

Minister of Justice  
and Attorney General of Canada



Ministre de la Justice  
et procureur général du Canada

The Honourable / L'honorable David Lametti, P.C., Q.C., M.P. / c.p., c.r., député  
Ottawa, Canada K1A 0H8

**JAN 08 2021**

**4.9**

His Worship Fred Eisenberger  
Mayor of the City of Hamilton  
71 Main Street West, 2nd Floor  
Hamilton ON L8P 4Y5

Dear Mr. Mayor:

Thank you for your correspondence concerning your File #C19-016, which relates to a request from the City Council of Hamilton about distracted driving.

At the outset, I would like to express my sincere regret for the delay in responding. Given the high volume of correspondence that is received by this office, it is not always possible to respond in a timely fashion. However, I welcome the opportunity to address your concerns at this time.

It may interest you to know that using a hand-held device while driving, or texting while driving, can be prosecuted under existing provisions of the *Criminal Code* when this behaviour becomes “dangerous operation.” Dangerous operation is a hybrid *Criminal Code* offence punishable by a maximum term of 2 years less a day imprisonment when prosecuted by summary conviction, and a maximum term of 10 years imprisonment when prosecuted by indictment. The penalties are more severe when the conduct results in bodily harm or death to another person. For example, dangerous operation causing death is punishable by a maximum term of life imprisonment.

Furthermore, provincial and territorial legislatures can and do use their constitutional legislative authority for driver licensing and highway traffic laws to enact measures to address distracted driving, including the use of hand-held devices. For example, in Ontario, drivers caught using a hand-held device while driving face up to a \$1,000 fine for a first offence, three demerit points, and a 3-day licence suspension.

Please be assured that I am always looking for ways to improve the criminal justice system. For this reason, I appreciate the time you have taken to share your suggestion.

Thank you again for writing.

Respectfully,

A handwritten signature in dark ink, appearing to read 'D. Lametti', with a stylized, flowing script.

The Honourable David Lametti, P.C., Q.C., M.P.  
Minister of Justice and Attorney General of Canada