



Testimony for the Commission to Examine Reestablishing Parole
October 7, 2022

No crime, or victim/survivor experience, is the same.

There are sexual assault victims/survivors and advocates in our state who oppose mechanisms to decrease court-imposed incarceration (including parole, expanded good time, supervised community-based confinement, other community deferral/release programs, etc.).

And there are sexual assault victims/survivors and advocates in our state who support additional options to defer, reduce, or eliminate the incarceration of people who have committed sexual violence.

MAINE'S SEXUAL ASSAULT SUPPORT CENTERS

Maine's sexual assault support centers were formed based on a peer advocacy model. Survivors of sexual violence who did not have access to the services they needed and who wanted to prevent future violence developed services for one another and for our state. Today, **more than two-thirds of the staff of those agencies report that they have experienced sexual violence** at some point in their lives.

Maine's sexual assault victim advocates spend every day and many nights listening, believing, and supporting survivors, as well as those close to them, on their paths to healing – whether they are on or off the clock. They provide a wide range of services to people of all ages, races, genders, and abilities. They strive to **meet survivors where they are** whether in schools, at homeless shelters, at long-term care facilities, on the streets, or in prisons and jails.

Last year, our advocates supported 133 incarcerated survivors on more than 500 separate occasions. We also developed a range of **materials for incarcerated clients** including a Prison Rape Elimination Act rights one-pager which is often inserted into inmate handbooks. We have created healing activity sheets and a mailing activity designed for use between kids and incarcerated loved ones.

We are deeply invested in expanding the paths to justice and healing for survivors - the majority of whom will never choose to engage with the criminal justice system. Last year, an estimated 14,000

people in Maine experienced sexual violence, but only 489 reported to law enforcement. Part of our work to expand paths to justice and healing is our investment in **restorative justice**. Since 2017, MECASA and several sexual assault support centers have worked in partnership with restorative justice providers to inform processes that can be used when sexual harm has been caused.

MECASA provides the “Sexual Assault” **training**, for all new corrections officers through the Basic Corrections Training Program. We also provide a range of materials to the DOC and to county jails, including posters informing incarcerated people about services and reporting options, recorded videos to be used during intake to inform about inmate rights under the Prison Rape Elimination Act (PREA), as well as a three-part training video series for correctional officers.

MECASA and our member centers also provide **technical assistance** to the DOC and jails on topics like: how to coordinate services for incarcerated clients that are confidential, screening for sexual abuse and human trafficking, preventing sexual violence, and developing policies and handbook language about sexual assault.

In our **public policy advocacy**, we care about evidence-based public policy and so for more than two decades we have opposed residency restrictions, opposed expansions to the sex offender registry, and opposed mandatory minimums. We also play a **leadership** role in our field working to start hard conversations – like through asking our staff, the directors of Maine’s sexual assault support centers, and allies to read and discuss Danielle Sered’s book Until We Reckon last fall and think about how these restorative justice principles can apply to sexual violence work in Maine. These are difficult questions, but we committed to engaging in them.

POINTS OF COMMON AGREEMENT

In preparation for this meeting and as part of those ongoing conversations about how to approach criminal justice issues generally, we met with the directors of the sexual assault support centers and built, point by point, the following list of shared understanding to help illuminate the way we think about these issues and to inform our recommendations for the Commission. They are as follows:

- We know that people who commit sexual violence harm victims, those close to them, and our communities.
- We know that incarceration harms those who are incarcerated and those close to them.
- We know the vast majority of those committing sexual harms in our state will never be incarcerated.
- We know that there are a wide range of kinds of sexual harm for which individuals are incarcerated including, in no particular order, sex-trafficking, possessing sexually explicit images of children (commonly referred to as child pornography), sexual violence as part of the crime of murder, gross sexual assault, unlawful sexual contact, and more.

- We know, that unlike many crimes, the drivers behind these sexual harm crimes can rarely be primarily attributed to poverty and/or substance use disorder – and so necessitate additional specialized treatment and interventions.
- We know that victims of sexual violence and people who have been incarcerated both have higher rates of suicide and substance use disorder than those who have not been incarcerated and/or have not experienced sexual violence.
- We know the criminal justice system disproportionately impacts marginalized communities, particularly communities of color, under-resourced communities, as well as those impacted by substance use.
- We know that many incarcerated people have complex trauma histories - some including sexual assault – and that incarceration impedes their paths to healing.
- We know that some people experience sexual violence while incarcerated. Female and trans people who are incarcerated have higher rates of sexual victimization before and during incarceration than cis-gender males who are incarcerated.
- We know Maine’s jails and prisons are not designed to be aware of and responsive to the needs of those with complex trauma histories – which creates additional challenges for healing and rehabilitation.
- We believe that individuals who have committed sexual harm should take responsibility for the harms they have caused – this sometimes happens in the criminal justice system, but it often does not.
- We know that incarceration can provide safety for victims.
- We know that Maine has the second or third lowest per capita incarceration rate of any state, (though the US has one of the highest rates in the world).
- We know that some criminal justice interventions, including certain lengths of incarceration and/or probation can increase the risk of recidivism for some low to moderate risk people.

POLICY CONSIDERATIONS

Though this is by no means a comprehensive list, as we think about policies which aim to reduce court-imposed sentences, we would ask that you:

1. **Fully assess the tools currently available** to reduce incarceration (good time, supervised community confinement, any other similar programs), including how they are used and an assessment of their effectiveness.

2. **Center victims/survivors.** Uncertain lengths of incarceration often create great **stress for victims/survivors** and in particular those who have fears about their safety. I am thinking about a stalking survivor who recently spoke at UNE about the stalking she experienced over several years which made her constantly fearful for her life. She lost her business and moved across the country to escape her stalker. He found her. He is currently incarcerated for ten years, and she has a robust public speaking career, which she knows will need to come to an end when he is released. Survivors sometimes plan their lives and the choices they feel safe making around knowing what to expect from the criminal justice system.

We also are aware of the great burden that participating in parole hearings can have on victims/survivors. MECASA worked with one survivor many years ago where the person who sexually assaulted her was eligible for parole based on a conviction in the early 1970's. She no longer lived in Maine but felt like she had no other choice but to come up from Massachusetts for each hearing as she remained deeply concerned about the risk the individual would pose to community safety. She had to use her vacation time to get out of work and drove up each time to relive her trauma in front of the board. **The burdens on victims must be acknowledged and mitigated** by carefully considering the range of negative impacts on victims/survivors and by carefully considering the appropriate frequency of the opportunities for hearings and supports for survivors among other issues.

The impact on victim/survivors must be carefully examined and law and policies must be put into place to support them. The last parole bill introduced was largely based on the Colorado model, but excluded [Colorado's victims' rights provisions, which include a formal complaint process for victims](#). **Victims' rights must be codified.** At a minimum, the resources and rights for survivors that are needed to support any early release mechanism, include (1) the right and a process for survivors to be heard, (2) how survivors will be supported during and after the process, (3) identification of who is responsible for survivor notification, and (4) a process for how that notification is made.

3. **Make significant additional investments in evidence-based treatment for those who have committed sexual harm.** There are many kinds of sex crimes and many complicated drivers. While obtaining a GED or college degree can significantly reduce the risk of re-offense for some crime categories, this is not enough for those who have committed sexual harm. The standards outlined by the Association for the Treatment and Prevention of Sexual Abuse require **evidence-based assessment** to provide information about recidivism risk, potential risk management strategies, and recommended interventions. Such assessments are critical for the creation of **individualized treatment plans** that target dynamic risk factors (such as self-regulation, sexual self-regulation, social and community supports). This Commission must fully invest in the additional tailored programming, people, training, and tools that are needed to support long-term behavior change for all people incarcerated for committing sexual harm.

We also believe that part of the infrastructure to support behavior change must include **additional programming to make Maine's jails and prisons more trauma-responsive and eliminate additional harm to people who are incarcerated.**

4. **Take great care in determining who would be eligible for parole and what assessment tools and process would be used to inform release.** If this Commission does decide to focus on crimes with specific victims, we believe it should carefully consider how to create a process (including frequency of application and pre-conditions for application) to **balance the interests of the incarcerated person and the crime victim.**

Risk assessment for people who have committed sexual offenses is complicated. This Commission could consider starting with crimes that do not have a specific victim, such as drug crimes or crimes against property. This could greatly minimize the cost of the program as there would be fewer elements involved.

We also believe that **parole boards should be staffed by people with clinical experience**, specifically clinical experience working with those who have caused sexual harm, when the case involves that harm, and with at least one crime victim or victim advocate.

Additionally, **parole boards need to be given ample evidence about the underlying conviction**, including the specific facts of the case (through Children's Advocacy Center interviews, testimony from trial, victim impact statements, police reports, etc.). They need to hear from the survivors themselves, if the survivor wants to speak with them. Finally, they must have access to clinical assessment tools and narrative reports from any treatment or support programs a person completed.

5. **Craft conditions of release that meaningfully address the safety and well-being of victims/survivors and our communities.** We must also ensure that victims have access to adequate safety planning by ensuring they have a right to know **when** the person on parole will be released and **where** they will be living and working. They must also have the ability to have **access to the parole officer** to share concerns with the parole officer before release, and the ability to have communications with the parole officer concerns during the period of parole.

As previously noted, the current criminal justice system does not always require accountability by those who have caused harm. But many of the victims/survivors our providers work with share the wish that the person who harmed them would admit to the harm and grapple with the impact of what they did. The lack of this accountability can create a significant barrier to healing.

Survivors also frequently express that their goal in reporting a sexual assault is to **prevent other people from experiencing the harm they did**. They are seeking some assurance that the person who harmed them will not cause more harm to others in the future.

As we make improvements to our criminal justice system, we must **center both safety and accountability**.

6. **Ensure we are supporting formerly incarcerated people once they are participating in parole.** I am thinking about the compelling story that Dr. Jones shared about the person

who was released on parole and could not get access to an appropriate treatment program. His parole officer found him outside of a school considering re-offending and was able to intervene. That story raised questions for me like how to we ensure in Maine that there are **adequate programs** available as soon as someone is released, and how to be ensure enough **oversight** to prevent harm in the inevitable situations where there could be future harm.

To that end, **we must implement assessment tools to support decision-making about the programming and supports needed in the community**, including monitoring tailored for those who have committed sexual violence. And, we must ensure there are sufficient evidence-based community resources, including treatment for those who those who have committed sexual violence crimes

There must be community-level monitoring and accountability so not to place an ongoing burden on victims and to protect the safety of the victim and the community.

Finally, we must ensure that there are a full range of stakeholders involved, such as judiciary, treatment providers, parole officers, corrections staff, victim advocates, landlords, employers, civic organizations, mentors, and other community supports because these **community partnerships are essential in increasing community safety**.

On behalf of Maine's sexual assault support centers, thank you again for inviting us to join you today and we would be happy to try to address any questions you might have.