RE: Illinois Supreme Court Commission on Pretrial Practices

Dear Hon. Judge Stuckert:

Love & Protect is a Chicago-based community organization that supports women and gender non-conforming persons of color who are criminalized or harmed by state and interpersonal violence. We are pleased to submit a written comment to the Illinois Supreme Court Commission on Pretrial Practices. Due to the criminalization of survivors of domestic and sexual violence, we write in support of pretrial reform and ending the use of money bond.

Criminalization as a response to domestic violence often results in the arrest and prosecution of survivors themselves. A survey of DV survivors reported that 1 in 4 respondents were arrested or threatened with arrest during an incident or when reporting an incident to the police, even when they were injured. Additionally, the ACLU reports that close to 60 percent of people in women's prisons nationwide had a history of physical or sexual abuse prior to their incarceration. The potential for misarrest or dual arrest of both a survivor and their abuser is high, and this only further harms individuals striving for safety and stability in their lives.

In particular, people of color, people who are low-income, and members of the LGBTQ community are disproportionately affected by the criminalization of survivors. A divide runs along the marginalized aspects of one's identity between who is considered an "ideal victim" and who is viewed as a “dangerous criminal” rather than a survivor of violence. Because of stereotypes painting Black women as "aggressive," they are more likely to be seen as perpetrators when defending themselves, for example. A New York City study found that 66 percent of survivors who were arrested alongside or instead of their abusive partner were Black or Latinx, and 43 percent of them were living below the poverty line. Additionally, a national study of DV incidents reported by LGBTQ survivors showed that police misarrested the survivor as the perpetrator of violence 57.9 percent of the time. It is clear that practices leading to the incarceration of survivors have an outsized negative impact on those who are most vulnerable.

Besides disrupting a survivor's own life, pretrial incarceration of survivors does irreparable harm to their families and children. Women disproportionately experience severe intimate partner violence, with one in four women being survivors compared to one in nine men. Incarcerated women are often the primary caregivers for their families, and 80 percent of women in jails are mothers. When they are incarcerated, their children often experience a serious trauma. Some are funneled into the foster care system. Even those who live with another parent, grandparent, or known caregiver experience a severe disruption in their lives that can have lasting effects.

Sixty percent of women in local jails nationwide are being held pretrial. Due in part to the wage gap based on gender and race, exorbitant money bail is even more unaffordable for these women, who are disproportionately Black and Brown. When considering loss of income, loss of housing,
the monetary costs of incarceration (including, for example, expensive phone calls and commissary purchases), and the incalculable emotional and psychological toll it takes, the pretrial incarceration of survivors leads to great hardship for the families and communities who depend on them.

In order to rebuild their lives and move on from abuse and violence, survivors need resources like access to mental and physical health care and affordable long-term housing. Being incarcerated pretrial does not keep survivors safe, nor does it keep the rest of our communities safe. We ask that the Commission deeply consider the harm inflicted on survivors by pretrial incarceration and recommend the end of money bond in Illinois.

Signed,

The Members of Love & Protect