

**DATE:** December 9, 2021  
**TO:** Nebraska Criminal Justice Reinvestment Working Group  
**FROM:** Cortney Fisher, JD, PhD  
Consultant for CJJ, Victim Survivor Integration for Criminal Justice Services  
**SUBJECT:** Nebraska Victim Service Provider and Victim Survivor Priorities

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The following is a summary report describing the strengths, challenges, and needs of the victim service provider and victim survivor community throughout the State of Nebraska.

Pursuant to Nebraska State Constitution, Article I, §28 and Chapter 81, Article 18(B), §81-1843, “it is the intent of the Legislature to provide ways of improving the attitudes of victims and witnesses toward the criminal justice system and to provide for faster and more complete recovery by the victim from the effects of the crime...” Further rights in Article 18 provide for a state-funded victim and witness assistance fund to be administered by the Nebraska Crime Commission,<sup>1</sup> notification to the victim through a standard pamphlet, developed by the Nebraska Crime Commission,<sup>2</sup> the establishment of victim and witness centers throughout Nebraska,<sup>3</sup> the right to examine information that is a matter of public record and collected by criminal justice agencies in the investigation of the case in which they were a victim,<sup>4</sup> the right to receive notice of any scheduled court events from the designated county attorney,<sup>5</sup> the right to be present at the trial of the defendant,<sup>6</sup> the right to deliver a victim impact statement at a sentencing proceeding,<sup>7</sup> and the right to submit a written statement for consideration at any conditional release proceedings.<sup>8</sup> The rights granted to Nebraska’s crime victims are well-established in the Nebraska Constitution and subsequent statutes. As with many other states, however, crime victims report inconsistent application of the laws throughout the state. These concerns of the crime victim survivor and victim service provider community were expressed by the participants as a general stance of apathy and invisibility, rather than as a detailed description of the individual rights that are inconsistently applied.

The following is a summary report of the findings from a series of interviews with victim service providers, conversations with victim survivors, and one Roundtable, held on November 16, 2021 in Lincoln, Nebraska.

### **Process**

Outreach began in mid-September, 2021, when the Nebraska Crime Commission sent a list of Victims of Crime Act (VOCA) grantees. Sixty-three (63) victim service providers were on the list.

On September 13, 2021, initial email requests for interviews were sent to twenty-one (21) victim service providers. Of those, 5 provide service to domestic and sexual violence victims, 4 provide service to victims of child abuse and neglect, 8 are agency-based service providers (1 in corrections, 2 in prosecution, 2 in policing, and 3 in other agencies), 2 are legal service providers for victim survivors, and 11 are community-based service providers. A special effort was made to connect with victim survivors in all four corners of the State of Nebraska, as well as providers who explicitly served marginalized populations of victim survivors.

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<sup>1</sup> §18-1844

<sup>2</sup> §18-1844.01

<sup>3</sup> §18-1845-1847

<sup>4</sup> §18-1848

<sup>5</sup> §18-1848

<sup>6</sup> §18-1848

<sup>7</sup> §18-1848

<sup>8</sup> §18-1848

Through initial conversations with victim service providers, connections were made to an additional twenty (20) victim service providers and six (6) victim survivors. From September 27 through November 5, 2021, brief conversations were held with twenty-two (22) victim service providers and one (1) self-identified victim survivor.

Invitations for participation in the Roundtable were sent to thirty-nine (39) victim service providers and victim survivors. Twenty-five invitees (25) RSVP'd that they would be present at the Roundtable. Six (6) invitees declined due to scheduling. Twenty-seven (27) invitees attended the Roundtable on November 16, 2021.

	Email Introduction Sent	Initial Interview	Invitation to Roundtable	Attendance at Roundtable
Domestic/sexual violence	13	5	13	8
Child abuse and neglect	7	4	6	5
Agency-based (serves all)	13	6	10	3
Legal service	3	3	2	2
Marginalized community	8	3	6	3
Victim survivor	6	1	4	4
Campus or School-based	4	1	3	1
NE Criminal Justice Reinvestment Working Group	0	0	0	1
	<b>54</b>	<b>23</b>	<b>44</b>	<b>27</b>

### Initial Themes

The interviews with victim service providers and victim survivors that preceded the Roundtable were enlightening, helping to better understand and conceptualize the context of services for victim survivors in the State of Nebraska. In general, the conversations fell into two general themes:

- (1) **Need for outcomes that reflect the needs of the victims.** The victim service provider community in Nebraska is, similar to victim service provider communities in other states, grappling with a changing understanding of what “punishment,” “accountability,” “harm,” and “restoration” mean for victim survivors. Victim survivors and victim service providers are moving away from the traditional context of “punishment” and searching for offender accountability that addresses the problems that are caused by crime, while honoring the lived and traumatic experiences of the victim survivors. The traditional “rights” provided to victims aren’t serving to ensure that victim survivors are getting what they need from the criminal justice system. Given that, what does it look like for a victim survivor to get what they need from the criminal justice system?
- (2) **Interest in genuine inclusion.** Victim service providers and victim survivors are used to being an afterthought of the criminal justice system. Criminal justice officials at all stages of the process tend to give victim survivors the bare minimum of rights and services to ensure that victims are included in the process to the extent that is required by law. Victim service providers and victim survivors are looking for a system that actually includes them, their opinions, and their needs when a crime is reported and processed by the system.

### Roundtable Conversation

The Roundtable Conversation was held on November 16, 2021 from 10:00 am to 12:00 pm in the Gary Lacey Training Center in Lincoln, Nebraska. Twenty-seven (27) victim service providers and victim survivors attended and participated in the Roundtable. A list of participants is attached as Appendix A.

The Roundtable began with introductions and a summary report of CJI's findings on the state of correctional services in Nebraska. Following the presentation, the Roundtable discussion by the following questions:

- *What changes can be made to reduce recidivism across the state?*
- *How can the criminal justice system be more responsive to the needs of the victim and survivor community?*
  - *Should these responses be specific to types of crime and/or cultural identities?*
- *What is the system doing now that is helping restore victim survivors and what services should be expanded upon?*
- *What can the system do better that could help ensure that victim survivors get the healing and restoration that they need?*

Many of the same themes emerged at the Roundtable as had been discussed in the brief interviews. **Victim service providers and victim survivors are advocating for reinvestment into policy and programming that addresses the root causes of crime, reflects a true understanding of the dynamics of the crime, and is responsive to the root causes, the true nature of the crime, and the tangible needs of the victim that emerge from the crime.**

The following are the **five (5) priorities** and suggestions on how to accomplish them that emerged from the Roundtable.

**(1) Reformation of the correctional system so that sentences are “meaningful,” trauma- informed, and address individuals’ criminogenic needs.**

Participants in the Roundtable spoke at length about the need for trauma-specific mental health care, abuser intervention programming, restorative justice programming, education, vocational readiness, and other treatment programs in correctional facilities. *The average incarcerated person’s first contact with the criminal justice system is when that incarcerated person is a juvenile **victim of crime** and comes to the attention of the system as a **child witness to domestic violence or a victim of child abuse and/or neglect**. Their early trauma becomes an untreated adverse childhood experience.*

Data provided by the Community Justice Center demonstrated that the average Adverse Childhood Experience (ACE) score for incarcerated men in Nebraska is a 5 and the average ACE score for incarcerated women in Nebraska is a 6. Thirty (30) percent of incarcerated women and 19 percent of incarcerated men have an ACE score of 8, 9, or 10.<sup>9</sup> These average ACE scores imply that people who are incarcerated for perpetrating crime are also the same people who have experienced several traumas (adverse childhood experiences) as a child. To reduce recidivism, it is imperative that the system treat the underlying causes of a person’s criminogenic behavior. Incarcerating a person without providing the person with a meaningful correctional experience creates an increased risk when the person is released. There is an increased risk

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<sup>9</sup> An Adverse Childhood Experience (ACE) score is a simple way to measure trauma that a person has experienced in their life. The ACE score is a trauma health score, with each point translating into an incident of trauma or childhood traumatic stress that is correlated with increases in a person’s chance of developing chronic disease, as well as social and emotional problems that translate into increases in violent behavior. After a person reaches an ACE score of 4, their risk of developing serious disease or perpetrating violence increases substantially. A person with an ACE score over 4 has a 200% increased risk of perpetrating domestic violence, 200% increased risk of becoming a victim of sexual assault, a 200% increased risk of drug abuse, and a 250% risk of engaging in criminal behavior. In a population 2,466 people incarcerated in Nebraska, the mean ACE score is a 5.7, with 21% (combined men and women) having an ACE score of 8, 9, or 10.

for the previous victims of the reentering person and an increased risk for the reentering person engaging in new crime, harming new victims and new communities.

**Additional ideas of how the above priority can be accomplished:**

- Change the focus of the language used with people who have committed crime when they are incarcerated. Instead of engaging them in conversations about what crime they committed, engage them in conversations about **what harm they caused** and how to remedy their harm;
- Provide **trauma-specific mental health treatment** that begins in the facility and continues after the individual is released. People living with mental illness, whether caused by trauma or caused by organic processes, are living in prison. It is essential that these mental health issues are treated both while in a facility and when they are in the community;
- Provide **restorative justice** programming that enables the incarcerated person to see and understand the harm that they caused;
- Provide access to **substance abuse treatment** that uses the correctional system as a therapeutic treatment community;
- Engage local domestic violence programs in evidence-based **abuser/batterer intervention programming** that addresses the dynamics of intimate partner violence while a person is incarcerated and continues when the person returns to the community;
- Offer **educational and vocational training** that helps a reentering person find an adequate job released from incarceration;
- Ensure full compliance in each correctional facility (state prisons and county jails) with the **Prison Rape Elimination Act (PREA)**. People who are further traumatized by sexual violence while incarcerated create an increased risk of recidivism when they return to the community; and
- Utilize evidence-based **sex offender treatment** programs for those people who demonstrate that sexually-based offending is among their criminogenic needs.

With respect to recommendations out of the Working Group that involve programming, the Roundtable participants suggest the consideration of programs that are evidence-based, have been evaluated, and will be rigorously evaluated once implemented in the Nebraska Department of Correctional Services and county jails.

**(2) Creation of a Nebraska statewide victim services infrastructure.**

Participants at the Roundtable and in pre-Roundtable interviews spoke at length about the inconsistent availability of and application of services for victims around the state of Nebraska. Outside of domestic, sexual, and child abuse, services for victims of crime are scarce and often non-existent in rural areas of Nebraska. Victims of robbery or burglary rarely are provided any assistance and services in rural communities. Even within the continuums of service for victims of domestic, sexual, and child abuse that exist in counties and communities throughout Nebraska, the availability of trauma-specific mental health services, evidence-based law enforcement interventions for victims of crime, and evidence-based treatment programs for individuals incarcerated for domestic violence, sexually-based offenses, and child abuse are rare and underfunded. Of the 93 counties in Nebraska, only 19 of the counties have personnel within the county that are dedicated to

ensuring that victims of crime receive the services and rights to which they are entitled. As a result, victims of crime have very different experiences in different communities, creating little understanding or predictability in the criminal justice process, and exacerbating the trauma caused by the victimization. One participant at the Roundtable referred to this need as the need for an “infrastructure” that will allow the system to respond holistically to the harm that crime has caused for the victim.

**Potential policy considerations to accomplish the above priority:**

- Establish at least one person in every county dedicated to ensuring that victims of any crime are afforded their basic rights and have access to services available. Each position should work collaboratively with the domestic, sexual, and child abuse services that are operational within the county and should collaborate actively with the Nebraska Victim Advocacy Program and the Crime Victims Reparations Program that are managed by the Nebraska Crime Commission.

**(3) Education, training, standards, and accountability for criminal justice officials who come into contact with victims and justice involved individuals on the dynamics and impact of trauma (including historical trauma), abuse, and neglect.**

Participants in the Roundtable and in pre-Roundtable interviews spoke at length about the need for education, training, standards, and accountability for criminal justice officials at all stages of the criminal justice system. Victims of crime are victims of trauma and criminal justice officials need to know, understand and appreciate the dynamics of trauma and the way that trauma manifests in victim survivors who are trying to navigate the criminal justice system. Domestic violence, sexual assault, and child abuse and neglect are complicated and interconnected manifestations of power, control, previous trauma, and violence. To adequately address the needs of victim survivors, criminal justice officials have to know, understand, and appreciate the root causes of these types of violence and the ways in which victim survivors manifest the trauma of these types of violence. Victim survivors may not demonstrate anger, revulsion, and hatred for the person who harmed them. Instead, the trauma and the dynamics of the crime may drive the victim survivor to plead for leniency and ask criminal justice officials to ignore the harm caused. A lack of understanding of these dynamics may lead directly to decisions that have an unintentionally adverse impact on victims and survivors of crime. Examples of these decisions include:

- Custody orders in cases where domestic violence is present that result in children being returned to an abusive or non-protective parent;
- Law enforcement and prosecutorial decision making in cases that fail to account for barriers and challenges faced by immigrant victim survivors of crime;
- Law enforcement and prosecutorial decision making that criminalizes the effect of a person’s victimization, e.g., prosecuting youth for commercial sexual exploitation, truancy, or running away from an abusive home;
- Protective order decision making that fails to account for the lethality present in particular instances of domestic violence;
- Failure to enforce legally granted protective and custody orders from Tribal Courts, leading to increased lethality for intimate partners and children of domestic violence;
  - Law enforcement and prosecutorial decision making which criminalizes the victim when

they contact law enforcement for engaging in protective or responsive violence against an abusive parent or partner; and

- Decisions regarding bail, charging, and sentencing that ignore the dynamics of violence committed within a family, leading to recidivism for the offender and a higher risk of lethality for the children and the partner.

- **Additional considerations to effectuate the above priority:**

- Convene a statewide task force to establish training standards and an accountability process for police, prosecutors, correctional officers, judges, and court clerks that includes training on the dynamics and impact of trauma (including historical trauma), abuse, neglect, the rights of victims, and the needs of victims. Special emphasis on the rights and needs of victims living on Tribal Lands and governed by Tribal Courts, as well as the barriers faced by immigrant survivors in working with and cooperating with the criminal justice system.
- Ensure that victim service providers and victim survivors are included on existing committees and commissions that are established by the Nebraska Crime Commission and/or staffed by the Nebraska Crime Commission that impact victim services and the participation of victims in the criminal justice system.

- (4) **Reformation of the civil protective system for victims of intimate partner violence and child abuse.** In conjunction with the criminal justice system, the civil protective system for victims of intimate partner violence and child abuse is a critical and essential component to keeping victims of crime safe from a person who has done them harm. Currently, several areas of the civil protective system need improvement to ensure that victims of crime who utilize the system are kept as safe as possible.

Reform protective and no contact orders. The current protective order and no contact order infrastructure is driven by criminal justice officials with little or no education about the root causes of domestic and child abuse, and the danger to victim survivors when they engage in formal help-seeking behaviors. As a result, the protections that are granted in protective and no contact orders are often insufficient to meet the needs of the victims of child abuse and intimate partner violence.

**Suggestions to accomplish the fourth priority identified include:**

- The conditions of protective and no contact orders should be driven by an evidence-based assessment of the victim's danger and the respondent's needs. Proposals to ensure that the orders are driven by such an assessment include:
  - (a) Protective order conditions that are driven by a lethality assessment conducted on scene or in-court by trained law enforcement or court personnel;
  - (b) Inclusion of child custody provisions within a protective or no contact order;
  - (c) Filing protective and no contact orders promptly in all relevant systems to prevent the respondent from purchasing firearms while the order is in effect; and
  - (d) Including and enforcing federal and state firearms prohibitions when protective and no contact orders are issued.

Reform of custody provisions when a parent is convicted of domestic and/or child abuse. When a parent is convicted of domestic and/or child abuse, and that parent is incarcerated for those offenses, the court often fails to enter custody orders for the minor children at the time of the offense. As a result of that failure, parents who are released from incarceration can gain immediate custody and/or visitation of their children, thereby creating a risk of further injury, harm, and abuse for the child and partner of the formerly incarcerated parent.

**Options to consider to address the above priority:**

- Require a Bridge Order when the court sustains a finding of intimate partner violence and/or child abuse that requires an abusive parent or partner to be incarcerated.<sup>10</sup> Bridge orders are a mechanism to transfer a case from juvenile to District court once a case of child abuse or neglect is fully adjudicated by the juvenile court. Bridge orders establish custody and visitation for the subject child both while the offending parent is incarcerated and when the parent is released from incarceration.

Full faith and credit for protective and custody orders granted by Tribal Courts. The Full Faith and Credit (FFC) provision of the Violence Against Women Act (VAWA) requires that protection orders issued in one jurisdiction must be recognized and enforced in other jurisdictions.<sup>11</sup> Roundtable and interview participants discussed persistent issues in having protective and custody orders that are granted by Tribal Courts honored and enforced by neighboring counties. The FFC provision of VAWA guarantees victims of these Tribal Court-issued orders to have the orders honored by any county in Nebraska.

**Suggestion to effectuate this priority:**

- Training standards for all law enforcement, prosecutors, and court personnel should include information about the FFC provisions of VAWA.

**(5) Funding for prevention programming.**

Funding for primary prevention of crime in Nebraska is very low, and is not an allowable programmatic cost through many of the funding sources that currently sustain the victim services infrastructure in Nebraska, e.g., Victims of Crime Act funding (VOCA) and Violence Against Women Act (VAWA)<sup>12</sup> funding. Decades of research has demonstrated that when primary prevention programming is integrated into schools, hospitals, community organizations, and youth development organizations, young people are less likely to engage in a range of anti-social behaviors. In addition, using evidence-based prevention programming to lessen the prevalence of child abuse, has a positive impact on preventing domestic and sexual violence in the future.

**Potential policy consideration to address the above priority:**

- Create a fund through the legislative process that enables local victim service providers, local schools, and local medical providers to apply for grants to integrate primary prevention programming into elementary, middle, and high-schools, colleges and universities, local youth groups and faith-based organizations, and medical facilities.<sup>13</sup>

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<sup>10</sup> Bridge orders are currently governed by §43-246.02. <https://nebraskalegisature.gov/laws/statutes.php?statute=43-246.02>

<sup>11</sup> See National Center on Protection Orders and Full Faith and Credit, <https://www.bwjp.org/our-work/projects/protection-orders.html>

<sup>12</sup> While the Victims of Crime Act funding allows no funding be spent on primary prevention, the Violence Against Women Act funding allows for 10% of the total award to be spent on primary prevention programming

<sup>13</sup> Because of the challenges that the Crime Commission currently faces in the processing of grants, this recommendation would include additional staff and infrastructure for the Crime Commission to process and manage this grant money.

## Background Interviews

As stated previously, the conversation at the Roundtable on November 16 was enhanced by the brief interviews conducted with twenty-three (23) victim survivors and victim service providers in the six (6) weeks leading up to the Roundtable. These interviews provided critical background and context to the landscape of victim services in the State of Nebraska. Those interviews revealed the following:

### **What do you see as the strengths of Nebraska's victim service community?**

- The coordination of services among providers in the same geographic area is excellent. Victim service providers know who the other providers in the area are and are willing to refer clients, when appropriate.
- Victim service providers in Nebraska maintain a positive mindset about working with victim survivors, despite limited resources.
- Coordination among service providers for victims and survivors of domestic and sexual violence is excellent. The Nebraska Coalition to End Sexual and Domestic Violence does a great job of promoting the interests of victim survivors at the system-level.
- There is a direct victim assistance fund at the state level that is able to cover expenses that are not covered by Crime Victims Reparations.

### **What do you see as the challenges or barriers facing Nebraska's victim service community?**

- Victim service providers and victim survivors are concerned about the lack of prioritization, funding, and focus on the needs of victim survivors at the local and state government level.
  - There is a lack of options for victim survivors who want sentences to be meaningful and successful at reducing recidivism.
  - Victim survivors are often not included by police agencies and county attorneys in the decisions about their cases and, as a result, are often denied their right to provide input.
  - The Crime Victims Reparation Fund takes a long time for processing and payment of claims, and there is often not enough money to pay claims.
  - The Nebraska Crime Commission does not seem to have enough staff to manage and process grants, leading to massive delays in grant awards.
  - The Nebraska Crime Commission does not prioritize the work of victim service providers when creating rules and regulations for the management of the grants. The application and management process is often too burdensome for providers who are limited in their administrative capacity.
  - Competitive funding structure limits the amount of collaboration among victim service providers.
  - A very small percentage of counties have dedicated personnel working in the County on behalf of victims and victim survivors.
- Victim service providers and victim survivors are burdened by the lack of trauma-specific mental health services and wraparound service professionals, particularly in rural and remote areas of the State.



**If you had all the money you needed, what would you change, expand, or implement in Nebraska to help victims and survivors of crime?**

- Create programs that take into account the victim's needs and interests when sentencing individuals. Victims may have needs and wants that are different from the needs and interest of the state actors.
  - This may include the expansion of restorative justice programs, particularly for youth offenders.
  - This may include education of judges on the dynamics of domestic violence and the needs of victim survivors in domestic violence cases.
  - This may include the expansion of drug treatment services, mental health services, and training of criminal justice officials on the impact of trauma.
  - This may include convening a focus group that includes victim survivors to help guide the development of any new sentencing structures.
- Create a victim-witness office to serve victims of all crime in every county of the State. Currently there are only 19 victim-witness programs and there are 93 counties
  - Ensure that underserved populations, and victim survivors of crimes other than domestic violence, sexual violence, and child abuse have a place that is able to help them anywhere in the state.
- Expand funds for Reparations in the State. Victim survivors are often in need of emergency funds and the reparations funds that exist are often low on funds or difficult to access.
- Dedicate funding for underserved areas of the state, in particular Native populations and how those populations intersect with the county criminal justice agencies.

**Nebraska Justice Reinvestment Roundtable Discussion Agenda & Questions  
Tuesday, November 16<sup>th</sup> 10 am – 12:00 pm**

**APPENDIX A  
ATTENDEE LIST**

<b>NAME</b>	<b>ORGANIZATION</b>	<b>POSITION</b>	<b>AREA(S) SERVED</b>
Kat Bauer	Sandhills Crisis Intervention Program	Executive Director	Arthur, Deuel, Garden, Grant, Keither, Perkins Counties
Marlina Bowdery	Victim Survivor		Lancaster County
John Brazda	Douglas County Attorney's Office	Victim Assistance Unit Director	Douglas County
Amy Busch	Victim Survivor		
Kim Carpenter	Nebraska Coalition to End Sexual and Domestic Violence	Service Enhancement Director	Statewide
Maja Cartwright	Small Voices	Program Director	Lincoln/Lancaster County
Matthew Cleveland, Jr.	Omaha Tribe	Social Services Program	Omaha Tribal Lands
Betty Cline	Victim Survivor		Sarpy County
Rick Cline	Victim Survivor		Sarpy County
Micky Devitt	Immigrant Legal Center	Attorney	Statewide
Julie Geise	NE Crime Commission	Victim Advocacy Coordinator	Statewide

Chelsea Grant	Omaha Tribe	Domestic Violence Program	Omaha Tribal Lands
Charity Harlan	Omaha Tribe	Domestic Violence Program	Omaha Tribal Lands
Carmen Hinman	Hope Crisis Center	Executive Director	Fillmore, Gage, Jefferson, Saline, Seward, Thayer, York Counties
Jim Jones	Community Justice Center	Executive Director	Statewide
Corrie Kielty	NE CASA Association	Executive Director	Statewide
Steve Lathrop	Nebraska Criminal Justice Reinvestment Working Group	State Senator	Omaha
Christon MacTaggart	Omaha Women's Fund	Freedom from Violence Project Director	Omaha/Douglas County
Paige Piper	Small Voices	Executive Director	Lincoln/Lancaster County
Dr. Rachael Robinson-Keiling	Hastings College	Professor	Hastings College
Dawn Rockey	CASA of Lancaster	Executive Director	Lincoln/Lancaster County
Shannon Seim	NE State Bar Association/ Volunteer Lawyers' Project	EVOLVES Program Director	Statewide
Monica Shambaugh	CAPstone	Executive Director	Panhandle/Western NE
Jo Bair Springer	EnCourage	Executive Director	Hastings
Natasha Stogdill	Heartland Family Service	Lead Trafficking Advocate	Omaha/Douglas County

Ivy Svoboda	NE Alliance of Child Advocacy Centers	Executive Director	Statewide
Hilary Wasserburger	DOVES Program	Executive Director	Panhandle/Scotts Bluff, Cheyenne, Morrill, Kimball, Banner, Box Butte, Dawes, Sheridan, Sioux Counties