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Bill C-337 – Judicial Accountability Through the Sexual Assault Law Training Act
To the Standing Committee on the Status of Women

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Presenter: Jackie Stevens, Executive Director: Avalon Sexual Assault Centre

Topic: Bill C-337 – An Act to Amend the Judges Act and the Criminal Code of Canada

About Avalon Sexual Assault Centre

Avalon Sexual Assault Centre is a feminist, trauma informed organization in Halifax, Nova Scotia, which provides services for those affected by sexualized violence. Avalon's primary emphasis is on support, education, counselling and leadership and advocacy services for women and Trans/non gender binary people. Avalon offers sexual assault/abuse trauma specific individual therapeutic counselling and group program services for women and Trans/non gender binary individuals age 16 and older, community education, public awareness, legal and professional training targeting the prevention of sexualized violence and intervention and support of victims/survivors. Avalon also operates the Avalon Sexual Nurse Examiner Program which provides immediate response to sexual assault victims of all ages and genders requiring medical care and the collection of forensic evidence. For more information about Avalon Sexual Assault Centre, please visit <http://www.avaloncentre.ca>.

- Avalon has expertise and experience directly serving individuals who have experienced sexualized violence, and in advocating for an equality-focused community response to sexualized violence. Avalon has engaged in legal advocacy and education on these issues in Nova Scotia since 1983.
 - Avalon Centre's has expertise in substantive equality, sex and gender-based discrimination, and sexual assault law. This presentation is intended to provide the Standing Committee on the Status of Women further points of analysis and consideration regarding Bill C-337.
 - Avalon Centre has a substantial interest in Bill C-337 and the work of the Standing Committee because of its importance to the development of sexual assault jurisprudence and the impact of this jurisprudence on women's substantive equality, including the women directly served by Avalon.

Points of Consideration:

- High profile examples of systemic failure at all levels of the legal process has resulted in low rates of sexual assault reports and often results in victims deciding not to participate in or continue with the legal process after sexual assault/abuse.
 - There is a level of distrust and lack of faith in the sexual assault criminal justice process not only by victims but within the general public.
 - There is the perception that the rights of the accused are more important than the rights of victims and that justice is not possible for victims of sexualized violence under the current justice process.

- The issues brought forth to the public as a result of many high profile cases have increased the number of individuals who are going public with their experiences before the courts and/or who are seeking systems and legal based support and advocacy.
- Sexual Assault Advocates are not adequately resourced to provide ongoing court watch and court support as well as address the need for reform/change both at an individual victim level and societally/systemically.
- Criminal Justice reform should continue to be based within the history of sexual assault law reform in Canada and Parliament's intention to exclude discriminatory myths and stereotypes about women from judicial decision-making.
 - Past and present judicial statements such as those by Judges McClung, Lenahan, and Camp demonstrate a disregard for women who have been targeted for sexualized violence. Their comments are rooted in misogyny, gender stereotypes and sexual assault myths. Their decisions also demonstrate discrimination based on age, race, and perceptions of what is deemed appropriate behaviour.
 - What is critical to also note is that their decisions also demonstrate a lack of understanding of sexual assault and consent under the Criminal Code of Canada and/or blatant disregard for the laws.
- Reformative processes should reflect a gendered analysis of the experiences of sexual assault victims/survivors both when victimized and before the courts.
 - Sexual Assault and abuse is committed from a position of power and control and some victims are targeted because of gender, racial or societal marginalization.
 - Sexual Assault Laws under the Criminal Code are not gendered; however, how they are often administered and interpreted are almost always based on societal perceptions of gender, race, age etc.
 - Many sexual assault cases are investigated, tried, and decided based from the perspective of looking at the victim's pattern of behaviour and actions to determine consent or to refute that sexual assault occurred, rather than from the perspective of looking at the accused's patterns of behaviour that demonstrate predatory, intentional, or criminal actions.
- Reforms should apply to all levels of court, not just Canadian Superior Courts and should be reflective of all forms of sexual assault/abuse under the Law. Separate from Bill C-337, what practises are in place to ensure that existing policies, laws, mandates pertaining to judges' training and decisions are being adhered to? How can this committee influence/improve current processes?
- Research on sexual assault training, specialized sexual assault Crowns, Judges, and courts have identified that sexual assault training:
 - Minimizes/prevents re-victimization and re-traumatization of victims.
 - Decreases perpetuation of and condoning of the use of sexual assault myths and gender stereotypes and the misuse of and misrepresentation of sexual assault laws in the court process.

- Increases the general public's trust of the criminal justice process and of judges and other legal/law enforcement professionals.
- May positively impact rates of sexual assault reporting, charges, convictions, and sentencing.
- Sexual Assault Training for lawyers and judges:
 - Ensures that they have an understanding of the nuances of sexualized violence because of power and control, oppression, and gender, etc. thus minimizing the use of gender stereotypes and sexual assault myths in sexual assault trials.
 - Improves recognition and understanding of sexual assault trauma and its impacts on victims and minimizing their deliberate use to discredit and discourage victims.
 - Increases victims' rights and access to supports and services during a sexual assault trial, thus increasing the likelihood of victims continuing the court process.
 - Strengthens judicial understanding of sexual assault laws and court processes. This will increase judge's ability to effectively oversee sexual assault cases and make decisions that are clearly rooted in law as well as better inform judges of the gaps and challenges of sexual assault laws which may also then lead to further legislative and law reform.
- Written Decisions:
 - Allow for ongoing judicial review to determine if cases are following the criminal code and appropriate judicial processes.
 - Enable precedents and key points of law to be used to guide future court proceedings/decisions.
 - Ensure that all legal/law enforcement professionals are following due process and the law itself is being used correctly and effectively. If not, there is accountability and opportunity to improve/correct.
 - Provides closure and further understanding for victims who may not be present during their court proceedings