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Date: November 17, 2021
To: Maine's Right to Know Advisory Committee, Remote Participation Subcommittee
From: Andrea Mancuso, Maine Coalition to End Domestic Violence
Re: Participation of residents of correctional facilities in public meetings

The Maine Coalition to End Domestic Violence (MCEDV) would first like to thank the Right to Know Advisory Committee for this opportunity to provide our perspective as you consider participation of residents of correctional facilities in public meetings. MCEDV appreciates the desire of the Committee to explore ways to increase participation in our legislative processes by Maine citizens with a wide range of perspectives and lived experiences. Acknowledging that many residents of our correctional facilities statewide are convicted of crimes for which there is no impacted victim, there are several crime victim-related issues we would ask the Committee to thoughtfully consider as part of the Committee's process.

Impact on Victim Participation

Maine's legislative spaces have long struggled to be trauma-informed places where victims can feel comfortable sharing their experiences. Good public policy would have us looking to create better, safer spaces, not increasing the likelihood that participation brings with it further harm. There is a very real likelihood that enhanced access to legislative spaces for residents of Maine's correctional facilities would chill even the small victim participation that currently exists. In considering the testimony recently given to the Judiciary Committee on LD 842, several residents of Maine State Prison, who either submitted written testimony or had testimony read on their behalf by a third party, used the opportunity to minimize their crime and the impact it had.

Imagine a surviving child of a homicide victim taking the courageous step to lend their voice at a legislative hearing only to be sitting in the room while the person who murdered their parent is suddenly zoomed in to give testimony that minimizes or denies their crime. And even where that minimization does not occur, the very possibility of unexpectedly sharing the same meeting space as the person who has caused harm would be re-traumatizing to many.

Imagine a survivor of gross sexual assault unexpectedly having to listen to the voice of someone who they believed would be kept away from them for a designated period of time. Many would choose not to subject themselves to that experience, a risk of tangible psychological harm, and rightly so.

In creating enhanced access for the incarcerated population, the state would be making a choice to prioritize hearing from the person who has caused harm over the person who has been harmed. Or at least doing so with an acceptance of that consequence. At a minimum, to both decrease the potential traumatizing impact and allow a victim to make an informed choice around their own participation, there would need to be a meaningful mechanism for victims to have advanced notice of the likelihood of participation by the person who is incarcerated for having harmed them.

MCEDV also has questions about how broadly “public meeting” might be defined and whether this would have municipal level impact. Legislative hearings and work sessions aside, would this create a process through which someone convicted of and serving a sentence for stalking could opt to zoom into the monthly meeting of a local school board on which the person they have victimized serves?

Furthering Imbalanced Access

Through existing processes, any private citizen can provide their input to legislative committees through submission of written testimony. This includes any resident of a correctional facility. When the Judiciary Committee considered a proposed bill to reinstitute parole in April 2021, more than half of those that submitted written testimony to the Committee (44 of 75) were residents of the Maine State Prison – many of whom are serving long or lifetime sentences for homicide or serial sexual assault. Even with written testimony as an option, only a few crime victims provided their perspective. Instead, victims were, in large part, represented through the non-profit agencies who routinely work to bring victim voice to the State House. This is not because crime victims have less strongly held viewpoints or less desire to have their individual experiences or views considered by decision makers. Instead, this reflects the reality that crime victims often have their hands full putting their lives back together, recovering from past trauma, taking care of surviving children and making ends meet. Conversely, residents of correctional facilities have substantial time to wait in the zoom room to be heard.

Resource Prioritization Reflects Community Values

Maine’s criminal justice system has yet to be resourced to meaningfully implement victim notification requirements that currently exist in statute. This includes notification of pre-trial court dates, the panoply of victim rights and how to invoke them, information about a defendant’s pre-trial release or post-conviction release, etc. It includes those things that have real impact for the safety of victims and their children. Victim notification practices are patchwork at best. These challenges are real for our district attorneys’ offices; they are real for Maine’s law enforcement community; and they are especially real for our county



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correctional facilities. These challenges mean that many victims do not have the information that is critical not only for them to do what they can to minimize risks to their safety but also information that they need to make informed choices about their participation and engagement with the criminal justice system processes. And mostly these challenges result from the fact that an appropriate level of financial resources has never been appropriated by Maine's legislature to enable those with victim notification responsibilities to prioritize them in a meaningful way.

Any implementation of enhanced access by residents of correctional facilities to public meeting spaces would require an allocation of resources at each facility (staff, technology, etc.) to accomplish. As we reflect on the reality that our county jails have long been insufficiently resourced to meaningfully carry out existing victim notification requirements (which are already by necessity the bare minimum and not best practice) and that safety of many victims has been compromised as a result, the impact of a mandate that requires facilities to ensure resident access to public meetings would be to exacerbate the reality that victim notification structures in our state are likely to remain an unfulfilled promise.

Thank you, again, for the opportunity to offer this perspective. If there is anything that MCEDV or Maine's domestic violence resource centers can do to be of assistance to this Committee as you continue your conversations on this issue, please do not hesitate to let me know.

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