

**Statement of Susan Howley, Public Policy Director  
National Center for Victims of Crime  
Before the Charles Colson Task Force on Federal Corrections  
March 11, 2015**

Good morning, Chairman Watts, Vice Chairman Mollohan, and members of the Task Force. I appreciate the opportunity to appear before you today to address crime victim interests in an effective federal corrections system, and to identify issues for your consideration.

The National Center for Victims of Crime is a leading voice for the rights and interests of victims of crime. Established in 1985, our members include those who work with victims and survivors through community-based programs, criminal justice agencies, and allied fields. We helped to define victim rights and services at each stage of the criminal justice process, including corrections, with early training and technical assistance programs in partnership with criminal justice membership organizations including the National District Attorneys Association, American Correctional Association, American Probation and Parole Association, and others. In recent years, our work has included the development of an online toolkit to promote the enforcement of victim restitution, and to promote the integration of research and practice in victim services. Our work over the past three decades has given us a deep understanding of the interests of crime victims that informs our testimony.

Victims of crime want two things from our criminal justice system: they want the person who victimized them to be held accountable, and they want the system to do all it can to ensure that no other person or family will be harmed as they have been. The work of this Task Force can promote both of those.

Accountability from a convicted offender requires an acknowledgement of the harm directly caused to the victim. Restitution provides the clearest expression of such accountability, when an offender is ordered to pay for the real financial costs resulting from the criminal offense. Restitution is ordered in approximately 14 percent of federal cases involving individual offenders—including cases of embezzlement, fraud, larceny, and child pornography—and about 28 percent of cases involving corporate defendants.<sup>1</sup>

The federal Bureau of Prisons was an early leader in restitution enforcement, through the development of its Inmate Financial Responsibility Program (IFRP), which encourages offenders to earn money to pay restitution and other obligations. However, the rules for that program were

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<sup>1</sup> Overview of Federal Criminal Cases Fiscal Year 2013, U.S. Sentencing Commission, p. 6. [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2014/FY13\\_Overview\\_Federal\\_Criminal\\_Cases.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2014/FY13_Overview_Federal_Criminal_Cases.pdf) [accessed March 2, 2015].

last updated in 2005, and do not reference the 2004 Crime Victims' Rights Act or other recent developments.<sup>2</sup>

The IFRP, rules, and related statutes should be reexamined and amended if necessary to ensure that payment schedules can be set and modified in a fair, informed, and efficient manner. In recent years, some courts have held that a payment plan must be set by the court, and cannot be left to the BOP.<sup>3</sup> Modifications to those plans must also be approved by the court.<sup>4</sup> This process is cumbersome, and does not allow the flexibility that may be needed to conform to an inmate's changing circumstances.

In addition, the rules currently allow, but do not require, that payment of victim restitution be prioritized over collection of the special assessment an inmate is ordered to pay. Because federal law provides that a special assessment can only be enforced for five years<sup>5</sup>, prioritizing restitution may prevent collection of the special assessment. Therefore, a statutory change may be necessary to allow that time period to be extended when restitution is also ordered.

Accountability from the offender can also involve well-designed restorative justice programs, which provide options for victims to have a supported dialogue with the offender, or to otherwise participate in restorative practices such as victim impact programs.

Accountability, at the corrections level, also requires transparency and notification. Notifying victims, at their request, of various events and proceedings provides assurances to victims with safety concerns, and allows them to exercise their related rights—such as having input at the parole stage. Victims of crime have a strong right to notice under federal law, and the Bureau of Prisons has an extensive victim notification program that utilizes the federal automated Victim Notification System (VNS). Through this program, victims are notified of an inmate's escape, reaprehension, death, furlough, transfer, or release, as well as parole hearings or military clemency hearings. Each year, the BOP sends hundreds of thousands of notifications to registered victims.

However, the Bureau's rules regarding victim notification have not been updated since 2002, two years before the enactment of the Crime Victims' Rights Act.<sup>6</sup> Those rules should be reexamined to ensure they are consistent with law, recent updates to the Attorney General's Guidelines for Victim and Witness Assistance, and technological improvements to the VNS.

Transparency regarding offender accountability also requires that victims have some understanding of the services and programs an inmate receives. Too often, victims are left with the mistaken belief that the only difference between the offender at the time of sentencing and the time of release is the passage of years. In truth, corrections systems are developing an

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<sup>2</sup> United States Department of Justice Federal Bureau of Prisons Program Statement P5380.08, August 15, 2005.

<sup>3</sup> See *Ward v. Chavez*, 678 F. 3d 1042, 1052 (9<sup>th</sup> Cir. 2012).

<sup>4</sup> 18 U.S.C. §3664. (2014)

<sup>5</sup> 18 U.S.C. §3013 (2014).

<sup>6</sup> United States Department of Justice Federal Bureau of Prisons Program Statement 1490.06, May 23, 2002.

evidence base to support the effective rehabilitation of offenders, but most victims are unaware of this progress.

Providing victims with some limited information regarding the types of services the offender receives would give them some context to consider the safety risk the inmate's release poses to the victim or others, and increase their confidence in the corrections system. Substance abuse treatment, mental health treatment, sex offender treatment, life skills training, anger management, education, family violence services, and job training can all reduce an offender's risk of reoffending and promote successful reentry. Such transparency regarding the services an offender receives while incarcerated would also inform the victim's input regarding release decisions. There must be a way to provide some level of information to the victim without unduly infringing on the legitimate privacy interests of the inmate.

Accountability also requires that all components of the criminal justice system, including corrections, respond to the safety concerns of victims. Victims have a right to be reasonably protected, under the law and as outlined in the A.G. Guidelines. At the corrections level, this should include providing clear channels for reporting harassment or intimidation by victims, and for inclusion of victim concerns in reentry planning. The BOP has some experience in this area, developed through its program for victimized employees and their families. Several state departments of correction are developing victim safety components to their offender reentry programs, and might provide guidance for efforts at the federal level. For example, Minnesota has developed a form to solicit victim information and concerns regarding offender reentry and supervision, which victims are encouraged to submit six months prior to a scheduled release. This allows the information to be incorporated into reentry planning. Washington state has a program to provide wrap around services to victims with safety concerns relating to an inmate's release. New Hampshire's department of corrections provides safety planning for victims at reentry.

Support of victims across the Bureau of Prisons could be strengthened by more centralization of victim services across the Bureau. BOP victim services is currently focused on the provision of notice through VNS, and involves administrators and coordinators at the national, regional, and institutional level. Centralizing and coordinating victim services could provide an opportunity for increased development of victim response, including responding to victim safety concerns, further development of restorative justice programs that include victims, and involvement of victim advocates in promoting the collection of victim restitution.

Victims' rights are important in providing accountability, but victims are also interested in efforts to prevent offending, including reducing recidivism. Many studies have observed high levels of victimization histories among incarcerated offenders, whether juveniles or adults, male or female.<sup>7</sup> We know that youth victimization is a strong predictor for future victimization or

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<sup>7</sup> Courtney, D., & Maschi, T., (2013) Trauma and stress among older adults in prison; Breaking the cycle of silence. *Traumatology: An International Journal*, 19(1), 73-81. Approximately 70 percent of older inmates had a history of traumatic and stressful life experiences including domestic violence, sexual abuse, physical abuse, and neglect beginning in childhood.

perpetration. Potential links include the increased risk of substance abuse, higher likelihood of victimized youth carrying a gun, a link between traumatic brain injury and increased impulsivity, and increased risk for mental health issues.<sup>8</sup>

We must do more to identify and serve young victims of crime and abuse. We must also provide trauma-informed programs for juvenile and adult offenders to address prior victimization. While this will take an investment of attention and resources, it is crucial to reducing the level of criminal offending and avoiding the social and financial costs of additional victimization.

This Task Force previously heard testimony regarding the budgetary pressures on the Bureau of Prisons, driven in large part by growing numbers of inmates. Much of the growth of the federal prison population is due to lengthy sentences for drug-trafficking offenses. Many drug trafficking offenders do not have significant criminal histories, and thus may be relatively low risk offenders.

The budgetary pressure caused by the growth in federal prison spending is felt throughout the Department of Justice, as the BOP's budget accounts for more than one-quarter of the Department's overall budget and that share is expected to grow.<sup>9</sup> This spending directly affects funding for the important grant programs that can reduce crime and victimization, including funding to respond to domestic and sexual violence, identify and support at-risk youth, and provide support to other victims of crime. In our advocacy for victim-related funding within the administration and Congress, we are frequently reminded that the need more and more prison funding constrains other justice-related appropriations.

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Apel, R., & Burrow, J.D., (2011) Adolescent Victimization and Violent Self-Help. *Youth Violence and Juvenile Justice*, 9(2) 112-133. Experienced and vicarious victimization are precursors to later violent behavior, even among youth with no history of violent behavior.

See also Abram, K.M., Washburn, J.J., Teplin, L.A., Emanuel, K. M., Romero, E.G., & McClelland, G.M. (2007) Posttraumatic stress disorder and psychiatric comorbidity among detained youths. *Psychiatric Services*, 58(10), 1311-1316; Lynch, S.M., Fritch, A. & Neath, N.M. (2012) Looking Beneath the Surface: The Nature of Incarcerated Women's Experiences of Interpersonal Violence, Treatment Needs, and Mental Health. *Feminist Criminology*, 7:381, 394; Corrie L. Jackson, C.L., Hanson, R. F., Amstadter, A.A., Saunders, B.E., and Kilpatrick, D.G. (2013) The Longitudinal Relation Between Peer Violent Victimization and Delinquency: Results From a National Representative Sample of U.S. Adolescents. *Journal of Interpersonal Violence* 28(8) 1596–1616.

<sup>8</sup> Tyler, K. A., J. Gervais, S.J., & Davidson, M.M. (2012) The Relationship Between Victimization and Substance Use Among Homeless and Runaway Female Adolescents. *Journal of Interpersonal Violence* XX(X) 1–20.

Spano, R., & Bolland, J. (2013) Disentangling the Effects of Violent Victimization, Violent Behavior and Gun Carrying for Minority Inner-City Youth Living in Extreme Poverty, *Crime & Delinquency*, 59(2) 191-213;

Danielson, C.K., Macdonald, A., Amstadter, A.B., Hanson, R., de Arellano, M.A., Saunders, B.E., and Kilpatrick, D.G. (2010) Risky Behaviors and Depression in Conjunction With—or in the Absence of—Lifetime History of PTSD Among Sexually Abused Adolescents. *Child Maltreatment* 15(1):101-7; Sharyl R. Helgeson, "Identifying Brain Injury in State Juvenile Justice, Corrections, and Homeless Populations," BrainLine, [http://www.brainline.org/content/2011/01/identifying-brain-injury-in-state-juvenile-justice-corrections-and-homeless-populations-challenges-and-promising\\_pageall.html](http://www.brainline.org/content/2011/01/identifying-brain-injury-in-state-juvenile-justice-corrections-and-homeless-populations-challenges-and-promising_pageall.html) [accessed March 2, 2015].

<sup>9</sup> Nancy LaVigne and Julie Samuels, "The Growth & Increasing Cost of the Federal Prison System: Drivers and Potential Solutions." (Urban Institute, Justice Policy Center, Dec. 2012).

We urge this Task Force to examine the need to reduce the length of sentences for lower level offenders and to promote evidence-based risk assessment that can place appropriate offenders in less costly forms of supervision. Freeing dollars from federal prison spending to invest in preventing and addressing victimization, especially among children and youth, will lead to long term savings and, most importantly, fewer victims of crime.