



Victims' Voices for Reform

4 crime victim advocates weigh in on changes to state sentencing laws

Overview

In a growing number of states, crime victims and survivors are actively participating in the development of sentencing and corrections policies and funding decisions to help prevent others from being victimized. The reforms, many of which are part of the Justice Reinvestment Initiative (JRI), use data-driven strategies to hold offenders accountable, control costs, and protect public safety. In several states, these changes also have helped improve victim services, including notification systems that provide timely updates about offenders' status within the criminal justice system.

The advocates

The Pew Charitable Trusts' public safety performance project interviewed four prominent victim advocates about their involvement in and support for recent changes in state sentencing and corrections policies. Recognizing that the vast majority of offenders will one day return to the community, these leading experts favor a nuanced approach that prioritizes public safety. The advocates are Pamela Ferguson-Brey, executive director of the Hawaii Crime Victim Compensation Commission; Sandra Matheson, former director of the Office of Victim and Witness Assistance at the New Hampshire Department of Justice; Kerry Naughton, crime survivors program director at the Partnership for Safety and Justice in Oregon; and Carol Lavery, former commonwealth victim advocate for the state of Pennsylvania.



Pamela Ferguson-Brey



Sandra Matheson



Kerry Naughton



Carol Lavery



There is often a perceived disconnect between the victim movement and the criminal justice reform movement, but they actually share a lot of common ground. "

Kerry Naughton, *crime survivors program director at the Partnership for Safety and Justice in Oregon*

Q: Why is justice reinvestment important to crime victims, survivors, and those who serve them?

Naughton: Over the past few decades, elected officials have passed tough-on-crime policies that dramatically increased the number of people sent to prison and the length of time that offenders spend there. This experiment with incarcerating ourselves out of crime and violence has failed everyone, particularly victims and survivors. Through justice reinvestment, states are making a course correction, and the reform process offers us a tremendous opportunity to let decision-makers know what victims and survivors need to truly become safe and healthy and to rebuild their lives.

Ferguson-Brey: Improving criminal justice practices through a comprehensive, data-driven approach such as JRI ensures that our limited resources are directed to programs that effectively provide services that ensure victim and community safety. In addition to creating 22 new victim assistance positions, Hawaii's JRI legislation will improve collection of restitution payments and ensure that victims receive advance notification of offenders' release dates and parole hearings.

Hawaii

Hawaii's combined prison and jail population grew 18 percent between 2000 and 2010, from 5,127 to 6,043 inmates.* Delays in the pretrial process, an increase in parole denials, lengthier average stays in prison, and unusually long probation terms helped drive the growth, which in turn forced the state to contract with mainland facilities to house as many as a third of its inmates.

In 2012, Hawaii responded to these challenges by passing comprehensive reform legislation that won support from all three branches of government and overwhelming majorities in both legislative chambers. Among other things, the law required timely risk assessments of defendants to reduce delays in the pretrial process and prioritized probation and parole resources for those most likely to reoffend. It also featured several provisions for victims, including a major increase in the amount of money that prisoners must pay for restitution—from 10 percent of inmate wages to 25 percent of all wages and cash deposits to offenders' accounts. Hawaii also invested more than \$1 million to create 22 new state and local victim services positions, including counselors, legal clerks, and restitution specialists.†

Collectively, these policies are projected to reduce prison growth by more than 1,000 inmates and to save the state \$130 million by 2018 while improving victim services.

* Council of State Governments Justice Center, "Justice Reinvestment in Hawaii: Analyses & Policy Options to Reduce Spending on Corrections & Reinvest in Strategies to Increase Public Safety" (August 2014), <http://csgjusticecenter.org/wp-content/uploads/2014/08/JR-in-HI-Analyses-and-Policy-Options.pdf>.

† Council of State Governments Justice Center, "National Award Recognizes Justice Reinvestment Improvements to Victim Restitution in Hawaii" (June 2013), <http://csgjusticecenter.org/jr/hawaii/posts/national-award-recognizes-justice-reinvestment-improvements-to-victim-restitution-in-hawaii>.

Lavery: As community and governmental leaders redefine justice through JRI, it is critical that victims' and survivors' perspectives are considered. The impact of crime on victims does not stop at sentencing. Victims and their advocates often become invested in what happens with offenders beyond the criminal justice system, sometimes because an offender returns to the victim's community, but also because an offender's earning potential dictates whether the victim will receive restitution. JRI is a balanced approach that allows victims to be engaged at all stages of the process.

Q: How helpful is it to proactively engage victims, survivors, and victim advocates in reform efforts?

Ferguson-Brey: It is essential. In Hawaii, crime victims, survivors, and their advocates were given the opportunity to share key issues and concerns, and their priorities were incorporated in our working group's final recommendation to the Legislature. Proactive engagement also ensured that the cost savings from JRI would be redirected to address victims' issues and concerns. This was a big change for Hawaii, because generally there had been only token or, often, no victim or survivor representation on reform work groups.

Lavery: Over the past few decades, we have slowly come to recognize that victims want and need their voices to be heard at every stage of the criminal justice process, from an offender's arrest to charging, pleas, sentencing, parole, and release. Equally important, victims and their advocates want and need to be heard as policy decisions are made regarding the process itself. Trust is the foundation of our justice system. Victims develop trust when they know, understand, and feel satisfied by how the system has worked for them. That trust is enhanced when victims are invited to actively participate in reform from the beginning. Requiring any stakeholders to fight their way to the table only inhibits open and honest communication.

Naughton: This isn't just helpful; it's vital. There is often a perceived disconnect between the victim movement and the criminal justice reform movement, but they actually share a lot of common ground. Unfortunately, the dominant public safety policy narrative is that victims want harsher sentences, so if elected officials provide that, they feel they've met victims' needs. Some victims do solely want a greater punitive response to the people who harmed them. But many more want something different and have actually been harmed by tough-on-crime policies. In Oregon, becoming an official JRI state provided an outside "oomph" to the conversation about how our public safety structure should be improved.



Hawaii's JRI legislation will improve collection of restitution payments and ensure that victims receive advance notification of offenders' release dates and parole hearings."

*Pamela Ferguson-Brey,
executive director of the
Hawaii Crime Victim
Compensation Commission*

Matheson: Victims' efforts to seek justice and healing continue long after sentencing. Their voices are important to the ultimate success of justice reinvestment initiatives because crime survivors are among those most affected by the results. Victim participation and input are critical to helping the public understand why we need these reforms.

New Hampshire

Despite New Hampshire's longtime status as one of the safest states in the nation, with a low and stable crime rate, its prison population increased 31 percent to nearly 3,000 inmates, and annual state spending on corrections doubled to more than \$100 million between 1999 and 2009.* Rising recidivism rates, scarce resources for substance abuse treatment, and inefficiencies in the parole process helped fuel this growth.

To address these problems, state lawmakers passed bipartisan, comprehensive legislation in 2010. The law reduced the length of community supervision for low-risk offenders to prioritize resources for higher-risk individuals; enabled probation officers to impose short, swift jail terms for minor violators to improve behavior; established a one-week intermediate sanction under which parole violators are held in halfway houses instead of prisons; and created a designated facility with tailored programs for offenders whose parole has been revoked.

Together, these policies are projected to avoid \$160 million in prison construction and operating costs through 2015 while improving recidivism outcomes and maintaining the state's already low crime rate.

* Council of State Governments Justice Center, "Justice Reinvestment in New Hampshire: Analyses & Policy Options to Reduce Spending on Corrections & Increase Public Safety" (January 2010), http://csgjusticecenter.org/wp-content/uploads/2012/12/JR_New_Hampshire_Report_2010.pdf.

Q: What were some of the positive outcomes of your state's corrections reform?

Matheson: The New Hampshire Department of Corrections created a Division of Community Corrections, and our state now has transitional housing, a work-release center, education programs, a family-connection center, and a new case management system for offenders. Many inmate programs that were behind prison walls are now operating in the community. The victim roundtable formed during the JRI process became a formal committee within the Department of Corrections and helped create a protocol that identifies and assesses victims' needs and concerns and assists them through the offender re-entry process.

Ferguson-Brey: Hawaii's JRI legislation included a comprehensive victim service component. It funded 22 victim service positions, created an automated system to alert victims about inmates' and parolees' release status, and led to statewide training for victim service providers and probation and parole officers. We also increased the amount of restitution paid to victims from 10 percent of inmate wages to 25 percent of all earnings, deposits, and credits. To improve accountability, the legislation provided funding to create a database that monitors restitution collections and disbursements. In the first 17 months of implementation, the new victim assistance staff delivered almost 12,000 services to victims.

Lavery: One key benefit of JRI was the guarantee of ongoing financial support for Pennsylvania’s statewide, automated information and notification system, which had been initiated five years earlier but was facing elimination due to funding shortages. JRI also led to a partial restoration of funds for services for victims of juvenile crime, which had been severely cut in recent years. A third initiative was the development of an evaluation and data management system to inform providers, funders, and policymakers about victims’ needs and services. One goal of this system is to serve as a foundation for research and best-practice initiatives to guide future investment in victim programs.

Naughton: In the 2013-15 budget cycle, counties invested an additional \$15 million in local public safety efforts such as addiction treatment, mental health services, re-entry services, and risk assessments to inform pretrial release decisions. And beginning in 2015, 10 percent of available JRI funds were designated for community-based nonprofit victim services, which will encourage innovative practices to improve victims’ access to assistance. Additionally, JRI helped Oregon double its general fund spending on lifesaving domestic and sexual violence services, an investment that, for the first time, expanded services to tribal communities. Funding was also increased for child abuse assessment centers and victim advocates based in district attorneys’ offices.

What can’t be measured as easily—but is perhaps more important—is that legislators really heard and responded to survivors who were calling for a smarter public safety system, not just a more punitive one. If justice reinvestment is carried out as intended, individuals, families, and communities will become safer.

Oregon

Oregon’s prison population grew nearly 50 percent between 2000 and 2012, from fewer than 9,500 inmates to more than 14,000.* During the same span, its biennial corrections budget increased nearly 40 percent, from \$976 million to more than \$1.3 billion. Significant increases in time served by drug offenders and probation violators helped drive this growth in inmates and spending.

Oregon lawmakers passed comprehensive legislation in 2013 to respond to these trends. The law changed sentencing policies to prioritize prison space for serious and violent criminals; enhanced evidence-based, cost-effective community supervision practices to reduce recidivism; and established performance objectives to measure criminal justice outcomes and promote responsible spending. The legislation also featured important provisions for victims, including a \$7.3 million initial investment in victim services and \$15 million to establish a state justice reinvestment grant to counties, of which at least 10 percent must go to community-based nonprofit organizations that provide assistance to crime victims.†

The law is projected to reduce Oregon’s prison growth by 870 inmates and save state taxpayers \$326 million in construction and operating costs through 2023. Already, the state has begun to realize the benefits of reform. The prison population has stabilized, and in the 2013-15 biennium, Oregon was projected to save \$17 million in prison costs, with larger savings estimated in future years.

* The Pew Charitable Trusts, “Oregon’s 2013 Public Safety Reforms” (November 2014), http://www.pewtrusts.org/-/media/Assets/2014/11/PSPP_OR_PS_Brief_web.pdf.

† Oregon Legislative Assembly, H.B. 3194 (Regular Session, 2013), <https://olis.leg.state.or.us/liz/2013R1/Downloads/MeasureDocument/HB3194/Enrolled>.

Q: Do you see a shift in public attitudes toward crime and punishment in your state?

Naughton: For years, the public has consistently called for smarter approaches to crime and violence instead of tough-on-crime policies, but that doesn't immediately create the political will to pursue change because legislators fear being targeted as soft on crime in an election. In polling and public debates, Oregonians consistently show that we want people who commit crimes to be held accountable and, after someone has atoned, we want to help them move forward and make a positive contribution to society. We need to use our tax dollars more effectively by preventing crime, not building more prisons.

Lavery: I see a shift in public attitudes from "hard on crime" to "smart on crime." Many legislators are reflecting this by adopting policies that focus incarceration on violent offenders while expanding community supervision, evidence-based programs, and treatment for those convicted of nonviolent crimes.

Matheson: In New Hampshire, known as the "Live Free or Die" state, "soft on crime" does not go over well. But the recognition that the majority of inmates will eventually be released from prison, along with the rising costs of incarceration, have increased public and media focus on mental illness and substance abuse issues and the importance of treatment programs to improve public safety and reduce recidivism.

Pennsylvania

Pennsylvania's prison population grew 40 percent between 2000 and 2011, from fewer than 37,000 inmates to more than 51,000.* During the same period, taxpayer spending on corrections rose from \$1.1 billion to \$1.9 billion. Key drivers of this growth included a 138 percent increase in the number of inmates serving short sentences, a backlog in the parole process, and ineffective use of community-based supervision resources.

Pennsylvania leaders responded in 2012 by passing bipartisan legislation to improve corrections outcomes, control costs, and promote public safety. The law, which received unanimous approval in both legislative chambers, provided incentives to counties to house offenders with short sentences, rather than send them to state prisons; required that low-level misdemeanor offenders be sanctioned locally, not at the state level; increased the number of parole cases reviewed each month; implemented shorter, more cost-effective community-based sanctions on parolees who violate the conditions of their release; and matched offenders with community corrections programs based on their levels of risk. For victims of crime, the law required ongoing funding for an automated, statewide information and notification system and for programs dedicated to victims of juvenile offenders.

The law was projected to save Pennsylvania as much as \$253 million by 2017.

* Council of State Governments Justice Center, "Justice Reinvestment in Pennsylvania: Dynamic Strategies for Reducing Corrections Costs and Improving Public Safety" (November 2013), http://csgjusticecenter.org/wp-content/uploads/2013/12/PA_2-page_report.pdf.

“ When victims are left out of justice reform initiatives, the result is weaker, and no one should be surprised when victims criticize the results.”

Sandra Matheson, former director of the Office of Victim and Witness Assistance at the New Hampshire Department of Justice

Q: Do you have any advice for victim assistance leaders in other states about becoming involved in corrections reform?

Lavery: JRI is well worth your time and effort. As much as possible, make it a priority for survivors and victim advocates. It provides an opportunity to communicate and share issues at all levels, to reach major power players, to solidify relationships, and to increase the knowledge among survivors and victim advocates about post-sentencing processes and issues. It also helps connect corrections professionals with victim service providers. Try to stay in it, and fight to stay in it. Your place at the table is critical to survivors.

Ferguson-Brey: Make sure representatives of your victim service community are involved in the planning and implementation of justice reinvestment. Your input is essential to ensuring that the needs of victims, community safety, and offender accountability are at the forefront of criminal justice reform efforts. Participating actively in JRI will help you build collaborative relationships with the agencies whose cooperation is essential to meaningful reform. Recognize that reinvestment funds, and the programs and services they support, are a motivator for agency staff to be cooperative and supportive of your goals.

Matheson: Victim assistance leaders need to get involved in justice system reforms from the beginning to ensure that victims' voices are heard during early discussions. Victims and victim advocates have an important role in educating JRI stakeholders about victims' needs and safety concerns, victim services in the state, and how victims can greatly enhance public support for JRI. When victims are left out of justice reform initiatives, the result is weaker, and no one should be surprised when victims criticize the results.

Naughton: Get involved early and stay involved throughout implementation. Not only can JRI result in real funding shifts that can better prevent crime and help victims feel safer and rebuild their lives, it can provide an opportunity for survivors and victim advocates to have a real seat at the public safety table, at both the state and local levels. If you're not involved in JRI, you're missing a huge opportunity to advocate for the survivors you serve and create systemic and cultural shifts.

“ Trust is the foundation of our justice system. Victims develop trust when they know, understand, and feel satisfied by how the system has worked for them.”

Carol Lavery, former commonwealth victim advocate for the state of Pennsylvania

Victims' Statement of Principles

Beyond the benefits to public safety and states' fiscal health, ensuring that released offenders undergo supervision gives victims of crime an official source of information about offenders. Knowing that an offender's activities and whereabouts are subject to restrictions and monitoring can provide some peace of mind to a victim who is concerned about potential future contact with the offender.

More than 100 national and state victim advocates have signed on to a set of guiding principles, several of which address the issue of max-outs and mandatory supervision directly. Among them:*

- "An ultimate goal of public safety policy is to reduce crime, resulting in fewer people and communities who are harmed."
- "Mandatory supervision of offenders who pose a serious risk to public safety is essential both upon their return to the community and throughout the reentry process to promote victim and survivor safety."
- "It is important for offenders to receive just punishment. The quantity of time that convicted offenders serve under any form of correctional supervision, however, must be balanced with the quality of evidence-based assessment, treatment, programming, and supervision they receive that can change their criminal behavior and thinking and reduce the likelihood that they will commit future crimes. For many offenses and offenders, shorter prison terms are acceptable if the resulting cost savings are reinvested in evidence-based programs that reduce recidivism."

* The Pew Charitable Trusts and the Council of State Governments' Justice Center, "Sentencing, Corrections and Public Safety Guiding Principles for Crime Victims and Survivors in America," <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2012/03/27/guiding-principles-for-crime-victims>.

Justice Reinvestment Initiative

Justice reinvestment is a data-driven approach to improving public safety, holding offenders accountable, and controlling corrections costs. The Justice Reinvestment Initiative is supported by The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance. Intensive technical assistance is provided to selected states each year by Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, the Crime and Justice Institute, and other partners.

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