

**Presentation by Anne Seymour**  
**South Carolina Sentencing Reform Commission Retreat**  
*June 26, 2009*  
**Charleston, SC**

I have been a national victim advocate for 26 years, with a great deal of my work focusing on victim services in corrections. I am also a member of the District of Columbia Sentencing Commission. From my personal experience, members of my family have been victims of both interpersonal violence and stranger crimes, and I have family members who are currently guests of the California Department of Corrections. I want to bring these perspectives – along with my work in six states with the Pew Public Safety Performance Project, and the findings from a Roundtable we held yesterday with victims, survivors and advocates – to your discussion today.

But first, it's critical to understand that South Carolina has *always* been a leader in crime victims' rights and services. You were the first state to implement a victim services program in probation and parole. You were the second state to create a victim assistance program in institutional corrections. And South Carolina was among the pioneering states to imbed victims' rights in your state constitution.

### **Funding**

Like most states, lack of funding is driving sentencing and correctional reform in South Carolina. There is simply not enough money for correctional agencies to do their jobs, and it's important to note that victim service programs are in the same boat. It's also important to remember that when compared to correctional spending, funding for victim services is not merely "a drop in the bucket" – it's "a drop in the ocean." So I ask you to keep this in mind as you make decisions related to justice funding for the future.

### **The Current Sentencing System in South Carolina**

The current sentencing scheme is very confusing to victims and likely to anyone trying to understand it. You would have to budget for funding for PhDs for victims to learn research, statistics and analysis to be able to interpret how decisions are made. Simplicity is important to victims, who need to know – for their own safety and peace of mind – when they can expect that the person who hurt them will be considered for release from incarceration, and what their role is in parole decisions.

It is also of interest to victims and survivors to have the data that Dr. Speir mentioned earlier, which can provide information that compares the original indictment data with the offenses that offenders plead to, and the actual crimes of conviction. These are often two very different types of offenses, and the cumulative data reflecting statewide trends would be useful information for victims and the public.

## **Victims' and Survivors' Most Important Needs and Concerns Relevant to Sentencing**

Yesterday, 15 victims, survivors and advocate met to address this issue. While the handout (*attachment*) highlights 15 key issues, our discussions can be summarized into five categories:

1. **Information:** Victims need information about the sentence and what it means in terms of the length of incarceration and any community supervision to follow; the status of their case, and the ongoing status of the offender; and about their specific rights under law that are specific to sentencing and corrections (including notification, restitution, protection and victim impact statements).
2. **Safety:** Many victims have *actual fears* resulting from the actions of the offender, while others have *perceived fears* that result from the ongoing and often intense trauma of victimization. By keeping victims informed of their rights and engaged in the processes related to their case and offender, and by offering them any protective measures they request, South Carolina can take a big step in identifying and addressing victims' safety concerns.
3. **Victim impact statements:** In a state where pre-sentence investigations are seldom utilized, victim impact statements take on extraordinary importance. They allow the victim to discuss what happened during and after the crime; its impact and how it affected them and their loved ones; and what they would like to see happen as a case outcome. We have to always remember that without victims reporting crimes and cooperating as witnesses, you would *not* have a criminal justice system to reform. And without PSIs, victim impact statements offer valuable information that can be useful in improving offender case management and rehabilitation, by providing information about what actually happened, how it affected the person(s) harmed, and the victim's recommendations for offender accountability.
4. **Enforcement of laws:** Yesterday, there was significant discussion among Roundtable participants about their feelings that many current laws on the books are *not* being adequately enforced. This addressed the context of violations of probation and parole, which they felt seldom led to revocation even in cases of serious violations; and in violations of victims' statutory and constitutional rights. Today, there are 33,000 victims' rights laws on the books, but many fall by the wayside through negligence, or through paying more attention to alleged and convicted offenders' rights, as opposed to those of their victims. I always quote my friend Nell Myers from Texas, whose daughter was murdered, who said: "Just about the only right crime victims have is to be present at the commission of the crime." That is clearly how some victims in South Carolina feel today.
5. **Accountability:** Roundtable participants strongly agreed that we need to do more – as a justice system and as a society – to hold offenders accountable for

their actions, to their victims, their communities, their own families and themselves.

## **Risk Assessment**

Another goal of the Roundtable yesterday was to identify whether or not victims and those who serve them understand how offenders are assessed for risk. This knowledge is very important, as key decisions relevant to victim and public safety are made based upon such assessments.

Similar to the other five states in which I have worked for Pew, it's clear that victims and advocates do *not* understand the risk assessment process, instruments, and decision-making.

This is an important area I would like to examine in greater depth on behalf of my work for Pew. Victims need to understand the risk assessment process so they understand how and why certain decisions are made. I would also like to examine why most general risk assessment tools contain *no questions* related to victim/offender relationship, access to past or potential victims, and/or victim safety concerns. While these three issues are addressed in the Static 99 tool for sex offenders, and domestic violence risk assessments (both currently utilized in South Carolina), they are nowhere to be found in standardized general offender risk assessments. Whatever work we accomplish on this important issue will be shared in the future with your Commission.

## **Conclusion**

I'd like to end today by going back to the beginning of your session, when Chief Justice Toll noted that South Carolina currently has a "hodgepodge approach to justice." It is this very approach that is confusing and frustrating to victims, and I want you to know that you have very strong support from South Carolina victims and survivors, and those who serve them, to change this approach. Justice Toll also said that South Carolina has "no clear goals on sentencing." When you consider this statement, I ask that you also consider including crime victims and their needs as a primary goal of the important work you do in the future.

Participants in yesterday's Roundtable unanimously want to continue its work to help your Commission, and to ensure that victims' voices remain an integral component of your efforts. I look forward to working with them, and with your Commission, as you move forward on sentencing reform in South Carolina.

Thank you very much.

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**South Carolina Sentencing Reform Commission**  
***Victim/Survivor and Advocate Roundtable***  
**June 25, 2009**

**KEY ISSUES AND CONCERNS**  
***(Summary Discussion)***

For crimes against children, no plea agreements should be allowed that lose the essence of being a crime against a child.

Reports should be published about the judiciary – who is the “most lenient:”

- Possibly by victim advocacy groups.
- Revise SC Ombudsman reports to include data about complaints by circuit.

When offenders sentenced to probation break the law, they are not always (seldom) revoked – they “let it slide.”

Crimes against children should require mandatory minimums, with no probation.

The costs of alternative sentencing need to recognize that there is a finite amount of funding that requires wise spending. SC can find cheaper ways to incarcerate offenders (Arizona cited as a model).

The sentence of “not guilty by reason of insanity” should be discontinued (perhaps consider “guilty and insane”), and victims’ rights should apply in all NGRI sentences.

If offenders get away with lenient sentences often enough, there is no accountability of the system, or of offenders to victims and communities.

Victims don’t know when the offender is getting out – victims should be informed at sentencing when the earliest possible release date is.

There is a lack of resources and support for offenders at reentry back into the community.

Consider Middle Court proposal by SC Attorney General Henry McMaster and eliminate parole

Reclassify violent versus non-violent crimes to a third classification of “crimes against a person” Examples:

- Eliminate the common law crime of ABHAN and create a series of new statutes dealing with CSCHAN, CSCWIK, Already have CDVHAN, CDVWIK, and an assault statute for the common bar brawl
- Reclassify all sex crimes as “crimes against a person”
- Reclassify low level drug offenses as non-violent
- Reclassify Stalking to “crimes against a person”
- Reclassify burglary 3
- Reclassify murder/injury bombs to “crimes against a person”

- Reclassify Vulnerable adult statues to “crime against a person”
- Reclassify lewd act to “crimes against a person”
- And several more