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March 25, 2021

House Judiciary Committee
Representative Janelle Bynum, Chair
Representative Ron Noble, Vice-Chair Representative
Karin Power, Vice-Chair

Re: Testimony in Support of HB 2400

Chair Bynum, Vice-Chair Noble, Vice-Chair Power, and Members of the
Committee:

I am a resident of House District 36 and Senate District 18. I am also an attorney licensed to practice in Oregon since 2013. I am writing to express my support for House Bill 2400.

I started my career at St. Andrew Legal Clinic, a non-profit family law firm focused on providing affordable legal services to individuals who may not qualify for Legal Aid but cannot afford to pay for legal services at the market rate. I have been in private practice since 2016, and made the deliberate choice to offer my services on an income-based sliding scale. The unfortunate reality is that the majority of Oregonians cannot access legal services due to cost and other barriers. In my experience, in addition to the expected barriers of distance and cost, survivors of domestic violence and abuse by an intimate partner are presented with the additional barrier of institutional indifference from law enforcement and prosecutors.

This indifference most readily manifests itself whenever a survivor seeks to access police and other investigative reports. While the named crime victim nominally has a host of rights, including the right to be informed of the status of the prosecution, there is no explicit right to access investigative reports by law enforcement and other agencies. Consequently, survivors of domestic violence

and assault are forced to jump through innumerable hoops to access these reports through public records requests and the requests are often denied.

If the records are released, they are usually provided weeks or months after the request is made. One of my clients is still waiting for reports that he requested from the Portland Police Bureau over three years ago. The practical effect of this institutional intransigence is not only alienation of the survivor from the criminal process; it also results in very real, preventable harm to the survivor.

For example, one of my clients survived a horrific attack by her ex-partner who was allowed to plead the assault down to a harassment charge. Years later, the same individual assaulted her during a parenting time exchange. Portland Police responded to the incident, and a report was made. As it often happens, there were no other credible witnesses present. Subsequently, the survivor sought and obtained a restraining order under the Family Abuse Prevention Act. Predictably, the assailant challenged the FAPA immediately, and because there were children involved the Court was obligated to hold a hearing with five days. Although my client requested the report from the Portland Police Bureau, she did not receive any response before the hearing. Her request was subsequently denied, citing an “active investigation” even though no arrest was ever made. The Police Bureau chose not to provide this information, and there was nothing the survivor could do about it.

Law enforcement’s refusal to release a copy of the incident report to the survivor allowed the perpetrator to minimize the assault and turn the dispute into a “he said, she said” sort of situation and ensured that the survivor was unable to meet her burden of proof. The FAPA restraining order was dismissed, and not 3 weeks later Child Welfare became involved with the family due to incidents of violence reported by the children. Had the Portland Police Bureau been obligated to provide the survivor with the incident report, the outcome would likely have been different. Unfortunately, because the law currently does not require law enforcement to provide incident reports to the survivor, the Portland Police Bureau felt no need to honor her request.

The situation I described is not an isolated event. Sadly, it is more accurately described as a routine, expected turn of events. In practical terms, we, as a society, tell survivors of domestic violence to come forward and seek help, only to hamstring them by not requiring law enforcement to do the bare minimum to give the survivor copies of the incident reports. This sort of institutional indifference results in real harm to real people.

HB 2400 would go a long way toward remedying the current approach, and will prevent untold numbers of individuals from being exposed to avoidable risk and additional, preventable harm. Therefore, I urge you to vote Yes on HB 2400.

Thank you.

KPM Law LLC

A handwritten signature in black ink, appearing to read 'Ksen Pallegedara Murry', with a long horizontal flourish extending to the right.

Ksen Pallegedara Murry
Attorney at Law
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