April 16, 2019

The Honourable Serge Joyal,  
Chair of the Standing Senate Committee on Legal and Constitutional Affairs  
The Senate of Canada  
Ottawa, ON K1A 0A4

Dear Honourable Serge Joyal:

Re: Bill C-337 An Act to amend the Judges Act and the Criminal Code (sexual assault)

I am writing to you, the Chair of the Standing Senate Committee on Legal and Constitutional Affairs, on behalf of the Ontario Federation of Indigenous Friendship Centres (OFIFC). The OFIFC works to support 28 member Friendship Centres. Friendship Centres are grassroots organisations that began to emerge in the 1950’s and today are dynamic community hubs of economic and social convergence that create space for Indigenous communities to thrive. The Friendship Centre Movement is widely recognised as the largest urban Indigenous service network in Ontario supporting a vibrant, diverse, and quickly growing population through culturally-based and culturally appropriate programs spanning justice, health, employment, education, ending violence against Indigenous women and more.

The OFIFC has been monitoring the developments with Bill C-337, also referred to as the Judicial Accountability through Sexual Assault Law Training Act, that has been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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We understand that this Bill will amend both the Judges Act and the Criminal Code with regards to judiciary eligibility criteria, seminar training through the Canadian Judicial Council and accountability measures. In considering these amendments the OFIFC urges you to pay particular attention to the disproportionate rate at which Indigenous women and girls experience sexualised violence:

- Indigenous women have an overall rate of violent victimisation that is approximately three times greater than non-Indigenous women and double the rate that Indigenous men face violence.¹
- Indigenous women are approximately four times more likely to self-report being sexually assaulted than their non-Indigenous counter-parts.²
- Twelve months before the General Social Survey was conducted, 1 in 5 Indigenous female youth self-reported being sexually assaulted.³

It is critical to understand the intersectional nature of the sexualised violence that Indigenous women and girls are faced with. The intergenerational trauma that is directly associated with the imposition of a patriarchal and imperialistic system in what is now known as Canada, continues to impact the well-being of all Indigenous people and the communities they live in. Unresolved traumas create perpetual cycles of violence which are exacerbated by the structural racism Indigenous people experience by institutions they interact with, in particular the justice system.

As you know, Bill C-337 proposes amendments that would involve the Canadian Judicial Council developing continuing education seminars on sexual assault law in “consultation with sexual assault survivors, as well as with groups and organisations that support them.” Due to the disproportionate rate of sexualised violence perpetrated against Indigenous women and girls, partnership development must be prioritised with Indigenous community organisations. Indigenous people and organisations must be directly involved with delivering training as it relates to sexualised violence and Indigenous people. Indigenous community organisations, such as Friendship Centres, act as trusted intermediaries for survivors of sexualised violence, and understand how navigating the justice system can impact their lives after experiencing sexualised violence as well as supports needed for their healing.

The intersectional nature of violence against Indigenous women and girls necessitates a strategic approach that requires both a responsive and prevention-based method of addressing the issue. It is insufficient for mandatory ongoing and comprehensive sexual assault law training to be limited to the judiciary and not be required for the entire Canadian Bar. The OFIFC upholds that broader legislative changes are required to support in advancing how the criminal justice system attends to sexual assault law.

The OFIFC is supportive of legislative amendments that require the Canadian Judicial Council to submit a report to the Minister tracking the types of trainings being offered related to sexual assault law, the number of judges who attended, and the number of sexual assault cases heard by judges who have never participated in the training. The OFIFC advocates for this data to be released to the public as an important oversight mechanism for tracking progress in the criminal justice system. Additionally, the OFIFC advocates for the collection of disaggregated race-and identity-based data alongside the proposed amendments to the Criminal Code that track prosecutorial decisions related to sexual assault law—as necessary for the federal government and the public to track the quantifiable measurement of improvements to the criminal justice system.

The importance of data analysis in tracking progress on reconciliation was highlighted within the Truth and Reconciliation Commission’s (TRC) Calls to Action #55. The Commission highlighted the specific sectors within which governments will be held accountable for data capturing and progress measurement. The justice sector is a priority area. Canadians expect the government will demonstrate tangible progress on the TRC’s Calls to Action and respond in an evidence-based manner. Including consulting with Indigenous organisations for the development of the trainings/seminars as related to sexualised violence and creating the space for Indigenous organisations to monitor and measure outcomes of this legislation. Transparency in data collection with Indigenous communities and service users is paramount to success and creating a justice system that is responsive to the needs of Indigenous women and girls who disproportionately experience sexualised violence.

We offer this letter in the spirit of collaboration and hope this will be received as a part of meaningful and continuing dialogue on creating legislative transformation to the criminal justice system.

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If you have any questions about this letter, please feel free to contact Juliette Nicolet, Policy Director at 1-800-772-9291 or at jnicolet@ofifc.org.

Sincerely,

[Signature]

Armand Jourdain
President

cc: The Honourable Richard Wagner, Chair of the Canadian Judicial Council and Chief Justice of the Supreme Court of Canada
    The Honourable David Lametti, Minister of Justice and Attorney General of Canada
    The Honourable Ralph Goodale, Public Safety Canada
    The Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations and Northern Affairs
    The Honourable Maryam Monsef, Minister of International Development and Minister for Women and Gender Equality
    The Honourable Seamus O'Regan, Minister of Indigenous Services
    Kimberly Murray, Assistant Deputy Attorney General, Indigenous Justice Division
    Assistant Deputy Attorney General's Office
    Sylvia Maracle, Executive Director, OFIFC