ask the federal government to expand the definition of identifiable groups to include gender.*

*"We must have the tools to bring to justice those who spread hatred against others. It is time for the federal government to provide such tools to prosecute those promoting hatred against women by amending the Criminal Code. The public has a right to be safe."*

## **Appendix I - Recommendations Made to Amend Hate Propaganda Law**

**1983:** National Action Committee on the Status of Women recommended to the Special Committee on Pornography and Prostitution, that "the 'hate propaganda' section of the *Criminal Code* be amended to include sex as an 'identifiable group', and that the section should be further amended by removing the necessity of the consent of the Attorney General before proceeding with an offence." (*Report of the Special Committee on Pornography and Prostitution*, Supply and Services Canada, 1985)

**1985:** Canadian Advisory Council on the Status of Women has recommended to the federal government, as far back as 1985, that *Criminal Code* hate laws should be broadened to include the word "sex" or "gender" as an identifiable group. (Letter to Valerie Smith from Glenda Simms, President, CACSW, June 23, 1994)

**1985:** Special Committee on Pornography and Prostitution made four recommendations in their Report for changes to the hate propaganda section of the *Criminal Code*, including adding gender and removing the requirement for consent by the Attorney General for a prosecution. (*Report of the Special Committee on Pornography and Prostitution*, Supply and Services Canada, 1985)

**1986:** *Working Paper* on hate propaganda, Law Reform Commission of Canada proposed that the section in the *Criminal Code* governing hate literature include protection on the grounds of sex. (*Report on the Powers of the Ontario Film Review Board*, Ontario Law Reform Commission 1992)

**1987:** A proposal to broaden the hate propaganda section of the *Criminal Code* to include "sex" in the categories of identifiable groups was included in *Bill C-54, An Act to amend the Criminal Code and other Acts in consequence thereof*, introduced by Raymond Hnatyshyn, Minister of Justice. The Bill died on the order paper. (*Report on the Powers of the Ontario Film Review Board*, Ontario Law Reform Commission 1992)

**1994:** Marc Sandler, senior legal counsel, B'nai Brith League for Human Rights, told a symposium on hate crimes that women, gays and lesbians should be offered the protection of current prohibitions against promoting hatred (*They hate hate*, Toronto Sun, October 19, 1994)

**2000:** Ontario Attorney General, Jim Flaherty, wrote federal Justice Minister, Anne McLellan, calling for amendments to be made to section 319 of the *Criminal Code* to expand the definition of identifiable groups to include gender. (Letter to Valerie Smith from The Hon. James Flaherty, Attorney General of Ontario, December 20, 2000)

	Government of Canada	Gouvernement du Canada
	High Commission of Canada	Haut-commissariat du Canada
Immigration Section, 3 West King's House Road, P O Box 1500, Kingston 10, Jamaica Tel: (876) 926-1600 Fax: (876) 511-3480 Website: <a href="http://www.international.gc.ca/jamaica">www.international.gc.ca/jamaica</a> or <a href="http://www.ec.gc.ca">www.ec.gc.ca</a>		

The application for a Temporary Work Authorization to perform in Canada refers.

1. The purpose of this letter is to state that I, \_\_\_\_\_ (print name), have read and fully understand the provisions of the *Canadian Criminal Code*, *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act* outlined below.
2. I will not engage in activities in Canada that contravene these provisions.
3. I will not engage in or advocate the hatred against persons because of their race, national or ethnic origin, colour, religion, sex, or sexual orientation.
4. I further understand that contravention of Canadian laws may lead to prosecution and, if convicted, I may be rendered inadmissible to Canada. Inadmissible persons may not receive visas to enter Canada.

***Canadian Criminal Code***

***S 319 (1) Public incitement of hatred – Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of***

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or***
- (b) an offence punishable on summary conviction***

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society

2. Everyone has the following fundamental freedoms:
  - a) freedom of conscience and religion;
  - b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
  - c) freedom of peaceful assembly; and
  - d) freedom of association.

***The Canadian Human Rights Act***

2. The purpose of this Act is to extend the laws in Canada to give effect, within the

**Canada**

- 2 -

purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

3. (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

12. It is a discriminatory practice to publish or display before the public or to cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation that

(a) expresses or implies discrimination or an intention to discriminate, or

(b) incites or is calculated to incite others to discriminate

if the discrimination expressed or implied, intended to be expressed or implied or incited or calculated to be incited would otherwise, if engaged in, be a discriminatory practice described in any of sections 5 to 11 or in section 14.

13. (1) It is a discriminatory practice for a person or a group of persons acting in concert to communicate telephonically or to cause to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination.

Signed: \_\_\_\_\_

This date \_\_\_\_\_

at The Canadian High Commission, Kingston, Jamaica.

Attorney General and  
Minister Responsible for Native Affairs

The Hon. James M. Flaherty

FEB 19 2001



Procureur général et  
Ministre délégué aux affaires autochtones

L'hon. James M. Flaherty

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DEC 20 2000

Ms. Valerie Smith  
Box 119, 4500 Kingston Road  
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M1E 2N9

Dear Ms. Smith:

Thank you for your letter regarding Eminem performing in Ontario.

Domestic violence is a serious matter. Advocating such behaviour is utterly reprehensible.

Federal hate crime legislation offers protection only on the basis of race, religion and ethnicity. This current inadequacy of the *Criminal Code* would make it difficult to proceed with a prosecution for an alleged hate crime relating to gender.

The Ontario government has taken a leadership role in protecting women from domestic violence. I have written to the Federal Minister of Justice, the Honourable Anne McLellan, calling for amendments to be made to section 319 of the *Criminal Code*. I will continue to ask the federal government to expand the definition of identifiable groups to include gender.

We must have the tools to bring to justice those who spread hatred against others. It is time for the federal government to provide such tools to prosecute those promoting hatred against women by amending the *Criminal Code*. The public has a right to be safe.

Thank you again for writing and for your words of support.

Sincerely,

A handwritten signature in blue ink that reads 'James M. Flaherty'.

James M. Flaherty  
Attorney General  
Minister Responsible for Native Affairs

**THE ATTORNEY GENERAL CRITIC**



FOR IMMEDIATE RELEASE

October 25, 2000

**MPP RAPS RAPPER'S VIOLENT MESSAGE**

*Crack down on artists who advocate violence and hate - Bryant*

**Queen's Park:** - Liberal Attorney General Critic Michael Bryant is urging the Harris government to crack down on recording artists who advocate violence and hate. The M.P.P. for St. Paul's is referring to the arrival in Toronto of the notorious rapper Eminem, who is set to perform Thursday evening at SkyDome.

"Nobody wants to curb free speech but some of this rapper's songs cross the line. Some of the lyrics suggest that violence against women is 'cool' - even funny. It's time for the Attorney General to investigate and if necessary, prevent Eminem's concert on Thursday, or prosecute if any crimes take place." says Bryant.

Bryant is suggesting a number of steps that the A-G could take in dealing with the appearance of Eminem, including bringing an injunction to stop the rapper's show on the basis that his performance would be violating the *Criminal Code* and prosecuting the rapper under the hate crime, indecency or obscenity provisions of the *Criminal Code* if necessary.

Valerie Smith, who brought her complaint against Eminem to the Toronto Hate Crimes Unit, says "this guy is advocating hatred and violence against women. It's time for the Harris government to stop talking tough about cracking down on domestic violence and start *doing* something about it."

Bryant is also calling for preventive measures to ensure that parents have a say in what their kids listen to. Right now in Ontario, a child of any age can purchase whatever CD they want - no matter how violent or offensive. "I doubt that parents would want some of these songs in their kids' hands, so let's leave it up to them to decide. We need to start regulating music the same way we do movies. If you're not old enough, you can't buy it without a parent," Bryant says.

Bryant is asking the Harris government to regulate the sale of CDs and tapes in Ontario. For products labelled "Parental Advisory Explicit Content," Bryant suggests they be sold only to those 18 years of age or older with proof of ID. The Liberal Attorney General Critic also wants the Tories to consider mandatory criteria through joint regulation of movies, video games, and music products. Currently in Ontario, CDs and tapes are self-regulated by the industry.

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