March 27, 2023

To the Oregon State Senate Committee on Judiciary:

I am currently an Associate Professor of Social Work at the University of Utah, and am trained as an applied criminologist. I am submitting this written testimony on my own behalf and not on behalf of the University of Utah.

For nearly 7 years I served on the Prison Advisory Council for Coffee Creek Correctional Facility while I was a criminal justice professor at Portland State University. I also worked with the Oregon Department of Corrections in the implementation of the Women's Risk Needs Assessment (WRNA) from 2014-2016. The WRNA is the only validated, peer-reviewed risk/need/strength assessment specifically designed to predict women's offending behavior, and was funded using by the National Institute of Corrections, a federal agency using public funds. I am a co-creator of this widely used risk assessment instrument.

During my career I have published over 40 academic research papers focused on women's pathways to crime and justice-involved women's distinct criminogenic needs and strengths. I am a sought after global expert on how seemingly gender-"neutral" legal and correctional strategies backfire for justice-involved women and their families. For example, in February 2017, I was asked by the Oregon Criminal Justice Commission to deliver a keynote presentation focused on how Justice Reinvestment policy strategies must be tailored to justice-involved women's needs in order to reduce high incarceration rates of women in Oregon. In 2019, I was invited to provide testimony to the U.S. Commission on Civil Rights on their Women in Prison briefing.

In short, I am frequently asked to explain how a one-size fits all approach in our criminal legal and carceral systems serves to significantly disadvantage women, especially economically poor women of color. The reality of women's offense dynamics is such that they often feel powerless in intimate relationships due to significant, lifelong effects of traumatic experiences and Post-Traumatic Stress Disorder. This does not mean women are blameless for their criminal actions or should not be held accountable, but it does mean that unhealthy intimate relationships frequently serve to harm women without them realizing it and play a key role in driving their criminogenic behavior, particularly their violent behavior.

A wealth of research investigating women's pathways to prison overwhelmingly indicates that there are two significant groups of justice-involved women who experience lifelong victimization by relational others (families, intimate partners), and that this ongoing victimization, coupled with low levels of self-efficacy and self-worth, and high rates of substance use to self-medicate and mental illness, coalesce to become primary drivers of their legal involvement (Salisbury & Van Voorhis, 2009). These studies are written by multiple scholars (including myself), using a wide-range of datasets, over varying time periods (Brennan & Jackson, 2022; Brennan et al., 2012; DeHart, 2018; DeHart et al., 2014; Salisbury & Van Voorhis, 2009). In fact, a co-author and I are currently writing a

manuscript on the highly reliable and generalizable data on this topic, arguing that these pathways are so theoretically strong across time and space, that they represent what is known in the hard, physical sciences, as a "natural kind"—as natural as the elements on the periodic table that emerge in the natural world (Bird & Tobin, 2023).

Early estimates indicate that somewhere between 30-45% of incarcerated women in the United States fall into one of these two traumatic gendered pathways of offending. One of these pathways includes women who experience egregious cumulative trauma, significant and acute forensic psychiatric needs (e.g., psychosis), and crushing economic poverty. These women are imprisoned for violent and aggressive behavior, and again, early estimates suggest this pathway constitutes between 6-19% of female prison populations (Brennan & Jackson, 2022).

Moreover, there is evidence demonstrating that strategies for police interrogation practices can be biased against women due to the linguistic patterns typically used among women. This has been studied since the early 1990s when Ainsworth (1993) indicated:

> ...sociolinguistic research on typical male and female speech patterns indicates that men tend to use direct and assertive language, whereas women more often adopt indirect and deferential speech patterns. Because majority legal doctrine governing a person's rights during police interrogation favors linguistic behavior more typical of men than of women, asking the "woman question" reveals a hidden bias in this ostensibly gender-neutral doctrine. The sociolinguistic evidence that women disproportionately adopt indirect speech patterns predicts that legal rules requiring the use of direct and unqualified language will adversely affect female defendants more often than male defendants. (p. 263).

The "woman question" referenced by Ainsworth (1993) asks: *What would law be like if women had been considered by the drafters and interpreters of the law?*" (emphasis added).

Given what is known of women's pathways to crime and incarceration, SB 1070 is a crucial step to right the wrongs so many women have faced due to ongoing, lifelong trauma and cycles of intimate partner violence due, in part, to never learning what a healthy relationship looks like. Permitting domestic abuse to be a mitigating factor for possible downward departure would allow reasonable levels of judicial discretion.

Because the science of women's criminology and offense dynamics are reflected in SB 1070, I firmly support it, as should the Oregon legislature.

Sincerely,

Emily J. Salisbury, Ph.D.

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