



**Statement submitted to Governor's Working Group on Justice Policy Reform  
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On behalf of the Iowa Coalition Against Domestic Violence (ICADV) I wish to submit comments for consideration to the Governor's Working Group on Justice Policy Reform explaining our opposition to proposals that increase mandatory minimum penalties for domestic violence. The Iowa Coalition Against Domestic Violence (ICADV) is a state level non-profit organization providing training and technical assistance to the 26 domestic violence agencies across the state offering direct services to victims. Comprehensive domestic abuse services offered to victims by Iowa programs include counseling; legal and medical advocacy; housing assistance; financial literacy education; safety planning; information and referrals.

ICADV applauds the dedication of Iowa NAACP and committed stakeholders to improving Iowa's criminal justice system and appreciates Governor Branstad's leadership in convening this working group. Iowa's advocacy for meaningful justice policy reform coincides with national reform efforts driven by a similarly broad-based group of stakeholders. ICADV supports this work and concurs in acknowledging that addressing unwarranted racial disparities in our criminal justice system must be central to state and federal reform initiatives.

Although sentencing reform was not discussed publicly by the working group, in light of pending state and federal legislation to increase mandatory penalties for domestic violence we ask you to consider ICADV's strong opposition when making recommendations to the Iowa Legislature. Overwhelming evidence confirms that mandatory minimum sentences for non-violent offenders failed to effectively achieve intended public safety goals. Likewise, it would be ill-advised to consider this a viable policy option for protecting victims of domestic violence.

At the national level, widespread agreement about the need to address the devastating consequences of mandatory minimum sentencing policies provided momentum and strong bipartisan support for proposals to roll back mandatory sentences for non-violent offenders. We commend the leadership of U.S. Senator Charles Grassley (R-IA), Judiciary Committee Chair, in advancing these efforts. Unfortunately, the legislation sponsored by Senator Grassley also includes a provision to increase mandatory sentences for domestic violence. At the state level there are two proposals (SSB 1149, SF 23) pending that impose new mandatory penalties for domestic violence.

We appreciate that proposals to 'get tough on domestic violence' are well-intentioned and stem from a desire to correct the historical failure of criminal justice systems to treat domestic violence as a serious crime. Nonetheless, the rationale for increasing mandatory penalties for domestic violence is flawed for the same reasons it hasn't worked for non-violent offenders. We support allocating resources to more effective solutions and suggest that improving victim safety and even ending domestic violence requires a fundamentally different approach.

**Increasing mandatory minimum sentences for domestic violence will not effectively improve victim safety or make offenders more accountable, but it will disproportionately harm communities of color and the victims these policies seek to protect.**

***Chilling effect on reporting abuse reduces victim safety:*** Experience and research confirm that reporting abuse or seeking help can increase victim safety. A U.S. Justice Department study found that police involvement has a strong deterrent effect on abusers committing future assaults, even if abusers are not arrested.<sup>i</sup> Victims call police to interrupt the violence but many will be more reluctant to call if doing so results in enhanced prison time for their partner. Experience working with victims tells us that additional prison time for abusers isn't what many victims want for a variety of reasons. It may not be in the best interest of their family or provide the safety solution they need. For example, having a partner in prison for longer creates significant financial and household management hardship for many families, especially when children are involved. In communities of color or immigrant communities the threat of more prison time creates additional barriers for victims who are already reluctant to call police.

***Removing judicial discretion weakens offender accountability:*** Increasing mandatory minimum penalties for domestic violence is unlikely to result in longer prison sentences for domestic violence offenders. In addition to imposing tougher penalties, a desire to ensure fairness in sentencing was a major rationale for existing uniform mandatory sentencing policies. So by design, these policies effectively transfer sentencing discretion from judges to prosecutors. Under current mandatory sentencing policies this frequently means that offenders serve *less* time because those seeking to avoid increased prison time often accept plea agreements on lesser charges. Additionally, these policies can result in earlier release for some violent offenders. For example, offenders serving time on a first or second offense may be released earlier and/or given straight parole with minimal supervision rather than a work release because the law would mandate holding on to them longer on their third offense.

***Equal penalties do not ensure equal justice for victims charged with crimes:*** As noted, uniform sentencing policies sought to ensure fairness by eliminating sentencing disparities. In the abstract it feels fair to treat all crimes of equal outcome with equal penalties. In reality equal penalties do not necessarily result in justice. Mandatory minimums mean that judges are unable to consider the circumstances of the case, i.e. removing judicial discretion in sentencing decisions means that equal crimes get equal time. Consider cases where domestic abuse victims become offenders because their survival strategies involve criminal activity. Typically, the victim's participation is heavily influenced by the abuse she is suffering. The abuse means that if she refuses to cooperate with her abuser, she risks dangerous retaliation. It isn't fair to sentence her to the same time in prison as the batterer who coerced her participation. The vast majority of women in prison have been victims of violence prior to incarceration. Seventy-nine percent of women in federal and state prisons reported physical abuse and over 60% reported past sexual abuse.<sup>ii</sup>

***Unwarranted and disproportionate impact devastating to communities of color:*** The disproportionate minority impact of mandatory minimum sentencing policies is well-documented by research confirming unwarranted racial disparities in arrest, sentencing and incarceration. If we keep these policies in place, one in three African American men born today will be incarcerated in his lifetime. Increasing mandatory penalties for domestic violence when our nation is poised to address this injustice by rolling back mandatory sentencing policies undermines the impact of these significant reforms. Serving more time in prison does not make

domestic violence offenders less dangerous, it would simply perpetuate the racial injustice of such policies and be a step in the wrong direction for meaningful justice reform.

***Better allocation of resources can improve victim safety:*** Law enforcement leaders across the nation recently added their voices to the chorus of stakeholders stating that mandatory minimum sentences are not a cost-effective way to improve public safety.<sup>ii</sup> ICADV persistently advocates for greater investment in policies to keep victims safe. However, we cannot support allocating resources to increasing mandatory penalties for domestic violence because we do not believe these policies enhance victim safety.

## Conclusion

Today the criminal justice system is one of the most developed policy responses to domestic violence in the United States and successfully meets the needs of many victims. However, we believe there are more effective solutions for keeping victims safe than policies narrowly focused on incarceration. The vast majority of offenders are not serving life sentences, i.e. 92% of offenders in Iowa will return to their communities so enhanced sentences simply put off the inevitable. ICADV supports investing in efforts that involve law enforcement as one part of a coordinated community response. In fact, many states have successfully implemented coordinated community response teams where local stakeholders work with law enforcement to protect victims. We think Iowa should join these efforts.

Nonetheless, I would be remiss for not stating that maintaining America's narrow focus on criminal justice interventions will not cure America's epidemic of intimate partner violence. There are many victims unable and unwilling to engage the criminal justice system because criminal prosecution cannot provide the safety they are seeking. For some women, engaging law enforcement puts them in more danger from their abuser. Others, particularly women of color and immigrant communities, are understandably reluctant to invite law enforcement into their homes and communities. We cannot continue to deny justice to these victims. Ending domestic violence requires that we support effective efforts both inside and outside the criminal justice system and we hope to engage you as partners in these efforts as well.

Please contact ICADV with any questions:

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<sup>i</sup> "Reducing Racial and Ethnic Disparities in Jails, Recommendations for Local Practice;" Jessica Eaglin, Danyelle Solomon; Brennan Center for Justice; 2015.

<sup>ii</sup> <https://www.aclu.org/words-prison-did-you-know>; accessed October 2015

<sup>iii</sup> [http://www.nytimes.com/2015/10/21/us/police-leaders-join-call-to-cut-prison-rosters.html?hp&action=click&pgtype=Homepage&module=second-column-region&region=top-news&WT.nav=top-news&\\_r=0](http://www.nytimes.com/2015/10/21/us/police-leaders-join-call-to-cut-prison-rosters.html?hp&action=click&pgtype=Homepage&module=second-column-region&region=top-news&WT.nav=top-news&_r=0)