**MacArthur Foundation and National Center for Victims of Crime National Roundtable**

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**Participants:**

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Kermit Crawford, Executive Director, Massachusetts Resiliency Center

Steve Derene, Executive Director, National Association of VOCA Assistance Administrators

James Dold, Advocacy Director, Campaign for the Fair Sentencing of Youth

Meg Garvin, Executive Director and Clinical Professor of Law, National Crime Victim Law Institute

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1. **Who are Victims and where are they?**

**Summary**

The Roundtable participants (“participants”) spent a large portion of the discussion around “who are victims of crime”, specifically talking about “hidden victims.” According to the National Crime and Victimization Survey, about 47% of victims of violent crime report the incident. Many victims are afraid to report the crime and remain hidden from the criminal justice system. Those hidden victims discussed were: LGBTQ victims; men of color; persons with disabilities; and incarcerated persons who were victimized prior to incarceration or while incarcerated. Participants agreed that the term “innocent victim” was an artificial limitation when it comes to compensation determinations. Many individuals with a criminal record are both victims and offenders. As a society, we must broaden our understanding of victim to include victims who have also committed crimes There was a great deal of agreement that trauma informed services should be provided for both victims and offenders because victimization can lead to offending and recidivism.

The participants stated that interdependence between victims and their offenders can also be a reason for a victim not reporting a crime or cooperating with law enforcement, especially when the offender is a caretaker or guardian. Additionally, interdependence between the victim and offender may be why a victim commits a crime. For example, if an elderly person is dependent on an abusive or thieving care giver, reporting a crime could lead to abandonment or loss of care. In a domestic abuse situation, the abuser may be the breadwinner. Therefore, the victim does not cooperate with authorities because he or she fears for the welfare of their family. In the case of pimp and a sex worker, the sex worker may be forced or coerced into committing a crime because she relies on his protection and often fears reprisal if she does not follow his orders. This interdependence between victim and offender is also a reason why there should not be an assumption that there is “victimless crime.” A participant provided the example of someone who is arrested for a dirty urine test. The assumption here is that there is no victim and, therefore, the offender can be released back into the community. However, it could be that the offender beats his elderly mother when he used illegal drugs. Therefore, authorities need to be cognizant that the seemingly trivial crime for which an individual is arrested maybe a warning that he/she is harming someone else or that he/she is a victim.

***Participant Comments from Roundtable Discussion***

Fernandez: Where in the communities are they, what’s their relationship to offenders, complexities in those communities, problems with the criminal justice system?

Barajas: The narrow definition of victim is problematic. Secondary and tertiary victims may not have needs addressed because they aren’t recognize. Incident in NY where someone witnessed violence, neighbors in a community may be terrorized because that story is shared with them by the person that witnessed the violence. They aren’t considered victims by statute anywhere

Polenburg: the statute that you have to be an innocent victim to get compensation, the way the police write the report, blaming young men of color, what that does for victims. Who are we leaving out of the discussion?

Cecchet: There are a number of sex trafficking victims, who fought to get state charges vacated, but could not get their federal charges vacated. A woman that was recruited when she was 19, who experienced significant rape and trauma, forced by pimp to run circuit while he was out of town. Part of role was to manage funds, and transport victims. But she has a long history of torture, and victimization. Was charged with trafficking a minor across state lines, federal charges in bust. Her victimization caused her to commit crime. Can’t access services, education because of her criminal record. Can’t take her daughter to day care because she has to register as a sex offender.

Silberstein: another population, people who are in prisons or jails, before the incident for which they were arrested, may have histories of where they were the victim of violence, abuse and neglect, not only were they not helped at the time of the victimization, but the act of offending sort of erases their victim status

Siegel: Woman in north Carolina, raising child of her daughter who was raped, the offender is mentally ill, has been in and out of jail related to mental health, on escape status from original sentence, the woman is wondering when she is going to feel safe. When he won’t be able to further mess with her family.

Mangus: A large portion of people, who we may classify as victims of crime, may not reach out to police due to histories of oppression and violence perpetrated by systems or the state. LGBT especially, remembering that these are not necessarily people being welcomed into our spaces, even if we are working to create an inviting situation. We can’t see the barriers. What types of crimes people are in jail for, looking at how them being in jail will cause further victimization, and activity that will increase their likelihood of committing crime. Not all of them would have engaged with the criminal justice system, need to think of new ways to engage, may work for survivors and persons already engaged. There are so many people out there who are not coming to us. Trying to break down the perpetrator/victim dichotomy. People who have experienced a lot of crime and trauma, face overlapping oppression. Many of their opportunities are limited and as a result, they may have a higher likelihood of engaging in illegal activities in order to survive.

Warnken: Less than 10% of victims of violent crime actually access the system. Some of our most vulnerable victims are not reflected, surveys aren’t reaching in jails, how has incarceration affected the data that is showing up in the NCVS? The intersections are many. Blog post on false dichotomy. Federal interagency reentry council, this is also about understanding the trauma histories about people going into the system.

Zwang: many people may not want to access CJS remedies because of larger experiences. In the last 20 years, made a lot of progress, from they need to leave, mandatory arrest, as our understanding evolves, a victim may have many desires for justice and needs for justice that are not related to the criminal justice system. Economic, housing, restorative services that meet the needs of victims. Others say its better if my family doesn’t lose the earner, just want the violence to stop.

Crawford: A lot of the research does not include the people who are working with. The designation of victim according to whom? Opened door to any victims, not just ones involved with the FBI. Is victim an adjective or is it a noun? Different individuals, based on pre bombing brokenness, need very different things even if they are situated identically.

Parker: To some degree, we are saying the same in different ways. From his perspective, grassroots and seeing people being previously incarcerated and the effect of the image of being previously incarcerated and how that affects perception of the whole family unit. There is no form of redemption. At the end of the day, as we look at remedies, need to talk about atonement. Should be the center. Be able to look at an individual, don’t see their color, don’t see their past, look at as a new start, allow accessibility to services. Stabilizes him and the community.

Fernandez: CJS has created whole communities of victims, through their incarceration, depending on how you define it.

Levy: Going back, they are all of us. In this together. You can have victim in prison or every race and ethnicity, his constituents are loved ones of homicide victims, generally it’s a hard thing to square that whatever victimization the offender went through with the grieving loved ones. In POMS, where resources are for homicide victims, won’t get in tit for tat, talking about underserved or families left behind. It’s not about violent crime, but if we don’t do something about lower level crimes, they become tomorrow’s murderers. All opinions are his own.

Quinn: The majority of APS clients, have cognitive incapacities. Many have dementia. They can’t reach out for help, invisible. The second one, many are dependent on caregiver and perpetrator. Terrified about losing that person and being put in a facility.

O’Connor: I feel like we are saying the things, are we asking who are they? Who are the invisible? How do we eliminate artificial limitations on the word victim? In work, we are in triage mode. All are potentially victim. From a legal standpoint, we are striving to define this to protect the term and preserve the meaning. Resources are limited, so there is a need to put a victim in a box.

Ramsdell: Victims are everywhere. We would all define victims differently. How does the definition of victim meet with the money? That’s the definition we are interested in knowing and what we think is different.

Butler: In the first law class of my Rights of Crime Victims class, this is the first question that I pose to the class. You can define a victim as everybody. You can come up with definitions of who is a victim. I think for the purpose of discussion, most of the laws define the victim as the direct victim of the criminal act. If the victim is unavailable like in a homicide case, define the victim to include the parent or child of the victim. Best way to look at the question is whether the victim is a direct vs. indirect victim of crime, otherwise everyone could be a victim. Hard to get a grasp on the definition as there are different contexts that have different meanings.

Warnken: The new VOCA rule, after years of advocacy and pushing for more flexibility, including taking away the prohibition for victims who are incarcerated. Wrestling with the definition in a very different way.

Siegel: In the late 90s, ended up with everyone is everything. Hate making it everyone because you lose the different needs of different types of needs of victims. There are different worlds from random circumstance, to grow up in a neighborhood where crime is a way of life. You must deal or you won’t make it. Homeless folks who are homeless because of gentrification is different than mom and pop in nice neighborhood who are robbed. Institutions have robbed individuals. They have failed. We can’t deliver all the remedies through the CJS.

Dold: One of things that makes it so difficult. Works with victims who have lost family to juveniles. Victims are a very different size on different issues. Not myopic. How they think and are informed are different and how they view the criminal justice system? Even people from the same places go in different directions. Dynamic here, in the anti-trafficking world, at its core is the exploitation of human beings. The crime is at what point does the exploitation become criminalized? In 1998, Cosminzky, involved two individuals with intellectual disabilities, under today’s laws would have been convicted of trafficking. Under current laws of servitude, mental incapacity was not recognized as an issue. Sometimes we get caught up in the legalese, we need to recognize that if it’s a grey area, we need to provide them services.

Barajas: Practical view. Left to our own resources, and if they were unlimited, we would help everybody. Taking the charge before us, how do you install a different safety valve and lower the jail population? There will always be a judge who will screw it up. The important thing, the judge is the one who decides who the victim is. How do we use the safety belt, lower the jail population, and not put the community of victims at risk? The thing to understand, no judge is going to listen to new definitions. Some laws say, if you have been victimized in jail, you are no longer a victim.

Butler: Don’t like the term innocent victim because all victims are not innocent. There are a couple of states that do not allow victims to obtain compensation if the victim has a record of certain offenses. A victim’s background should not matter, because if a crime occurs against you, you are a victim. We need to stay away from the term innocent victim. As an example, I represented an inmate who lost his eye because he was stabbed in his sleep. *Neal v. Crim Injuries Comp. Bd., 191 Md. App. 664 (2010).* Don’t tell me he has culpability as he was not an innocent victim of crime. We can’t ignore legal requirements or practices.

Garvin: Kafka quote, we are all the gate keepers. There are a whole lot of gate keepers behind others. How do we define, first step was, victims are not at the table. So invited the token victim person, was Meg. Conversation was there aren’t victims in these cases that we are talking about. These are non-violent misdemeanor crimes. To go back to the arrest, decision time, many get changed to a misdemeanor. Wanted to talk about dirty UA violations of probation, why do we need to talk about victims in that moment? You don’t know that is a non-violation until you talk to a victim and find out they are only violent when they use. Who should the gatekeeper be? And the definition should not be based on the victims conduct and the decision of the criminal justice system? Asking a small business, what do you need if this person is going to jail, they won’t recognize a need. Is there a tool for trauma victims in the moment? Better risk assessment of the person who committed the crime? Do they need drug and alcohol assessment? What about the victim, a tool that evaluates the needs of the victims?

Crawford: Model is used at the resiliency center. Has a helpline. When someone calls the number, assessment is done in the moment. Based on that, get them to the next level based on what is needed. If they talk about PTSD symptoms, get them where they need to go. They call, we get them where they need to be based on their needs in the moment. Further in depth assessment as they are meeting with service providers.

Fernandez: If in discussion of needs, find out there is a relationship between victim and offender, do you try and separate those?

Crawford: recent situation, first address the needs of the caller. Privileged and confidential. Then ask and see if they need to be brought together.

Gregorie: Often the types of crimes that have people in jails are local crimes. Victims are local, offenders are local. Often have close relationships. Must be part of the conversation in looking at this issue.

Parker: Well did it help you cross the street any better? Experiment in corrections, at any given point in time, can see 4500 inmates in DC performing services, schools, churches, government jobs, but at the end, they learned community, where they fit in the community, and accountability to the community. Individuals have made a large impact into public safety in DC. You see so many doing community work. Those are the actions that begin public service concepts, transformed where they are needed. When I look at those individuals, who are helping sustain the community, community based programs have got to be the component used to create the culture and introduce balance when they are reintroduced back to the community.

Silberstein: A lot of victims in jail, is different than saying that everyone is a victim. We would all agree that several experiences of victimization, drop out of school, petty theft, and then they are in jail. Not just the victims of who they hurt, but what led them down that path in the first place.

Butler: Trudy talked about harm, we have talked about trauma, financial loss, not going to have a family member come visit you, and then there is a victim’s need for justice. Looking at harm, and the different types of harm may be a way to differentiate the types of victims, harms, and needs.

Zwang: Just because we may agree on a broader definition of who a victim is. We don’t have to say everyone is in order to recognize the circle of victims is wider than we recognize. MacArthur, must provide accountability and trauma-informed care. Farther than petty theft, maybe there was a gun or someone was harmed, there must be accountability for that act. But unless we provide trauma informed services, that doesn’t mean we ignore the harmful behavior, it does mean that without treating the trauma, the person will never be able to stop committing those acts. Sending people to rehab doesn’t help because the trauma is still there. Must hold accountable.

Fernandez: In defining victims, started with invisible victims. The ones that never go to law enforcement. But then to what Meg says, someone who is passed along after dirty UA, we don’t know that they aren’t hurting their victim. Must be more investigation into that. Must look at the interaction between the victim and offender and the interdependency between them. The false dichotomy of victim and offender. But at the same time, one does not excuse the other. Assessment of trauma and treatment of trauma for perpetrator and the victim and the provision of something to address that trauma while holding the perpetrator accountable.

Ramsdell: trauma is part of that, but can be a victim without trauma. Have to recognize that there are a range of experiences. Not everyone has the same reaction to trauma. Should be a range, not just trauma based. Don’t limit the assessment of the impact to trauma.

Silberstein: trauma informed approach isn’t limited to trauma, and includes other needs

Barajas: Pre or post-trial? Length of sentence is statutory.

Garvin: Pre and post aspect, in Oregon, its coming up again. Now the question is the analysis for bail and what are the appropriate considerations? The nuance of rates pre and post-trial. Multnomah County is trying to save dollars on pre bail for domestic violence offenders by releasing after 24 hours automatically. Shift the burden of proof, it’s an auto release unless instead of the vice versa.

Quinn: NAPSA victims are the most underserved, underfunded, and ignored. Over 5 million victims of elder abuse. 1.2 million Victims of child abuse. Rates of child abuse and domestic violence have declined significantly, more elder abuse victims than child abuse and domestic violence combined.

Gregorie: Data made her want the job, needs policy attention and funding attention.

Warnken: idea about trauma informed and accountability, deeply connected. Understanding trauma threshold can be a means to achieving accountability. Nuanced difference between accountability and corrections. Bridging those concepts is a helpful way to address these comments collaboratively.

Siegel: what worries, discussion lumps together complex things. Is the discussion about decreasing jail population rather than increasing community services? So what brought them to crime in the first place, really gets taken care of. In Colorado, big deal was we are going to open the jails, take the money and put it into community services. Others said, that’s not saving, just other cost avoidance.

1. **What are the Victims’ Concerns When an Offender is Released Back into the Community?**

**Summary**

Participants agreed that victim safety was a primary concern when an offender is released back into the community. Participants concurred that any risk assessment used to determine if an offender should be released back into the community should have victim input. Additionally, victims should receive notice prior to the offender’s release and the conditions of the release. This notification is of particular importance to domestic violence or sexual assault victims. Prior to trial, a physical or sexual assault may be reduced from a felony to a misdemeanor because all the elements of the felony cannot be proven. The reduction of charges may prompt a prosecutor or a judge to release the offender back into the community and create a great safety risk to the victim. In the case that an offender states that he/she will return to his family while awaiting further adjudication, the family should be consulted as to whether this is a safe place for him/her to go. “Traumatic bonding”, financial stress, among other reasons may cause a victim to want his/her offender back in their home. In those cases, law enforcement authorities should connect victims with an advocate in order to safety plan and discuss options.

Participants mentioned that offender accountability is important to victims. In cases where restitution is ordered, there needs to be a process in place to ensure that the restitution is paid. If an offender is directed to receive mental health or drug treatment a victim wants evidence that the treatment process was completed by the offender. They also want to be assured that the treatment programs work and are well resourced. Treatment services with small supervisor to client ratios can work but programs where caseworkers are overloaded are destined to fail. Programs that only address one of the offenders presenting issues are insufficient. Offenders need wrap around services that provide mentorship, housing, job skills, and education. Diversion to arrest programs have to be easy for police to access and do not create more work than simply arresting the offender and putting him/her in jail. There was also a discussion that as a precursor to any treatment, offenders need trauma informed services.

***Participant Comments from Roundtable Discussion***

Levy: Safety, the idea that they didn’t do, perhaps, in Arizona, there is a movement if they can’t pay fines and fees, they are still released. Some victims feel, even if they aren’t owed restitution, there is the fear that well what’s going to happen? Where is the accountability? Even when they do a full sentence, safety is the real concern.

Derene: Predicated on notification and knowing when they are released. Needs to be before they are released. Have input in terms of condition of released, you know released from where.

Siegel: There needs to be truth in sentencing. Be truthful in what that looks like.

Gregorie: Particularly if they are coming back to my house, there are concerns there. Caregivers go back all the time. Probably not if employed care giver, but it might happen.

Garvin: Safety, and sometimes, their concern is fairness. Why they were not told in advance? Why did you say they would get this and they didn’t? Why are they getting treatment and not serving me? Fairness regarding sentence, release of sentence, fairness of they are in school and I can’t go to school, concerns about safety for kids. Question here of not only notification, but also education. Thinking back, intermediary sanctions. What are they being released from? Providing basic education.

Quinn: Big issue is someone coming out of jail and having nowhere to go. Well, mom has room and needs help. Could be set up for abuse and exploitation.

Cecchet: Sometimes it backfires for victims, thinking particularly of child pornography victims. Sometimes a handful, others it will be a whole series. What happens is the NCMEC, reviews cases to identify kids, you get victims who can get up to 100 letters a day that somebody who had their images is being released from prison. Can be traumatizing to get all those letters for the victims and their parents. Many victims don’t know how to get the notifications to stop because they are in a trauma reaction.

Dold: Traumatic bonding. Impact when victims are released from domestic violence situation. His sister, domestic violence, sexual assault to human trafficking, when he was on the verge of being released, not related to the crimes against her, sister was concerned whether or not she would be able to resist him. It was complicated. Particularly services for victims of IPV, being able to intervene and get them treatment for traumatic bonding.

Fernandez: Somebody may be in jail for something that is a nonviolent crime, that everyone knows about, but cops only picked him up for the one few day thing.

Siegel: Out of 5000 cases, 4500 are being plead lower. Because can’t be proved.

Polenberg: In NY, if you have a misdemeanor and are on public housing, can’t move back with mom. Only option might be a homeless shelter. How do you ensure safety in public housing and not have this wildly, racially unfair policy that says you can’t go here. You have to go to this chaotic environment instead. Domestic victims will call police, go into shelter, they can stay for 180 days in NY. Spend a lot time advocating for subsidies for Domestic violence victims. Another way of addressing victim safety and community concerns, many who are charged with domestic violence or sexual assault are released much more quickly than you would believe.

Barajas: The concerns of victims are different in pre and post-trial. It’s a horrendous public policy issue. Anybody who has dealt with funders, will not cure the ills through the system. If it’s pretrial, those are things that can be remedied. What are the reservations of victims? Fooling ourselves if we think that some policies aren’t’ about saving money. Howe do we not scare them away. Are there not studies that support the notion that victims are more accepting of the process in the end if they are more informed up front and know what to expect? They are more ready to accept their version of justice.

Derene: It works both ways. That improves the outcomes, but it also improves the process. Might be better set up to impose conditions on release when victim understands the process.

Garvin: Studies specific to victims, but data wise we don’t need to go there. Long history of procedural justice. Where some of the origins of justice came from. Understanding increases buy in, we have seen the ramifications for perpetrators. Need to reach for that as we have these conversations.

Ramsdell: Yes, if we prepare them they do better. Same if you are told you are going to get hit in the arm. Hopefully we aren’t telling them that something horrible is going to happen, but keeping that horrible thing from happening.

Levy: Clinics in Arizona deal with restitution, am I going to be paid? The concern of getting it.

Fernandez: Love the idea of diversion, sounds phenomenal in theory. Ankle bracelets don’t work, mental health services suck, people with substance abuse don’t make appointments or follow through on programs, it’s nice to talk about those things and that if you have those problems you should be going somewhere and getting help.

Gregorie: In NY, compliance courts make sure they are taking their medicine and they are accessing services. Holding people accountable.

Mangus: A lot of people are looking at this as ways to reduce crime and reduce cost. Support rehabilitation, in Michigan, in order to keep someone in their job and supporting their family and not hurting them, is so expensive. Because you have to have someone overseeing them as they go through those programs. The programs that are successful are very expensive and more resources must be devoted in these type of prevention efforts, which is a larger front-end investment, but may actually save money vs. the cost of incarceration.

Ramsdell: City and county are underfunded and overworked. In Arlington County, full time security at the Arlington hospital. IF you take someone to the hospital because you think they should be there. If you are a police officer, you have to sit there with them waiting in the emergency room waiting, instead of taking them to jail. Taking them to jail is so much easier. So many with mental illness going to jail. Now, full time security at the hospital to keep an eye on individuals with mental illness who are brought by the police. They go right to services that way. They are the gate keepers.

Parker: From Molly’s perspective, from the three part safety net. Seen components, identified 25 most dangerous youth (causing most turmoil), and provided intensive services. Became their responsibility to see them two or three times a day, after this for a while, individual began to take on more and more responsibilities. One, after the intervention, wraparound services for about two years, and those kids are now building those programs around the country. The window of opportunity does not have to be that intense. When you go to the shelters, you see so many people who are homeless who were previously incarcerated. Don’t want to commit crime, but can’t get a job.

O’Connor: Just want to build on that, one thing to say there is a great model, another thing to have the buy in from the top. We need others to come in and be part of the solution. ABOUT MULTIDISCIPLINARY TEAMS.

Ramsdell: Many different professions come together, assess intervention regularly, training, that’s how you get policy makers on board.

Fernandez: We can’t think that a handful of diversion programs are going to correct the ills of the systems that have quit on these individuals. It’s hard to trust that those programs work.

Siegel: Unless the models used are really the best models out there. If he says I have a pretrial release program, but each of the officers have 300 clients. A case load of 13 is completely different.

Silberstein: There are a couple of framing things that are useful to keep in mind. All of the people we are talking about pose some sort of potential ion threat. They are many who don’t pose a threat at all. Really important to advocate for packages of things. It shouldn’t be you are in or you aren’t, it should be a combo. That’s why good victim services must be part of the services. Trauma informed care not only helps people on their own, also helps with prevention of crime in the first place. Lots of ways to do that.

Fernandez: The group of people we aren’t talking about, a lot of jurisdictions are now using risk assessments. Problem is, many questions that are asked do not talk about victims. The risk assessment tools about whether or not someone should be in jail do not look at who the victim is. Those tools can help us figure out what populations these offenders fit in if there is or isn’t a victim whose safety may be affected. If there is a victim, then we focus more on what we can do to SAFELY bring them back to the community.

Mangus: One of the issues, underlying bias, do they have a job, stable home, but they have overlying intersections that affect those issues.

Warnken: Disconnect between charges and charging documents between what is going on with victims. Especially with misdemeanor charges. Before DOJ, needs assessment of sexual assault, stalking, domestic violence victims. No advocates available in the DA’s office for victims of misdemeanor crimes. On the community mental health piece, when it’s not available for victims. Reclassified felonies, wobblers to misdemeanors with the goal to funnel the money for incarcerating those people to mental health, victim services and intervention services. The money went to replicate the trauma recovery center, with a mental health focus, where the victims did not have to be affiliated with the CJS. You could get comprehensive services. What were the magical calculations that decided where the money went? We inadvertently push these priorities about what matters and what doesn’t. Lack of communication between those streams and their relationships.

Garvin: If you get reallocation, its 10%. Pretty standard.

Dold: Sister’s story. She had a terrible heroin addition, she and abuser stole things from his mother, got a six month jail sentence. The thing that was really helpful for her was that she was required to go through drug court. On one hand she was a perpetrator, on the other she was a victim of domestic violence who needed services. It worked really well for her. Would assume the same is true for other courts. Help with victimization from other traditional standpoints that address those needs.

Fernandez: Has anyone done assessment of financial needs of what it would take?

Quinn: Handful of cities that have addressed the homeless program by providing intensive services, reduced ER visits, saving money because of less ER visits.

Fernandez: What is the cost to the community to develop these diversion services?

Barajas: Many courts were publically created in response to demand. They will start those courts and they will succeed because they are cost saving on a medical end. Drug courts in Texas, when funded at appropriate level, veterans programs, drug courts, are successful.

Fernandez: You install that court, but not thinking about what the full cost is. There is a center of court intervention.

Butler: Risk assessments and release. Maryland tried to pass a bail reform release act, but it didn’t pass. If there was going to be an automatic release based on the needs assessment, the needs assessment needed to include the safety of the victim. We tried to get to the issue of safety of the victim to include an automatic condition of no contact if the risk assessment caused an automatic release. One way to empower victims, especially when a risk assessment is included in the bail process, is to require victim input before the decision is made to release an accused.

Cecchet: antecedent management. Stopping something before it happens. Early intervention and prevention. Prevention: take away the cookie jar. Intervention: teach to ask for a cookie. Definitely need stuff on the back end, pre and post-trial. None of those things will be as successful if at the same time we don’t start antecedent intervention programs. Start with tiny humans. The guys coming out of drug court, in and out of jail, started out as 5 year olds with learning disability, low response, no supportive parenting, got in with the wrong crowd, go to jail for petty theft and are soon in and out of jail, but if we do parenting skills, take away homework from before high school. We need to do both thigs. We need antecedent management and to handle things on the back end. Parents, schools, families, sports, if we can do both of those things, we won’t need as much on the back end.

Parker: The older population, 16-24, to some degree is being written off. Not being given opportunity to engage in support programs. Can save lives from taking kids to the movies. Probation officers say, got a kid who thinks he will be killed, kid lived nearby, so called a couple of the kids threatening the kid in and talked to them about what’s going on. This kid was stealing cars and leaving them in their area, they were getting in trouble, they kids trusted me. So they let me handle it. They aren’t used to having hands on people involved in them. They had identified a community that had individuals going to jail, found a tool, that if they circumvent these folks not going to jail, they will make millions of dollars. Probably just a matter of giving the right services to the individuals who need them, and circumvent even sending them to jail.

O’Connor: How are we assessing success in this context? Can we say we achieved success because a bunch of kids went through a class? Or is it because rates of assault went down?

1. **What are Victim Needs and Expectations from the Criminal Justice System? How is the Criminal Justice System failing them now?**

**Summary**

Victims want equity when it comes to services. If the offender is offered mental health treatment or drug treatment they also want access to comparable services. Participants stated that justice reinvestment needs to work on behalf of victims. Currently, on average only 10% of the funds saved by jurisdictions undergoing justice reinvestment go to victims. A greater investment in victim services could decrease crimes committed.

There was great consensus among the participants that victims want transparency and empathy from the criminal justice system rather confusion and disrespect. Information should be conveyed with care and without blame or judgment placed upon the victim. Victims should be asked by authorities what they would like to happen to the offender and/or what they want from the system. Victims also need to be able to communicate in a language they are comfortable with. They want to know when the offender is released, the true amount of time he/she will spend in jail and the conditions placed by the court on his/ her release. They also want to understand the adjudication process and how they can participate in it. There was also discussion regarding victims wanting to know how an offender is progressing through his or her treatment.

The law affords victims rights in all jurisdictions, but often these rights are not enforced. Victims want to be informed of their rights throughout the criminal justice process. At the time of arrest a victim may be too traumatized to understand their rights even if they are conveyed to them. Police, victim advocates, and prosecutors should all inform victims of their rights throughout the process and there should be consequences and enforcement of the rights when they are not followed.

Victims want to know that the criminal justice system works for them regardless of who they are. A participant brought up the case of a young black man that is subjected to police harassment will not seek the help of the criminal justice system if he is victimized. There needs to be a way for victims to access services even if they do not report a crime or wish to assist with the process.

***Participant Comments from Roundtable Discussion***

Ramsdell: It should be noted, we spent the whole conversation about victims talking about offenders.

Butler: Jennifer Storm had a good presentation on what is expected and what happens when we fail at providing what is expected. Victims expect restitution. If the court orders restitution, and the offender doesn’t have the ability to pay, but the victim is expecting to receive payment, there is a perception of re-victimization. Victims want notice regarding criminal justice events, but are re-victimized when they don’t receive it. Ability of the victim to request the updates as to offender’s treatment is a good advancement in Pennsylvania. Notification is complicated related to an offender’s mental health. Not sure it should be only if the offender consents. The more notice provided to victims, the more transparent the system will be. The system will work better if victims are fully informed. In the Maryland Justice Reinvestment Act, one of things the State did, was to incorporate restitution wherever they could. The State also incorporated evidence based practices for victims. Law starts by requiring the collection of data, and development of evidence based practices based on that data. You need to invest in what works, but we don’t always know what works and what doesn’t regarding victims. Collection of victim data is key.

Derene: Don’t even know what it means to work in the victim’s field. Don’t know if we know what the desirable outcomes are. We know in domestic violence, one of the most dangerous times is when she gets a restraining order. Recent examples, do impact statements affect sentencing, probably not. But changed the law on the confederate flag in South Carolina.

Garvin: every victim is different. Have to wrap that all up in the system, it comes down to fairness. Feeling that it’s fair. Actually being involved, being a player in the system, including when they want to opt out.

Crawford: Information is really important to self-empowerment. What we try to do, if someone is coming to us with a problem, that problem is the source of contact. If they come in because they were mandated to come in for a certain reason, goes back to the point, familiarity and knowledge of the community is important. Even when they come in for a particular service, we have the ability to wraparound them.

Polenburg: CJS spends a huge amount of money chasing offenders. Huge number of people who work on this. Don’t see that same investment in what happens afterwards. When you ask what are their needs and expectations, looking for an equivalent investment in offenders and victims that will help keep them safe. What does it mean for a 17 year old black kid, pursued by the police, who is then a victim? Is he going to go to the same cop who has been harassing him? What can we realistically expect for him? Can victims have different expectations?

Siegel: Slippery slope, answer ranges depending on the crime. The needs of those victims determine what they need. First thing they want is to master their circumstances. More important than notifying them. The second thing is, the victim who is a local domestic violence victim who is worried about safety, is different than her son who lost his hearing in a bombing. His victimization is different than hers.

Barajas: victims want information. Leery of victims who are hiding information, dropping the ball. Best victim services are keeping people informed. Have to look at it from a funding perspective. They are going to push back. Assistance must be defined as a criminal justice issue, not a social justice issue. They don’t want to keep people in jail. On the same page about that. What is justice for you might not be justice for me. But if we know they judge and jury may look at it differently, we will see it differently. If policy officials are less likely to cut CJS budgets, but they will cut social services budgets. Especially interested in judicial education. Victims want information, empowerment, and sense of importance in the system. Imagine first appearance that bail is set, that the judge looks at defendant and says you have a right to this, and this. The judge then turns to the victim and says these are your rights, and I want you to know. IN THREE STATES.

Derene: fighting about how much time that would take.

O’Connor: first task was to analyze the victims’ bill of rights in Mass. About what it said, what it meant, what they wanted. Number one was information, and that empowerment piece. Fought to have a conspicuous posting of victims’ rights in court rooms and various things they wanted iterated from the bench, it was more important to survivors that even if the judge didn’t say it, at the end of the day, if that law doesn’t have teeth, if that victim witness fee is continuously waived, it doesn’t mean anything. They want to be heard. Informal in the courtroom, victim impact statements, they want to be involved. We know many don’t report because they don’t think they will be believed or worry that their rape kit will just sit on the shelf. They want information, but when you are in trauma you can’t necessarily absorb what is being told to you. Need to be multiple access points that treat them as a human being.

Gregorie: second part, disparity between parts of criminal justice system. Misdemeanor courts rarely have the services that felony courts have. No advocate, no private room, so the kinds of courts people are going to for jail sentences, aren’t like the courts we have been talking about at all.

Dold: Back to what Meg (Garvin) said, comes back to fairness in the law and in the process. The statute of limitations is a personal thing. Told there was nothing that could be done because the statute of limitations had passed. There are a lot of victims, particularly victims of child abuse and sexual assault, that’s particularly complicated for children to deal with. The system doesn’t address that. There needs to be standardization. Other component, think about asset forfeiture laws. The best thing about civil remedies is the punitive damages. Where you want victims to have access to those funds first and foremost and that doesn’t always happen. Evidence based laws and morality must be considered. Also, decorum, one of the reason’s its broken is because we talk about “justice”. Each side is just trying to win. A young man playing his loud music was killed, the family’s main concern was how they were treated by the prosecutors’ offices. The prosecutor should be providing services. The defense side must treat victims better as well. They can’t try and paint family members as criminals. Means reaching out to the defense bar and having more empathy. Hear it all the time, sometimes they are kept away from defendants and sometimes they want access. When relatives are able to dialogue, they have a greater understanding and may want something different than what the court says. If we can break down those barriers, we can get to justice.

Mangus: Some people treat victims like they aren’t entitled to the information. When survivors were polled, especially when they had experienced violent crimes, how do they know this person won’t go back out into the community and harm other people? It’s about how do we prevent further harm?

Siegel: Stats say 3% of offenders commit predatory crime. Need to recognize there is flat out evil in that 3%. And that’s an area where leniency is not dear to his heart. That frees up the other 97%

Silberstein: Think about question differently, which presumes the system as it currently stands. Talk about the needs in general as a constellation of accountability, healing and safety. Justice should be all of those things collectively. There’s this narrative that looks like an adversarial process. Creates needs among victims because we talk about it a certain way. Safety, a lot of evidence that public health approaches are more effective than law enforcement approaches. Don’t have to assume justice on what we have now, but broaden what we think justice is. Restorative justice around the country can offer a more satisfying process of accountability in many cases, especially the kinds of cases, especially the kinds of cases related to jail sentences.

Crawford: Thinking respect, authenticity, caring, communication. As we look at the dynamic of what is happening and the needs, we need to look from a cultural lens. Needs to occur in appropriate language. Even if they speak English, need to provide services at appropriate level of literacy.

Butler: A lot of people feel that victims and offenders are based on a zero sum game, but that perception is wrong. All victims groups are not anti-offender, but they are pro victim. Perception that victim organizations are this needs to be changed. Part of the process could be education of respective interests, that there are compromises and items in mutual interest, especially if the victim’s interests doesn’t harm the offender’s interests.

Zwang: Agree with need for information, why safe horizon exists. Haunted by the story in Oregon of the automatic bail release, would take too much time to dive into, having said that, some funding streams or health streams for victims do depend on their participation in the CJS, advocate against that. They deserve services whether or not they participate.

Silberstein: One more need, victims need racial equity because survivors of color are more likely to be victimized. There is an expectation by survivors of color that they will not be treated equitably by the CJS, borne out by statistics.

Warnken: Another need, compensation. Tie back to expectation and managing expectations. Tie back to measurable of whether we are achieving these things. Survey of underserved victims accessing compensation. One of the results was understanding that it is a huge amount of time to explain and manage the expectations of victims. Advocates feeling very frustrated because they don’t have the data and research that they need. Many felt it didn’t capture the depth of the services they need. Understanding how to manage and how complicated it is to try and manage.

Zwang: Victims need not to be blamed, because society, it’s a different kind of implicit bias, so by blaming the victim, well I didn’t do that, then it won’t happen to me.

Dold: effects boys and masculinity, helping boys feel comfortable reporting about trauma and those people go on to blame others.

1. **Suggestions to MacArthur Jurisdictions**

**Summary**

We had a limited amount of time for the final question, so we modified the agenda to ask participants what their immediate suggestions for the MacArthur Foundation would be?

1. Jurisdictions should place victim centers in communities to ensure services are easily accessible and do not require the victim to participate in the criminal justice system.
2. Victim/witness offices in all police departments and prosecutor offices
3. Victim assistance programs should be available in misdemeanor courts.
4. The criminal justice system should provide more opportunities for the victims and offender dialogues, should the victim wish to engage in conversation with the offender. These programs can lead to the offender to have accountability to the victim rather than the offender only being accountable to the court.
5. Allow for intimate partners to receive civil orders of protection from the court in all states, as some states have more limited statutes than others. This process could avoid the arrest of an offender which is the only way to receive a criminal order of protection.
6. Access to trauma informed care for both victims and offenders
7. Hospital intervention programs for victims. More public health approaches to public safety.
8. Providing victims with information about services, their rights, how the criminal justice process will work in his or her case.

***Participant comments***

Levy: Rocket dockets, early disposition court, established to move the system along with misdemeanor crimes. Back to judges reading victims’ rights, statute passed, where the rights are posted on the wall in Spanish and English, throughout the day, they will read the victim’s bill of rights so that all will know that the victim has rights and the judge does say, if these rights have been violated, please go back and talk to the victim services people. Found that before, no one was sharing the rights. Found that many judges believe they just don’t have time, so went to the legislature, to show that I was treated poorly and where you can go to remedy that. We know the consequence of not reading Miranda rights, but not reading victims’ rights

Derene: had rights since 1969, called gummy rights, thorough revision where they have to ask the prosecutor if they told the victim of their rights, but has a governing body that can sanction judges and officials. Can in theory seek a victim forfeiture in violation of victims’ rights, one is sort of a negative, really forced a lot prosecutors to become so conscious of documentation, their quality victim services went down because they were so afraid of getting in trouble. They didn’t worry about it before because it wasn’t enforced.

Fernandez: 20 jurisdictions that the foundation is working in. Are there things that you know have worked in the past that could be brought to these 20 sites? Are there low hanging fruit we can suggest? That were easy to do in retrospect.

Gregorie: Access to services for victims. Very often, system based services are ensconced in police department or courthouse. Put services where people will access them. One time, in Philadelphia, four Burroughs with no services. No public transportation in those areas. Twice a week, advocates went to those locations, that were welcoming and they could access services.

Derene: First thing they did when they started the victim witness program, they listened to the victims.

Cecchet: Had a program in King County where a victim advocacy group was connecting victims to the offenders, were allowing victims to decide if they wanted to sit with them face to face and the offender had to consent, they could connect, shows humanity, decreased recidivism, wouldn’t necessarily do that in a domestic violence case.

Polenberg: agree, shows real accountability. In NY, can only get criminal order if there is an arrest. But couldn’t get family order unless married or had a child in common. Gay new Yorkers could not get a protection order, unless there was an arrest and a criminal order instituted. Not they can. At the time, it was very controversial. Open civil remedies.

Crawford: Inclusion of key stakeholders which would be the victims. The basics, painstaking, but an important exercise to understand who the victims are, the two are related, when you say a safe community what does that mean? Absence? Or Less? How do you measure safety? Evaluate whether the tools are working?

Ramsdell: Just ask. What you may find when you ask people what they want, is an answer you didn’t expect. We think it might be one way, but it may turn out that we are wrong. We tend to focus on what we think the big issues are from our perspective, but we don’t ask them.

Silberstein: Increasing access to trauma informed care for victims and defendants

Dold: restorative justice programs, increasing victim offender dialogue. Other thing, DC recently got rid of bail system. Now based on risk assessment. Other thing, can’t believe how many kids end up in the system for committing crimes against people who abused them. Punishment must be commensurate and take into account relationship between two parties. The history of abuse that may be there. Dynamics are real, particularly for juveniles, what does their role look like? They have access to defense, but looking at immediate vs. long term harm. They may not be eligible for self-defense because it is not an immediate reaction.

Warnken: One, getting victims on their feet, increasing cooperation with the CJS, comes back to being effective for the process. Similar to the TRC, hospital based violence intervention programs are incredibly effective, Philadelphia has been very successful! (Also Seattle)

Quinn: Get rid of determinate sentencing. What we have been talking about all day, is determinate sentencing, where the judge has no leeway. Haven’t talked about the reinvention of debtor’s prison, get stopped for a broken taillight but can’t pay the fine!

Polenberg: need for speedier trials, not good for offenders or for victims. Delays come from judges, prosecutors, there will be articles, they throw money at it and it’s still a problem.

Butler: When there was an attempt to abolish parole in Maryland, victim organizations did not jump on the bandwagon. Why not – the data was clear that the people who didn’t get released on parole, were a much higher rate to recidivate. For improvement, the low hanging fruit is providing full information to victims. The harder part is whatever you tell the victims, is what should happen. Don’t give them wrong information. Let victims have input as the Criminal Justice Process plays out in each individual case. Empowerment of victims with information and participation is key to the perception of justice.

Siegel: There used to be a term, no wrong door. Not just CJS or mental health, but hospitals and schools and everywhere. Providing true wrap around services, treating the whole human being. Couple with impact evaluation. What is their perspective on whether what we did helped them or not? Folks need to regain control over their lives, and give them the power to help themselves.