



Written Testimony of Daniel Landsman in Support of HB 2825
Deputy Director of Strategic Initiatives, FAMM
Oregon House Judiciary Committee
March 23, 2021

I want to thank Chair Bynum, Vice Chair Noble, Vice Chair Power, and the members of the House Judiciary Committee for the opportunity to submit written testimony in support of HB 2825. Decades of evidence have shown that mandatory minimum sentencing laws are not an effective tool in deterring crime and preserving public safety. This one-size-fits-all solution has led to mass incarceration, wasted resources, and disrupted families and communities. Mandatory minimums are particularly problematic when applied to survivor-defendants who commit their offenses in response to domestic violence. House Bill 2825 would provide judges with much needed discretion to sentence below mandatory minimums in these cases.

FAMM is a nonpartisan, nonprofit sentencing reform advocacy group founded in Washington, D.C. in 1991. FAMM's mission is to protect public safety and promote efficiency in the criminal justice system by advocating for individualized, proportional criminal sentencing laws. We are not against punishment or prisons. We simply believe that sentences should reflect the crime and the individual and that judges are in the best position to determine the proper sentence in each and every case.

FAMM supports HB 2825 because every individual and every case is unique, and because more discretion at sentencing increases public safety. In the case of survivor-defendants, Oregon's one-size-fits-all sentencing laws prohibit the court from considering the unique ways in which domestic violence can lead to the commission of a crime. A recent report from the Oregon Justice Resource Center detailed several pathways through which domestic violence survivors end up in the justice system. These include "direct pathways" such as self-defense or coercion by the abuser to engage in criminal behavior or "indirect pathways" such as the substance use that can accompany domestic violence, social isolation, and financial hardship.¹ All of these factors should be taken into consideration when crafting an appropriate sentence. Mandatory minimums ban judges from considering any of them.

A 2017-2018 survey of women incarcerated in Oregon's Coffee Creek Correctional Facility detailed how prevalent the pathway from domestic violence to incarceration is among incarcerated women in Oregon. According to the results, 65 percent of incarcerated women who were in a relationship at the time of their arrest were experiencing abuse; 44 percent of incarcerated women who were in a relationship reported that their relationship played a contributing role in their offense; and 44 percent of incarcerated women said they feared their

¹ Sarah Bieri, "Women in Prison Conference 2019: Justice for Survivor-Defendants, Looking Towards Reform," Oregon Justice Resource Center," (November 2019)
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partner.² Oregon's sentencing laws fail to take account of this troubling reality. For example, current law makes no distinction between an individual who willfully and knowingly commits a Measure 11 offense and someone who commits such an offense under threats of violence from their partner or to escape domestic violence. Motive and coercion are two important factors that influence culpability in sentencing law, and mandatory minimums do not account for either.

Oregon's mandatory minimum sentencing laws also misuse finite and expensive correctional resources on individuals with greatly diminished culpability and for whom prolonged exposure to prison may exacerbate the trauma that led to their conviction. Prison space should be reserved for those who pose a greater threat to public safety and who have a far greater need for incapacitation. Oregon does not increase public safety when someone's sentence is too lenient, nor when a sentence far outweighs the individual's culpability and ignores their need for treatment, counseling, and rehabilitation.

Too often our criminal laws oversimplify the distinction between victim and offender. This rigid view does a disservice to those in coercive and traumatic relationships – where people are often put in a position where they risk their or their children's safety by refusing certain actions. Public safety requires the flexibility to view these situations in their full context and sentence appropriately – the exact flexibility that Oregon's current laws lack.

House Bill 2825 is a commonsense bill that would restore discretion and flexibility to Oregon's sentencing laws. We urge this committee to support the bill.

Thank you for your time and consideration of our views.

² Julia Yoshimoto, "Herstory Oregon Intimate Partner Violence and Trauma," Oregon Justice Resource Center. (February 2019).

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