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**Submission to the Standing Committee on Justice and Human Rights  
Bill C-75**

**An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts**

**Presented by Daisy Kler  
on behalf of  
Vancouver Rape Relief & Women's Shelter  
September 24 2018**

Vancouver Rape Relief and Women's Shelters is the first rape crisis line to open in Canada in 1973 and also operates a transition house for women and their children who are escaping male violence. We receive over 1300 new crisis calls per year and house 100 women and their children per year. We offer advocacy and accompaniment to police, court and hospital.

I have been a collective member with VRRWS for 20 years. I am currently assigned to work in the transition house with women who are escaping violent partners.

In the course of their stay we assist women with finding housing, obtaining a lawyer for family law matters such as custody and parenting arrangements, we assist her in making a police statement, finding her daycare and school for her children, translation services if needed and assist with immigration and refugee issues.

Vancouver Rape Relief and Women's Shelter is a collective of paid staff and volunteer members. Our membership includes former battered women, women who have exited prostitution and sexual assault survivors. Our members vary in age and include many working class, women of color and Indigenous women. Collective members maintain a high standard of self education and peer evaluation. We use our own life experiences of growing up as girls into womanhood when we do peer counselling.

VRRWS has been able to provide front-line services and undertake its rich public education work due to the tremendous support of the community in Vancouver and beyond. Our 40 plus years of front-line work informs our understanding of all forms of male violence against women including wife assault, incest, rape, sexual harassment and prostitution.

VRRWS has been widely consulted for our expertise on and understanding of male violence against women, locally, nationally and internationally.

For decades VRRWS has contributed our expertise about violence against women in provincial and federal consultations. Most recently we presented before the House of Commons Standing Committee on Justice and Human Rights on trafficking and prostitution as well on Bill C-51.

We have also presented before international human rights bodies and mechanisms.

For example, in 2013 VRRWS presented before the commissioners for the Inter-America Commission on Human Rights, the special rapporteur on the rights of women and the special rapporteur on the rights of Indigenous peoples during their site visit to Canada to study the issue of murdered and missing Indigenous women.

VRRWS is a member of the BC CEDAW Group, a coalition of 11 women's equality seeking organizations, based in BC, whose specific concern is the compliance of all levels of government in Canada with the terms of the international Convention on the Elimination of All Forms of Discrimination against Women. The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly in 1979 and is frequently described as an international bill of rights for women. Canada signed onto CEDAW in 1980 and ratified in 1981. The federal, provincial and territorial governments are obligated to put CEDAW provision into practice and to submit national reports to the CEDAW committee every four years VRRWS participates widely in the women's movement and has worked to end male violence at a local national and international arena. Some examples:

Since 1997, VRRWS has been organizing an annual all-day public memorial event, in the form of a public conference, for the Montreal Massacre. Rape Relief has led in-depth facilitated discussions on key issues regarding male violence against women some discussion topics included wife assault, changes to family law and state responses to violence against women. The participants include local, national and international equality seeking women's groups and feminist front line women services workers. The event is widely attended by feminist activists and members of the general public.

In 2011 at the Global Women's Worlds conference in Ottawa, VRRWS and Concentration des Lutes Contre l'exploitation Sexuelle (CLEs) organized an international, trilingual discussion amongst women experts who discussed prostitution as male violence against women. We hosted discussants from First Nations, and from 15 countries around the world. The expert discussants included the leadership of national and international organizations including: Native Women's Association of Canada; International Coalition against Trafficking of Women and Sigma Huda, former UN Special Rapporteur on Trafficking.

VRRWS works in coalition with other groups of frontline anti-violence workers through both the Canadian Association of Sexual Assault Centres. and the Canadian Network of Women's Shelters and Transition houses through the BC Society of Transition houses.

This year VRRWS participated in the national steering committee for the Women's Shelters Canada conference in June 2018 and presented as part of a plenary on social changes and the women's movement and presented two workshops within the conference on the benefits of a guaranteed annual income for battered women and best feminist practices when working with battered women who are also escaping prostitution.

VRRWS has advanced and pursued public cases where there is a women's equality interest in court cases, such as Bishop O'Connor's sexual assault prosecution, in which we were intervenors. VRRWS

a party with standing in the institutional and expert hearings, for the National Inquiry into the Missing and Murdered Women and Girls Inquiry. Currently we are part of a national coalition of front-line women's groups who has been granted intervener status in the appeal of Bradley Barton who was found not guilty for the murder of Cindy Gladue. Our oral submission will be heard in the Supreme Court of Canada October 11th.

### Front-Line Knowledge

Most women who have experienced male violence do not engage with the criminal justice system. Roughly 30% of the women who call us have engaged with the criminal justice system, which is higher statistically than most rape crisis centers because we work with battered women. But even this number includes women who may not have called themselves --maybe a neighbor or family member called the police. Of the women we work with in our transition house, very few women who have called police see their cases get to court and even fewer result in criminal convictions. Our work shows that most of the women who've stayed in our transition house who have tried to use the police don't get more than a file number. It is uncommon for there to be an arrest or charges. It is extremely unlikely to get a conviction. Women have no faith that the criminal justice system will work in their favor, because history has showed that it does not. Although we welcome some of the changes in the bill, it must be acknowledged that these changes will affect a small portion of women who have experienced male violence.

### Overall impressions Bill C-75

As a feminist, front-line worker, I am hopeful that some of these measures will have a positive impact for raped and battered women—in particular, the decision to limit the use of preliminary inquiries, to add the use of reverse onus bail, to make strangulation a more serious aggravating factor, and to changes in the language regarding male violence against women.

We believe that protecting women's equality rights does not have to come at the expense or violation of men's Charter rights. But we do take the position that it's battered and sexually assaulted women who so rarely find justice or have their Charter rights upheld.

We argue that the existing laws must be applied as they relate to battered and raped women. We recognize that it's poor, racialized, and Indigenous men who fill the prisons, not because they commit more crimes against women but because the criminal justice system unfairly criminalizes these populations and lets rich white men off the hook. It is also poor, racialized and Indigenous women who are more likely to be arrested in cases where the violent man abusing her calls the police on her.

We don't believe prisons successfully reform men and we do not call for longer jail sentences; however, communities do not hold men accountable for the violence men commit. Therefore, women will continue to need the criminal justice system for protection, and we as feminists must fight for women's access to the rule of law.

### Change in Language

We welcome the change in language from spousal abuse to intimate partner abuse and to expand the definition to include former partners and dating partners, because it better reflects the range of relations women are in outside of marriage. This change also allows for a broader and deeper interpretation of the continuing power abusive men exert over women after the relationship has ended, since women are most at risk in the first 18 months after leaving an abusive man. We see that men use violence towards women at all different stages of a relationship including after it ends, so the change to intimate partner violence could mean a higher chance of him being held responsible for his behavior. However, this language change does nothing to correct the fundamental flaw in the law; nowhere in this bill is male violence against women acknowledged. It is understood worldwide that male violence against women is a social reality that cannot be denied. This bill does nothing to reflect or acknowledge that the overwhelming perpetrators of violence are men and victims of that violence are women.

### Reverse onus Bail

The change to reverse onus bail in cases of male violence against women is an encouraging step to help reduce the number of men who immediately re-offend and attack their female intimate partners. It is a positive step because the onus is on the offender to prove why they should be let out on bail if they have a history of domestic violence. This sends a message that violence against women is a serious crime. It is, however, unfortunate that this reverse onus will not apply to those men without a criminal record for domestic violence, which will include convicted persons who received an absolute or a conditional discharge. What we see from our work is getting a conviction is rare; when it does happen often it's a man of colour. As a result, we can see the possibility that something like this will disproportionately affect racialized men, while the majority of men who go without being charged and convicted remain unaccountable and undeterred.

I had a recent case where I was working with a resident whose ex had been charged with assault. She had permanent damage to her eye as a result of his attack. He pled guilty but his lawyer asked for a conditional discharge so he could travel to the US to see family and with a record he would not

be able to do so. He was also a lawyer. The judge granted him the conditional discharge. If he batters again his history of violence would not be considered for this reverse onus bail.

### Eliminating mandatory use of Preliminary Inquiries

Eliminating the mandatory use of preliminary inquiries as it relates to women who have been sexually assaulted is a positive step. We know from our experience accompanying women to court that preliminary inquiries are used by the defence as an attempt to discredit their testimony by pointing out minute discrepancies from their police statements, their preliminary inquiry evidence and their trial testimonies.

In one recent example of a trial I attended, the woman was asked to justify why she said “I think I wore a cardigan” in one statement and “I was wearing a cardigan” in the other. The defence cross-examined her gratuitously on this difference, implying that because she didn’t use the exact same wording, she was lying. This misuse of preliminary hearings in sexual assault trials is common and we are glad to see its use limited.

### Strangulation more serious level of assault

Bill C-75 makes strangulation a more serious level of assault, equal to assault causing bodily harm. Since strangulation is an indicator of the likelihood of increased and more severe violence, including wife murder, this change better reflects the seriousness of the crime. However, strangulation is not only a more severe act of violence-- it can be lethal. This change does not reflect the potential lethality, by for example punishing strangulation as near murder.

### Sentencing

The Bill expands the provision on sentencing to include any intimate partner violence as an aggravating factor. The shift to include former partners and dating partners is significant because women who have left an abusive man are at increased risk of violence.

Although Bill C-75 would allow the court to raise the maximum sentence for a repeat offender who has a record of domestic violence offences, most judges don’t apply the maximum sentence to domestic violence, so this is unlikely to have an impact. And given the over-representation of people of color and poor people in prison, this may be used unequally against poor men and men of color.

I note, however, summary conviction offences that include most forms of male violence have their sentencing maximum increased from 6 months to 2 years, except for sexual assault. This is an odd omission: it seems to suggest sexual assault doesn’t happen to battered women. I think this reflects a

common myth that somehow women who experience intimate partner violence are different women than those who experience sex assault. In fact, abusive men's physical assault often includes sexual assault.

### Summary

Overall, these changes can have a positive impact on holding men accountable for the violence they commit. We are cautiously optimistic. But without informed, women's equality-seeking judges, access to criminal justice system through adequate legal aid, and responsive and effective policing of male violence, we fear the changes will result in few criminal convictions.

Changes to the criminal law can only be effective in changing the condition for women if women have judges who do not have a sexist bias against women. Women must also have access to legal aid, a guaranteed livable income, safe and affordable housing, and a strong and diverse civil society to fight for equality rights, including a strong women's movement.