

# Gaps in the Criminal Justice System that Impact Crime Victims

CJPAC Victim Issues Subcommittee

June 2019

## CJPAC Victims Issues Subcommittee Membership

- Office of the Victim Advocate
- CT Alliance to End Sexual Violence
- CT Board of Pardons & Parole
- CT Coalition against Domestic Violence
- Mothers Against Drunk Driving
- Office of Policy & Management
- Office of Victim Services
- Survivors of Homicide
- United States Department of Justice
- The Victim Rights Center of Connecticut



## Court Based Victims Advocates

- 31 Court-Based Victim Services Advocates assisted approximately 14,000 new and ongoing victims during SFY 17/18.
- One Victim Services Advocate is assigned to the Hartford Juvenile Matters Court and one Victim Services Advocate is assigned to the New Haven Juvenile Matters Court one day per week.

### How it Harms Crime Victims

Not having a Victim Advocate can increase the trauma of the families as they lack a critical link between their needs and the Criminal Justice System.

This could also increase the possibility of their rights being violated.



## Victim Impact Statements

- Varies depending on the court and/or judge.
- Some are required to be submitted beforehand while other victims are allowed to speak freely at sentencing.
- Some statements are not allowed to directly address the defendant while other victims are allowed to do so.

### How it Harms Crime Victims

- Difficult to assist victims in writing their statement
- Victims have had to change their statement 20 minutes before sentencing because these rules were not known

## Who We Serve



There has been a 31% increase in survivors seeking The Alliance member center services between 2013 and 2017



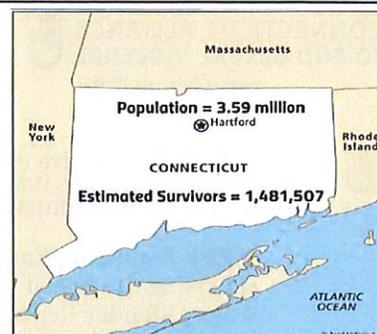
Members of underserved communities continue to be disproportionately served



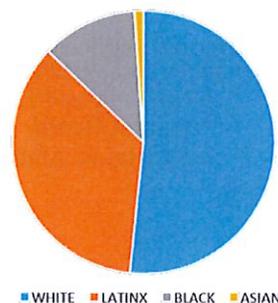
Sexual Assault is the most unreported crime; 63% of sexual assaults are not reported to the police



Many survivors have a mistrust of the justice system due to previous experience and interactions. This often results in survivors being labeled as “uncooperative”, however it is important to remember the traumatic effects that sexual assault and navigating the justice system can have on a survivor



Victims Seeking Services



## Plea Deals and Sentencing



Survivors of sexual assault often feel left out of decisions about plea bargains, and are often unsatisfied with the outcome of the plea deal

- ❖ Survivors are not being heard in the plea deal making process. Survivors have a right to be notified prior to a deal being made, however often are not made aware of the plea deal until they are contacted during the pre-sentence investigation process
- ❖ Victims should be an active part of the entire criminal justice process if they choose to be after we ensure they are given the option



Lack of consistency throughout the state concerning plea deals and sentences that often do not reflect the seriousness of the crime

- ❖ Offenders with similar offenses often have vastly different plea offers and sentences
- ❖ Offenders with sexual assault charges pleading down to non-sexual assault charges, that often do not require imposed sex offender supervision conditions, treatment, and/or sex offender registry



Lack of understanding of plea agreements and sentences

- ❖ Suspended sentences
- ❖ Risk Reduction Earned Credits (RREC)
- ❖ Expectations around Violation of Probation behavior.
- ❖ Supervision conditions

## Criminal Justice Reform

 There are many positive changes that are being made to the criminal justice system in Connecticut; however, it is important to consider the impact on survivors. Examples of previous proposed legislation impacting survivors of sexual violence include:

- ❖ Risk Reduction Earned Credits (RREC)
- ❖ Raising the Age of Youthful Offenders
- ❖ Sex Offender Registry reform proposals
- ❖ Crime Victim's Participatory Rights in a Violation of probation or conditional discharge hearing

 Additional services for survivors are needed, and it is important to coordinate services across providers and systems to meet the needs of victims and offenders.

- ❖ Housing and Employment
- ❖ Mental Health
- ❖ Substance Abuse

## Sexual Assault and Incarcerated Populations

1 in 10 youth in a juvenile facility report being sexually assaulted.

1 in 10 former state inmates report being sexually abused while in detention.

LGBTQ inmates are 2X more likely to be sexually abused in detention.

86% of female inmates report a history of sexual trauma prior to incarceration.

 Sexual assault affects the incarcerated population in various ways. Former inmates often face multiple challenges when returning to the community, however their history of trauma and victimization which is often linked to other challenges they are facing, is often overlooked. It is important to consider that victim services be offered as part of the re-entry process when necessary.



## Limited English Proficiency/ Language Access

Victims of domestic violence are impacted when various systems cannot adequately address Limited English Proficiency (LEP) or provide appropriate access to interpretation services:

- Misunderstanding victim needs and/or level of risk
- Failure to meet victim needs
- Delay in receiving effective, accurate services
- Misunderstanding case details
- Failure to appropriately hold offender accountable
- Creates uncertainty for victim that help is available and prevents them from seeking help in the future



## Limited English Proficiency/ Language Access

"Meaningful access" is defined in the US Department of Justice's own Language Access Plan as:

*"Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals."*

Needs include:

- Bilingual advocates, officers, court personnel, etc. vs. interpreters
- Translating documents into the victim's native language
- Additional training for systems to effectively work with and meet the needs of LEP victims



Connecticut Coalition Against Domestic Violence

## Domestic Violence Offender Program Standards

- In 2015, CCADV worked with the Judicial Branch and key stakeholders in the provision of domestic violence offender programming to develop the state's domestic violence offender program standards (Public Act 15-211)
- Requires Judicial Branch Court Support Services Division (CSSD) contracted services (with the exception of the Family Violence Education Program which is not a behavior modification program) to meet program standards
- Requires prosecutors to state in open court their reasons for a nolle and, if the reasons include consideration of the defendant's participation in a counseling or treatment program, a representation that such counseling or treatment program complies with the program standards



Connecticut Coalition Against Domestic Violence

## Domestic Violence Offender Program Standards

In 2018, the Domestic Violence Offender Program Standards Advisory Council contracted with CCSU to conduct an independent study to identify issues related to implementation of and adherence to the program standards.

The 2018 study conducted by CCSU resulted in the following recommendations:

- Create more service options for serious offenders arrested for less serious offenses
- Educate the courts on various program options (other than CSSD-contracted services) in specific geographic areas
- Offer more unique and flexible program options
- Establish a centralized database or case management system to house case-specific information for prosecutors
- Create a "court watch" program



## Crime Victim's Rights

(CT Constitution Article XXIX, 1996)

- The right to be treated with fairness and respect throughout the criminal justice process;
- The right to timely disposition of the case following arrest of the accused, provided no right of the accused is abridged;
- The right to be reasonably protected from the accused throughout the criminal justice process;
- The right to notification of court proceedings;
- The right to attend the trial and all other court proceedings the accused has the right to attend, unless such person is to testify and the court determines that such person's testimony would be materially affected if such person hears other testimony;
- The right to communicate with the prosecution;
- The right to object to or support any plea agreement entered into by the accused and the prosecution and to make a statement to the court prior to the acceptance by the court of the plea of guilty or nolo contendere by the accused;
- The right to make a statement to the court at sentencing;
- The right to restitution which shall be enforceable in the same manner as any other cause of action or as otherwise provided by law;
- The right to information about the arrest, conviction, sentence, imprisonment and release of the accused.



## Recent Reform Efforts Violate Crime Victims' Rights

**SB 504**, AAC THE SUSPENSION OF DELINQUENCY PROCEEDINGS FOR TREATMENT OR OTHER SERVICES IN MOTOR VEHICLE THEFT OR MISUSE CASES AND CONCERNING DETENTION OF JUVENILES

Would allow the court to order the suspension of the delinquency proceedings for up to one year, and ultimately dismiss the charges without hearing from the victim

**HB 7389**, AAC CONFIDENTIALITY IN THE CASE OF A DISCRETIONARY TRANSFER OF A JUVENILE'S CASE TO THE REGULAR CRIMINAL DOCKET AND IMPLEMENTING THE RECOMMENDATIONS OF THE JUVENILE JUSTICE POLICY AND OVERSIGHT COMMITTEE

Makes the proceedings of cases transferred from juvenile to adult court confidential. This would exclude crime victims entirely from the process, thereby violating all rights.



## No Enforcement When Rights are Violated

In *State v. Skipwith*, 165 A.3d 1211 (Conn. 2017), it was acknowledged that a victim's rights had been violated, but there was no appellate relief available to the victim per the language written in the Constitution:

The general assembly shall provide by law for the enforcement of this subsection. Nothing in this subsection or in any law enacted pursuant to this subsection shall be construed as creating a basis for vacating a conviction or ground for appellate relief in any criminal case.

The OVA recommends that enforcement mechanisms be established by

1. Eliminating the barring language via a Constitutional amendment, and
2. Enactment of enforcement legislation.

Since most violations are conducted by a governmental entity, the victims could be granted protection from violations without affecting the defendant's conviction.