April 18, 2024

The Honorable Kevin McCarty
Chair, Assembly Public Safety Committee
1020 N Street, Room 111
Sacramento, CA 95814

RE: AB 2470 (Patterson) - OPPOSE

Dear Assemblymember McCarty,

We the undersigned organizations, who advocate to support survivors of domestic violence and intimate partner violence and/or on issues of criminal justice, together submit this letter in strong opposition to AB 2470 authored by Assemblymember Joe Patterson. AB 2470 seeks to expand the draconian Three Strikes Law and create longer prison terms without any measurable improvements to community public safety, crime deterrence, or justice for survivors of domestic violence.

We agree that the Legislature must enact new policies and programs to better prevent and respond to domestic violence (DV) and intimate partner violence (IPV). However, we strongly disagree with expanding failed carceral solutions that

accomplish neither of these goals *and* would increase wasteful spending during a historic statewide budget crisis.[1] Survivors of DV and IPV deserve healing and supportive services. Indeed, a wide body of research shows that women of color, particularly Black, Indigenous, and Latinx women, are disproportionately impacted by IPV[2] and their experiences of IPV are compounded by social determinants of health, including poverty, immigration status, access to healthcare, and other factors.[3]

In fact, **we have highlighted a few pieces of legislation that we support and believe would deliver meaningful assistance and relief to survivors of domestic violence, and that do not rely on failed carceral responses**.

- **AB 2354 (Bonta)** - empowers all survivors of intimate partner violence, human trafficking, and other forms of violence, regardless of their background or the nature of their conviction, to seek justice by petitioning the court to dismiss or vacate sentences that stem from circumstances related to their victimization. This relief critically removes roadblocks to accessing essential resources, such as housing, job training, and employment.
- **AB 2499 (Schiavo)** - guarantees work time off for survivors of domestic violence, sexual assault, and related crimes, and holds them harmless of any employer retaliation for taking time to heal or support a loved one's healing from trauma
- **AB 1956 (Reyes)** - requires that California support funding for essential crime victim services including legal services, emergency shelters, rape crisis centers, health care services, hotlines, and so forth.

<u>AB 2470 Opposition</u>

The Penal Code already provides steep penalties for the crimes AB 2470 seeks to address. Under Pen. Code, § 667.5 and Pen. Code, § 1192.7, all forms of rape and sexual penetration involving force, violence, or duress are already considered violent and serious felonies. Furthermore, enhancements exist if an individual has a prior serious felony conviction (Pen. Code, § 667, subd. (a)(1).) wherein a court can add an additional five-year term for each prior serious felony conviction. Additionally, California's One-Strike-Sex Law (Pen. Code, § 667.61.) outlines sentences of 15-to-life, 25-to-life, or life without possibility of parole (LWOP) for convictions of rape

[1] Legislative Analyst's Office. 2024-25 Budget Deficit Update. Retrieved from https://lao.ca.gov/Publications/Report/4850

[2] Stockman JK, Hayashi H, Campbell JC. Intimate Partner Violence and its Health Impact on Ethnic Minority Women [corrected]. J Womens Health (Larchmt). 2015 Jan;24(1):62-79. doi: 10.1089/jwh.2014.4879. Epub 2014 Dec 31. Erratum in: J Womens Health (Larchmt). 2015 Mar;24(3):256. PMID: 25551432; PMCID: PMC4302952.

[3] Runner M, Yoshihama M, Novick S. Intimate partner violence in immigrant and refugee communities: Challenges, promising practices and recommendations. Princeton, NJ: Family Violence Prevention Fund, Robert Wood Johnson Foundation, 2009

accomplished by force, duress, or "fear of immediate and unlawful bodily injury and rape accomplished by threat of retaliation." If a DV incident involves assault with a deadly weapon or great bodily injury, a defendant can already be charged with a strike under California's Three Strikes Law, further calling into question the real intent of AB 2470. In short, domestic violence can be prosecuted as a felony, and if the case involves great bodily injury, it is already both a serious and violent felony.

AB 2470 is based on the premise that we must wait for someone to be convicted of DV to prevent gun violence. AB 2470 will not prevent future cases of DV and IPV, given the mounting research and federal guidelines rejecting arguments that lengthy prison terms carry a deterrent effect.[4] Longer prison terms are both costly and ineffective at reducing future harmful behavior.[5] Indeed, AB 2470 will make things worse by fueling the "victim-to-prison pipeline" and wasting limited state resources better spent on direct services for survivors - which effectively work to improve survivor health and safety. Far too often, officers arrest survivors along with their abusers due to mandatory arrest laws. Even if they aren't charged or convicted, an arrest can be traumatic and make survivors less likely to seek help in the future. Mandatory arrest laws have ensnared far too many women in the criminal process, and data suggests that most of the women arrested for domestic violence are victims who were acting in self-defense, retaliation, or response to cues indicative that violence was imminent.[6]

It seems apparent that the real goal of AB 2470 is not supporting survivors or reducing gun violence - it is yet another ill-advised attempt at degrading Proposition 57 and the will of the majority of California voters who support rehabilitation. Under Proposition 57, someone with a violent felony conviction is limited to good conduct credits equaling 33.3% of their total sentence, as opposed to 50% for serious or other non-violent felonies (Tit. 15 Cal. Code of Regs. § 3043.2.). California voters had the opportunity to enact many of the same provisions outlined in AB 2470 if they chose to pass Proposition 20 in 2020; however, voters overwhelmingly rejected it by 62%. We urge the Legislature to consider DV, IPV, and gun violence prevention strategies that are evidence-based and rooted in trauma-informed care, not doubling down on wasteful and ineffective carceral approaches. Namely, we encourage you to examine the following:

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[4] U.S. Department of Justice, National Institute of Justice. 2016. Five Things About Deterrence. Retrieved from https://www.ojp.gov/pdffiles1/nij/247350.pdf

[5] Mauer, M. 2018. Long-Term Sentences: Time to Reconsider the Scale of Punishment. University of Missouri-Kansas City School of Law. Retrieved from https://www.sentencingproject.org/app/uploads/2022/08/UMKC-Law-Review-Scale-of-Punishment.pdf

[6] Finn, M. A., Blackwell, B. S., Stalans, L. J., Studdard, S., & Dugan, L. (2004). Dual Arrest Decisions in Domestic Violence Cases: The Influence of Departmental Policies. Crime & Delinquency, 50(4), 565-589. https://doi.org/10.1177/0011128703261381

1) **Invest in trauma-informed care, employment, affordable housing, and shelter for survivors**.
    - Mental health services, employment, and housing security are some of the necessary tools to help prevent DV andIPV and help survivors heal from their trauma.
    - We urge you to invest in trauma recovery centers that can provide immediate support to survivors whether or not they choose to pursue remedies through the traditional justice system.
2) **Listen to the solutions put forth by survivors of DV and IPV, such as reforming California's mandatory arrest laws that ensnare many women in the prison system.**
    - Countless women in prison are survivors of abuse themselves[7], and a survey of women incarcerated at Central California Women's Facility (CCWF) found that 43% reported IPV playing a direct role in their incarceration.[8]
    - Some research has also shown that mandatory arrest laws increase IPV-related homicides while decreasing reporting, further lending to the argument that policy reforms should be on the table.[9]
3) **Investigate and hold accountable correctional officers who continue to inflict physical and sexual abuse on incarcerated women**.
    - According to Human Rights Watch, a staggering 71% of incarcerated women in California report experiencing physical and/or sexual violence at the hands of correctional officers. Furthermore, a federal investigation into the Bureau of Prisons (BOP) by the U.S. Senate found that incarcerated women in two-thirds of federal prisons experienced sexual abuse at the hands of BOP employees and woefully failed to hold them accountable.[10]
4) **Shed light on the under-reporting of DV and IPV within law enforcement families, which some research has shown to be as high as 40%**.[11]

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[7] Michaels, S. (11 August, 2022). Women's Prisons Are Filled With Domestic Violence Survivors. A New Type of Law Could Help Them Get Out. Mother Jones. Retrieved (2/22/2024) from https://www.motherjones.com/criminal-justice/2022/08/domestic-violence-prison-abuser-oklahoma-new-york-law/

[8] Human Impact Partners. From Crisis to Care - Report Fact Sheet. Retrieved from https://humanimpact.org/wp-content/uploads/2023/02/Womens-Prisons-Fact-Sheet.pdf

[9] Iyengar, R. (2007). Does the Certainty of Arrest Reduce Domestic Violence? Evidence from Mandatory and Recommended Arrest laws. National Bureau of Economic Research. Retrieved from https://www.nber.org/papers/w13186

[10] Staff Report - Sexual Abuse of Female Inmates in Federal Prisons. (2022). Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs. United States Senate. Retrieved from https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf

[11] Neidig, P.H., Russell, H.E. & Seng, A.F. (1992). Interspousal aggression in law enforcement families: A preliminary investigation. Police Studies, Vol. 15 (1), p. 30-38.

- For far too long, there has been a societal taboo in addressing DV and IPV within law enforcement families, as the spouses/partners of law enforcement very likely fear retaliation should they report their abuse.

For these reasons, all of our organizations urge your no-vote on AB 2470. We stand ready to work with the committee on real solutions to prevent DV and IPV.

Sincerely,

Alliance for Boys and Men of Color (ABMoC)
California Coalition for Women Prisoners (CCWP)
Californians United for a Responsible Budget (CURB)
Communities United for Restorative Youth Justice (CURYJ)
Ella Baker Center for Human Rights (EBC)
Homeboy Industries
Initiate Justice Action (IJA)
San Francisco Public Defender's Office
The Sister Warriors Freedom Coalition
STAND! For Families Free of Violence
Survived & Punished
Young Women's Freedom Center (YWFC)