

Webinar VRA 101 November 2022

Fri, Jan 13, 2023 3:11PM 49:26

SUMMARY KEYWORDS

victim, victims, district attorney's office, vra, probation, law enforcement, informed, case, court, defendant, crime, released, complaint, criminal justice agencies, agency, request, rights act, notification, sentencing, notify

SPEAKERS

Kim Branham

Hello, my name is Kim Branham and I am the victim rights act specialist in the Office for Victims programs.

This is Colorado Victim Rights Act 101.

To start off the training, we're talking, we're going to talk a little bit about the history of the Victim Rights Act. It started back in 1982, when President Reagan had an assassination attempt made upon his life, as he was going through our criminal justice system, he realized that as a victim, he didn't have very many rights. And he felt as if he was a president and wasn't receiving many rights and information regarding his case as a victim. What are other victims not receiving from our system.

So what he did is he created a task force and asked for the taskforce to go out and talk to victims of crime, ask them what they liked about the system, what they didn't like about the system, and what they'd like to see change. When that task force came back and reported to the president, they'd reported that we are we're at a national disgrace on how our victims were being treated. And had they had the opportunity to report the crime, they never would have done it, again, because of the way that they were treated by the system, and not necessarily by the perpetrator. So that got the ball rolling for our Victim Rights Act.

Today, we have 37 states that have a constitutional amendment afforded to them. Colorado, we passed ours on November 3 of 1992. And it passed with over 80% of the votes. It went into effect on January 14 of 1993. In our Colorado constitution, we have in there that victims have that right to be informed, to be heard when relevant, and to be present. These are three things that that taskforce had heard from victims and reported to the President said that victims felt that they weren't informed on their case, they weren't allowed to be present in that courtroom, and they weren't allowed to

address the court or be heard during that court process. So that is why we have added these into our Colorado Constitution because we feel that those are what is most important and what the victims really truly want and need from our system. In our legislative declaration, I always read the last part where it says victims and witnesses to crimes are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protection afforded to criminal defendants.

The reason why I like to read that out loud and read it verbatim is because I believe this is our goal, saying that our victims are going to be treated just as good as our defendants, if not better, and it is something that we are constantly working towards, to achieve. Our core Victim Rights state that our victim shall be treated with fairness, respect and dignity. We look at a few different things from our victim rights act subcommittee, when we're reviewing a victim rights that complaint under this fairness, respect to dignity.

One of those is a pattern of unresponsiveness meaning are we responding to victims? Are we answering their questions? Are we calling them back? Are we returning their emails, and all of this is in a timely manner, we want to make sure that our victims don't have to continually hunt for answers and try to locate people to help them out. That is part of that fairness, respect and dignity. Also, we need to consider the tone that we're using when we speak to victims and understanding what they're going through at that time. And how maybe a very traumatic situation for them to be in slowing down to try to listen and understand what they're going through and maybe listening to here, what services and resources that they need. And not just assuming that we know what services they might need. So taking that into consideration. The other part of our victim rights act subcommittee when we are reviewing these complaints is we will look to see was this an egregious act? Or are we just intentionally rude and inappropriate to the victim? Those are just a couple of things that we will look at when we were reviewing those complaints but is not all encompassing. The other part of our core Victim Rights is, again that informed President heard piece which we're going to talk a lot about throughout today's training. The agencies that have responsibilities underneath the Victim Rights Act or law enforcement, local jail facilities, district attorneys, judges and courts, probation Community Corrections Department of Youth Services, the Department of Corrections and statements or health hospitals, as you will see on the slide probation is considered an opt in. We are very fortunate in our state that all of our criminal justice agencies, with the exception of probation, provide services and information to victims automatically without them having to ask for it. Unfortunately, probation is an opt in agency though, so those victims will need to opt in to receive those services. And part of this is because of the financial impact that it takes and puts onto probation to be able to provide that service to all of our victims. But hopefully at some point during our time that probation will also be considered an opt out agency like the rest of our criminal justice agencies instead of an opt in. In the VRA. We have the definition of victim and has been broken down into three sections. The first section is the victim has to be a natural person. So it's not a corporation, they're considered a victim unless the person is accountable for the crime or the crime arising from the same conduct or plan. The most simplest example that I can give for this is your typical bar fight, where you have two individuals who are both in a bar, they both assault each other, they're both arrested and charged with the assault, neither of them would be considered victims. Because they were both, they were both participating in a crime that arise from the same conduct. So because they were both arrested, they were both charged, neither of them are considered victims underneath our VRA.

The third part of our definition is if a person is deceased. or incapacitated. one or more people may

represent the interest of the victim. And that could be multiple individuals. So it's not just one or two people that could be that representative. For example, you may have a homicide case where the victim's family has, the victim has three or four siblings, they have a surviving mother and father, all of them would be considered victims underneath our definition. So it's not just one specific person that it may include more than one individual who our criminal justice agencies are going to have to communicate with and provide information and notification to if a child victim turns 18. During the course of the case, they can request that all information be provided directly to them. They can also ask that it go to their parent or legal guardian who has been previously going to up until this point, and it can go directly to them as well. So it is up to that child once they turn 18. In our definition, there may be some examples that we have, where we've got to do all the rest, and how our definition of victim kind of defines that and looks at that. So what we want to look at is you know, many times their law enforcement is on scene for a domestic violence case, if they are unseen and both parties have marks on them or bruises or information to and evidence to include the both were engaged in somewhat of a fight and the law enforcement cannot determine who the primary aggressor is. Law enforcement may arrest both parties. At that point, when law enforcement arrest both parties, neither of them are considered victims underneath the VRA because they are accountable for the same crime or the crime arising from the same conduct or plan. If at any point in time, the district attorney's office though, determines that we have a primary aggressor and we have a true victim, the district attorney's office can't dismiss the case against the victim and they can charge the defendant only at that point, one that once the district attorney's office has made that determination, then victim rights would kick in for that victim and they would start to receive information along the way. Not all crimes are covered underneath the Victim Rights Act. I'm going to there's a couple slides here. I'm going to talk about the highlights from the last couple of years because we've had some new crimes that have been added. The first one I want to talk about is harassment. That is bias motivated. This one went into effect on June 28 2021. This is not harassment by itself. So in our VRA, we do not have the crime of harassment, unless it is harassment that is bias motivated, or if it is harassment with one of our other VRA crimes. So for example, you may see harassment, domestic violence on there. And anything that is domestic violence is a VRA crime. So we've had harassment that is bias motivated, that is new. Another new crime that we've added in 2022 is second degree burglary of a dwelling that went into effect on March 1 2022. And when we talk about dwelling, dwelling is anything that's any place that somebody could be living in, is intended for somebody to live in, or are living in at that time. So the easiest way to think about it is was somebody living there when that place was burglarized, okay, so this could include a homeless camp, it could include an inmate cell, it could include a detached garage, it could also include a property that is being a model home, maybe that is being remodeled or modeled. And nobody is living in it at the time, but it is intended for somebody to live in. So all of those are some examples of second degree burglary of a dwelling. Another thing that we have added in 2021 is retaliation against elected official. The Victim Rights Act, we opened it up and made some changes to it in 2022. And with those changes, we added two other crimes. One of those crimes is first degree arson, and the second is invasion of privacy. Both of these new crimes went into effect on May 6 of 2022.

Know when does the reporting party meet the status of victim when law enforcement opens a criminal investigation? into one of the VRA crimes and the person will remain a victim unless the case is closed or it's unfounded. The charges are declined and the victim is informed that the charges have been declined, or the defendant is acquitted and again, the victim needs to be informed that the defendant was acquitted. Please note that at any point in time, the victim may still be eligible for crime victim compensation. So we need to ensure that the victims are still receiving those Crime Victim Compensation forms either through the district attorney's office, or through law enforcement at that time in order to get them the victims the proper information to apply for Victim Compensation.

After law enforcement is on scene with the victim, they need to provide them information regarding their victim rights and other services within their community. This information needs to be provided to them in writing. And it's to let the victim know that these services are available to them, it is not a guarantee that they're going to receive the services. So each law enforcement agency will have a brochure. And within each of their brochures, they're going to have the information that's listed in this slide. And again, it's to let the victim know that this is available to them. So they need to have a copy of their Victim Rights Act. So how to and how to file a complaint if they feel their rights have been violated. So my contact information and the Division of Criminal Justice Information will be in there on how to file that complaint. Each criminal each law enforcement agency should have their own brochure, because in each brochure, we're going to have the availability of services and resources. And we want to make sure that each agency has their own because the services that are going to be available in southern Colorado are not going to be the same services that would be available to a victim in northern Colorado. So we want to make sure that each agency has their own brochures. So those resources are something that would be available and readily available to that victim. The availability for compensation benefits. So again, we're going to have the contact information probably to the district attorney's office in those brochures. So the victim can apply for Victim Compensation, the availability for protection orders, and how to apply for a protection order how to modify a protection order. So again, the district attorney's office will be included for the victim and how to do that. And then the availability of the police reports. So victims have the ability to request police reports and documents from the police department on their investigation. However, it is at the discretion of law enforcement, whether they choose to release those documents to the victim or not. The one report that the victim is guaranteed to receive a free copy of is a request for the initial incident report. And when we talk about it being an unredacted copy, the victim can request this copy again, it's it's at the discretion of law enforcement as to when that copy of the report is released to them. But once they receive it, it needs to be unredacted. And it is a free copy the victim of a very crime does not have to pay for it. So when we talk about unredacted, we want to make sure that the victim's name, offender's name, the date of the crime, the charges, and a summary of the incident are all unredacted because what we were seeing is that victims were requesting a copy of a copy of this initial incident report to provide for a protection order to their employers and maybe to their insurance company for insurance purposes. And what we were seeing is that they would get these copies that were so redacted that nobody even could recognize that this was even the victim and that victims were not receiving the services that they need.

So we have put into our VRA that they get an unredacted copy, there are still still certain things that in that initial incident report that needs to be redacted. And that is the name of other unrelated victims. Any personal identifying information, social security numbers, driver's license, phone numbers, emails, physical address, and then any information to other parties or other witnesses will be redacted as well. Law enforcement has critical stage notifications that they have to provide to victims. One of those is the case report number. So usually on that brochure that law enforcement is handing over to victims, they will put a case report number on there, or they will put their contact information or an officer's name that the victim can follow up through. If they have additional questions. Once law enforcement is no longer on scene. They will also include the address for the district attorney's office because typically that is where a case is going to go to next. And so a victim needs to be able to find out what the next steps are. Victims will be informed when the suspect is taken into custody and what that jail notification process looks like. So what will happen is law enforcement will arrest the suspect and take them into jail. The victim has the right to be notified prior to the suspect being released from custody. So that is that jail notification process. So what is that going to look like? How the victim will be informed what their preference for notification is? Is that via text message is that a phone call to that victim? So ensuring that we have the correct

Contact information that will be included for that jail notification. So that victim can get proper notification prior to the suspect being released. Information on what steps can be taken in case there's harassment by the suspect. So are we going to work with the victim on a safety plan? Are we going to work on helping them get a protection order? Is it something that we may look into filing new charges against the suspect for harassment, so informing the victim what those steps look like. And then upon request of notification of forensic medical evidence, information that is not resulted a conviction of a plea or of guilty. So this is on request of the victim that the victim has to request to receive this information. And that is stuff that that law enforcement is putting out to victims, to let them know how to request that to receive that information.

If there is an arrest made on an offender, and the victim has been informed that the warrant was issued for their arrest, once they are arrested, they the victim has the right to be notified upon the arrest. So the easiest way to remember this on whose responsibility it is to notify is if it it's your warrant, it's your VRA notification. So if law enforcement is the one that put out that warrant, then law enforcement is the one who is required to notify the victim when that suspect is arrested on that warrant. We've had some updates to our cold case notifications within law enforcement. So a victim has the right to request notification to receive an annual update on their case, if the crimes are within the statute of limitation, which is over three years. So we don't have very many crimes that would fall under this. But the five crimes that we have are homicide, vehicular homicide, failure to stop at an accident involving death, sexual assault, and kidnapping. So if there is one of these crimes, and law enforcement has deemed that it is a cold case, what we can do is the victim can request to be notified annually, that once a year to say, you know, we this case is still considered a cold case, we do not have any updates. Once we do we will let you know. However, if there is any change, the law enforcement agency is not going to wait until that one year to provide that victim notification if there's if there's a hit or something that we're going to open that case up to again to start investigating it, law enforcement would contact that victim right away. However, the one year notification is a way for victims just to be to know that law enforcement still has it on their radar every year, and that they're still looking into it. There are some crossovers on notification for law enforcement in the district attorney's office, and those are being informed of the status of the case. And when we say status of the case we look at is this case opened?

Is it closed? Again? What's that warrant status? Investigation? Is it pending? Is it unfounded, the case unfounded? Is it a cold case notification, like we talked about? Has the case being reopened or is it inactive,

so any sort of change that takes place with this case, it's always important to contact the victims and let them know throughout the case, if we're going to do a no file decision, if it's a misdemeanor case of law enforcement is going to be the agency that notifies the victim of that no foul decision. If it is a felony case, then the district attorney's office would notify the victim of that no final decision. However, there are certain departments that do things differently. And that is okay, as long as there is an MOU or something in place to say that all of the district attorney's office is going to notify on no foul decisions for misdemeanors and felony. So well, however, it's done in your community, as long as there's an MOU. If there's not an MOU, we're going to reference the VRA which says that's misdemeanors, law enforcement and felonies are DJs. Victims are also informed on how to request protection of their address pursuant to the Colorado Rules of Criminal Procedure. This is not the address confidentiality program. This is something completely different, where the victim has to

request that their address and their address is kept confidential and not released into reports that are going to be released to the defense or to the public. And then also, there's a dual role between law enforcement and the district attorney's office when it's a release of their property when it's no longer needed for evidentiary purposes. So the district attorney's office is typically going to be the one to say that we no longer need this evidence, and it can be released to the victim and the law enforcement would be the one to reach out to the victim and let them know that it is available to them.

Other crossovers for law enforcement in the district attorney's office is on protection orders. So we want to make sure that our victims are fully aware of how to get a protection order and if they if they choose how to modify that protection order. We do have certain rights where the victim has the right to be heard and one of those is regarding a modification of a protection order if the defense is the one that is requesting it. So we want to make sure that the victim is fully aware of that court hearing that they're going to have and then the victim has the right to be heard to agree with a modification or disagree and have their and be able to address the court to oppose that or or be in favor of it. Another crossover is Social Security information. victims do not have to request that their social security information be redacted. This is a mandatory that our law enforcement and our DHS office are making sure that we redact also security numbers out of documents before they are released. Moving into the District Attorney's Office, critical stage notifications and out of law enforcement.

So again, we're going to talk about the status of the case, any changes to the status of the case, and then any schedule changes, if we know in advance, we always want to make sure that our victims have sufficient notification and time to appear in court. We don't want them last minute being informed the day of or the night before to say oh, there's a court hearing tomorrow, can you make it that does not give the victim sufficient time to get off of work to find childcare, to be able to prepare themselves to attend that court hearing. So we want to make sure that they have time to be able to process and be able to be to appear in court. And the victim may be present at all critical stages unless it's going to impact the defendants right to fair trial. So that is that sequestration piece. And that is a role between the courts and the district attorney's office because ultimately, the courts will make that determination. However, the DA has that responsibility to ensure that the victim is present through the majority of that case, and to look at whatever what avenues we can to to ensure that the victim stays present without being sequestered for that entire process. The victim has the right to be informed of the results of all court ordered HIV testing on sexual assault cases. And then like we talked about before, the victim has to opt in to receive that notification from probation. So it is the district attorney's responsibility to let the victim know how to opt in, and to be able to connect them with the probation department so that they can register for that and enroll in that program. Victims have the right to consultation, and consultation requires a full frank discussion with the victim. With this, we want to ensure that our victims are fully aware of any sort of plea agreements that are being discussed. And we want to make sure that the victim has a say in that we do require that the district attorney's office speaks with the victim regarding a plea prior to them going to the defense.

So it's a conversation to be had with the victim to say, you know, what would you like to see happen with this case? Here's what our office is considering? How do you feel about that. So this is a way for the victim to be engaged in the process and to feel a part of that process. If at any point in time the district attorney's office is going to change that plea, or the defense comes back with a lesser plea. The DHS office does have a requirement to go back and have another conversation with the victim.

And they need to be informed of any lesser charges being considered any sentencing considerations, conditions a possible outcome. So truth in sentencing, we want to make sure that we're having a conversation with the victim to let them know that we're going to request maybe 10 years and do see as a plea. However, 10 years does not necessarily mean 10 years, the victim could excuse me, the defendant could be up for parole within three years, and may not fill that entire 10 years within the Department of Corrections. So letting victims know ahead of time, what that truth in sentencing really looks like and what it means for the victim and the defendant moving forward.

Also, regarding that consultation on diversion programs, this is a new addition that went into effect in May of 2022 is that the district attorney's office is required to consult with any adult or juvenile diversion programs and the victims prior to them being entered into agreement with those diversion programs. Additional changes with diversion along with the right to consult on any pre or post filing of diversion offers is also that the victim has the right to be informed prior to granting an early termination from a diversion program. And then they have the right to be informed of that termination date when they're officially off of that diversion program. So these are some new changes prior to May of 2022. Diversion did not have any responsibilities within our VRA. And we thought that it was important for those victims to also have some rights regarding their notification and information during the diversion process, which is why we made some changes. There are certain phases through the courts where the victim has the right to be informed and where they have the right to be heard. So as you will see on this slide on the left hand side it says the victims have the right to be informed on the filing of charges. The decision not to file charges. Again, law enforcement is going to notify on those misdemeanors, they have the right to be informed of preliminary hearings, arraignments hearings on motions and trials. The rights where the victim has the right to be heard is a bond reduction or modification.

So it's not a setting a bond. But they do have that right. If we're going to modify that bond for any reason that that victim has that right to note be notified, they have the right to be heard in front of the court regarding it, because it could be a safety risk to that victim. The other rights to be heard on is on dispositions. And please so like we talked about that consultation piece, the victims have the right to be consulted with regarding the plea, the victim does not have to agree with what the plea is. So that is why they have that right to be heard. So they can address that with the court to let the court know that they oppose the plea, or they are in favor of what the district attorney's office is presenting to the courts. Victims have the right to be heard regarding sentencing and resentencing, they have the right to be heard on a subpoena for their records, so anything of their medical history, mental health education or anything that was submitted for crime victim compensation. So we want to make sure that our victims are fully aware that this is information that is going to be requested that the defense could get a copy of it. And the victim has a right to be heard before that information is released. Because once that information is released, that and this information is out there, we can't pull it back. And we can't take that away. So we want to make sure that we slow this process down before the records are released, and then a request by the defendant to modify that mandatory protection order. So as I mentioned previously, the victim has the right to be heard on a modification of the protection order, because that could be a safety risk to that victim.

There are other DA related critical stages for after sentencing. And again, those rights to be informed are the appellate reviews, the decision to conduct DNA testing and the results of the testing and court proceedings initiated based on the results of that attack on judgment conviction. And then the right to

be informed when there's a petition by the sex offender to cease registration. That is a dual role with our courts, because our courts are going to be the one to receive that request to stop registering as a sex offender. And then the courts will reach out to the district attorney's office to inform the victim that they have received that petition. Victims have the right to be heard regarding a modification of sentence or re sentencing, any hearing concerning a petition for expungement of juvenile records, or the sealing of adult records. And when we talk about sealing of records, the good part about it having it heard is we want to make sure that victims have that right to be heard regarding that process before records are sealed, because after they're sealed, it is very difficult to be able to access those records. Again, we did make some changes in our VRA. And under the sealing statute and this took place in 2017. To say that even though an after a case has been sealed, a victim still can request copies of police reports for protection order purposes, or other lawful purposes to receive that information even after the after the case has been sealed. So a victim can request that information from law enforcement or from the district attorney's office. But again, they have to show that they need it for a lawful purpose. And it is a more difficult process. So we want to ensure that our victims get those records prior to it being sealed if at all possible. There are certain records that will automatically be sealed. And there are certain records and times where a victim has that right to be heard regarding that sealing.

So the victim has the right to be heard. And this is in the sealing statute when any of their crimes fall underneath the sealing statutes of 706,709 and 710. So this is where the victim will have that right to be heard regarding those ones. There are other automatic sealings and unfortunately once those cases reached their their final and a lot of times those are cases that the case has been fully dismissed, or the defendant has been acquitted of any charges, they will do an automatic sealing and unfortunately victims don't have that right to be heard regarding those automatic sealings. The right to be heard when unavailable so many times are victims are in they're getting ready to go to court for and they can address the court they have that right to be heard. But maybe a victim doesn't want to appear in person or they don't they can't make it there financially, they can't take any additional time off of work. Maybe they live out of state and just can't make that court appearance but they still want to have that right to be heard. Our district attorney's office are required to work with the victim to make sure that their voice is still heard for those hearings, even if they can't be present physically. So the victim needs to work with them and arrange with the courts to allow the victim victim to appear by phone virtually by audio or video or similar technology when that is available. So We did add into our VRA bill in May of 2022, to say that victims can appear virtually or by audio or video. And this is not only just for our court hearings, but it also includes some of our post sentencing hearings as well.

So hearing from Community Corrections board, parole hearings, juvenile parole hearings, adult parole hearings, all of those, those victims still have that right to be heard. So we want to offer them that virtual audio platform as well, because we have noticed that many of our victims will appear. If they can appear virtually, they like that option better, because they can turn their camera off, they can still be present. But they don't have to have that fear of the defendant being able to see them and know that they are there. Victims have the right to a secure waiting area, we want to make sure that our victims are not sitting across the hall from the defendant or the defendants family, we want to make sure that there's a safe place for them to be while they're waiting for their courts to be their court hearing to be called. And the victim have the right to be aware of any delays in the case, and to make sure that we have a swift and fair resolution for their case. So our district attorney's office are required to let the victim know if they know if they are going to expect any delays. So if we have any competency issues, anything like that, that might set this hearing out for an extended period of time, that we're having that and setting that expectations for the victims.

So they're not expecting the case to be over within a month or two. So knowing what their what that process looks like and being able to inform them to be prepared for that moving forward. Victims have the right to request copies of the pre sentence investigation report. But it is at the discretion of the district attorney's office, whether they allow the victim to view that psi report or if they say no, absolutely not. I know that some district attorney's office will allow the victim to review portions of the pre sentence investigation, but maybe maybe not all of it, especially if it is an offense specifics, such as sex offender, domestic violence, and there's treatment that is involved. They may not include information on there, as well as mental health may be taken out of that. But it is at the discretion a lot of excuse me at the discretion of the district attorney's office, whether they release that information or not. They have the right to have the court determine the amount of restitution. So our district attorney's office is going to send a victim impact statement to the victim. And they're going to request any sort of documentation, any receipts, any proof for restitution that they can also include in that statement and be able to provide to the court at the time when they're requesting restitution. Also, restorative justice practices, if those are available in your community, the district attorney's office will provide that information to victims on how to get involved in restorative justice practices.

But again, that is if that is available within that community that the victim is residing. Moving through to the courts responsibilities. So we do want to ensure that the victim has that right and that voice to be heard. So we do ask that the district attorney's office during court proceedings, if it is that victims right to be heard, to let the courts know that the victim is present, and they would like to address the court. We do also ask that the courts inquire if the victim is present, if the district attorney's office does not bring that up, and asked if they would like to address the court at that time, the courts will determine the amount of restitution. So again, as we talked before, that the DEA office will have all that information hopefully, submitted to the courts prior and then the courts will determine the amount. And then like we already discussed the petition for to see sex offender registration and that dual role between the DHS office and the courts responsibilities. The courts also do have some changes that took place on May 6 of 2022. We have that modification of bonds. So if the Court receives a modification to reduce or modify the bond, the courts have to set a hearing, and the DHS office shall then notify the victim of that hearing. And again, that victim has that right to be heard regarding the modification prior to be to it being modified. The courts were will also provide translation and interpretation services to all critical stage hearings. So prior to May of 2022. It was the district attorney's office who was providing that that service to victims. And then the courts were providing the translation interpretive interpretation services to the defendant. So we felt that the courts should provide it to both the defendant and the victim. So we've moved that responsibility up into the courts.

Victim Impact Statements. What we were seeing sometimes is that the victim would be present in the courtroom and then once they were going to give their victim impact statement the defendant would be released from the courtroom. We have added into our VRA to say that the defendant shall be required to be present during that victim impact statement Unless the Court excludes the defendant. So maybe the reason the court might exclude a defendant is there's a safety risk to the victim or to the court and the people within that courtroom. So we want to make sure that we always keep our safety in the forefront as well. So we're going to ensure that the defendant is present unless it's going to be a safety risk to anybody in the courtroom, a subpoena for records so we have a consideration of release of the victims privilege records, or victim compensation. So we've got to make sure that the courts are stopping that process before those records are released to the defense. So any of those

privileged records. So again, we're going to talk about mental health records, any crime, victim compensation, anything that education, hospitalization, anything that would be privileged records that the courts slows that process down and stops it before those records are released. Moving into our post sentencing agencies, so So just to kind of recap what those agencies are our post sentencing agencies or probation, Department of Corrections, parole, Department of Youth Services, local jails, the state mental health hospitals. So when we talk about our responsibilities underneath the VRA, and we talk about post sentencing agencies, these are all of the agencies that we are discussing.

So again, probation, upon request, the victim can ask to opt in to that probation notification process. And with that, they're going to receive all of these services. One thing to point out is that even if a victim does not opt in to receive probation notification, they still will be informed if the client on probation the defendant of scones, from probation. So that is not something that they would have to request to receive. We do feel that that is a safety risk to the victim when we do want to inform them that the defendant has absconded from probation. So that will be informed whether that victim opts in or not. So as we go through all of these critical stages, just just know that it is for all of those post sentencing agencies with the with the inclusion of probation and the victims who have opted in to receive the services. So we're going to inform the victims on the institution where the offender is being supervised, incarcerated, or where they're being held.

So if they're in a probation department, which Probation Department is supervising them, what community corrections facility, are they being housed in which jail? Are they in? Which department of corrections facility are they held in? If there's a revocation of probation or parole, the victim has the right to be informed of when those revocations and those, those hearings are going to be held. And he's scheduled parole hearings, and in any changes to the scheduling of the hearing. So a victim has the right to be heard at a parole hearing.

So we want to make sure that we've given them sufficient notification, so that they can prepare themselves as well as a statement to be provided to that parole board. For all of our post sentencing agencies, a victim has the right to be informed on warrants of scones, any release on furlough work release or to community corrections program. So again, any sort of movement within our facilities, the victim would have the right to be notified. If the defendant is going to be released into the cut in into the community for any reason, we want to allow that victim that opportunity to know that we never want a victim walking down the street or in the grocery store and come face to face with that defendant when they're expecting them to be in jail. So if we've got a work release program, maybe it's something where the the defendant was granted 90 days work release, the victim will be informed that for the next 90 days, they will be allowed into the community on a Monday through Friday bases from eight to five. So the victim is fully aware that they may see them in the community because they've been allowed to be released to do their job.

So the same thing with furloughs if they've been granted a release on furlough for a weekend, whatever it may be. Our victims are fully aware that they've been authorized that release. If there's any release, escape transfer, deaths, projected termination date or release date, the victim needs to be fully aware of those. And we talk about projected termination date, like I mentioned previously in the training is that 10 years and DLC does not mean that they're going to spend the full 10 years in DLC. So the projected termination date could be we we believe that they're going to terminate from

an and be released from voc and 10 years. And that's why it's a projected date, but then we're going to let them know what the official release date is because we know it's not typically going to be the exact same date that we project it to be. Any court order changes in terms and conditions of probation. So what that might look like is if we're going to extend their probation for any reason, maybe they didn't complete their restitution Should they didn't complete their treatment for domestic violence or sex offender treatment. And we may have to extend our probation out for another six months to a year, two years, whatever it may be, we're going to let the victim know that there's been a change in their probation. So victims having the right to be heard at the post sentencing level. And again, this applies to anything to allow the victim to appear in person by phone virtual by audio or video or similar technology for any of these. So a victim has the right to be heard on a modification of the sentencing, including an early termination from probation. So if we're going to modify the sentence for any reason, if they're going to, we're going to request an early termination, maybe they were granted two years on probation, and they've completed all of their treatment and paid all their fines and fees and restitution. And they've done everything they need to probation may request before the court that they terminate the client from probation. The victim does have that right to be heard prior to that case being terminated and the defendant being completed. Part of the reason we want to ensure that they are notified early is because that protection order is also going to be terminated once the defendant is no longer on probation. So we want to make sure that the victim also has sufficient time to be able to get another protection order a civil protection order and start that process prior to them being released from probation. A petition for expungement of juvenile records. And this also includes the sealing of records for adult cases as well, even though it's not included on this slide. It does include sealing of records as well. And then the victim has the right to be heard regarding parole hearing. So victim again has that right to address the parole board, they have the right to address the community corrections board prior to them being released onto those programs.

We do ask that our victim also have responsibilities underneath the VRA. So again, they have to opt in for that probation notification. And we do ask that victims keep their contact their contact information updated with the criminal justice agencies that they are working with. We do ask that our criminal justice agencies do diligence to try to locate the victim. However, it is also our victim's responsibility to update them on any change in email address, any change in phone number, physical address, whatever their means of communicating with that agency is we need to make sure that they keep that keep that confidential and keep it updated with the with those criminal justice agencies. We're going to move into the types of complaints. So if the criminal justice agencies, one or multiple agencies have violated a victim's right, a victim can file a complaint through my office. There are two types of era complaints. So we have the informal complaints and the formal complaints. If a victim reached out to me and asked for information on filing a complaint, I would always try to work with the victim as well as that criminal justice agency to see if we can resolve the analytical manner.

Is it something that we can connect the victim with that agency to help them get their needs met to get their questions met? If they're not being updated on the court dates, what can we do to help them know what those court dates are? Our complaint process is fairly lengthy, it is an average of six months. So if it's something that we can do to help resolve it in a more timely manner to help the victims needs get met immediately. That's something that we're gonna do. However, if a victim feels that their rights were violated, and they don't want to try to resolve it locally, or maybe they've already made that attempt, and it didn't go so well.

So they would like to just formal, the formal file a formal complaint, they can do that they do have to go through me in order to get that formal complaint. It is not listed on our website, anywhere. And part of that is because I want to make sure that we are screening and talking to the victims regarding what their goals are for filing that complaint. So if their goal is that they want to get somebody fired or somebody lose their law license, that's not something that we have the ability to do through our process. Our goals are always to reach a resolution prevent future violations and system improvement. We want to make sure that this does not happen again to other victims in the future. So by screening that and working with victims, we want to make sure that they are fully aware of what those goals are, and make sure that what their goals are in line of what we can do within our process. If the victim files the formal complaint, it will be reviewed by our victim rights subcommittee and we have seven members who sit on that subcommittee. We have a judge, a chief District Attorney, a district attorney, victim witness coordinator, we have a chief of police a victim of a major crime, a rule representative from a DV or sex assault program and a community representative. All of our subcommittee members are very well versed in the VRA as well as our criminal justice system. And we meet once a month for them to review the formal complaints.

If an agency is found in violation by the very subcommittee, again, we're based on that system change. So what we're going to set in place for that agency to complete our requirements that would be around that system change. So we're going to look at possible training. So would it be a victim empathy training, if there was a fairness, respect and dignity complaint? Would it be a VRA training, maybe it's something they haven't had within their department for quite some time. And we would make those trainings mandatory for the entire department, a submission of policies regarding theory compliance. So for example, if it was around a victim not being updated on the status of the case, we may ask an agency, please provide us a policy on how you update victims on the status of their case. So the policies are all going to be surrounding what their violation was for a meeting with the victim. That is something if a victim has requested through this process, that maybe they want to meet with the elected District Attorney or the chief of police, we would help facilitate that and ensure that that process could take place and in a safe environment. That is not something that we would require of an agency unless the victim had requested at themselves. What we are not. So there's certain things that we can and cannot do through this process. We need to know that this is not a do over process. And again, that's part of that screening and working with the victims on their goals. We can't make cold courts, we hold hearings, we can't make TAS file cases or law enforcement arrest anybody. We can't make probation departments revoke anybody. And ultimately, we can't change the outcome of the case. So again, if that's something that the victim is looking for, this might not be the right process for them to go through. There are certain things that the VRA does not cover, we do not cover cases that are filed in municipal court. We do not handle police misconduct cases. So if it's a police brutality, something like that, we're going to refer it to internal affairs. And we would look at something that is around that fairness, respect and dignity. But beyond that, we would not look into it at all through this process. The manner in which a case is investigated. So we have no discretion over the manner in which law enforcement investigates cases. So for example, if a victim had provided eight witnesses to the police department, and the investigator, the detective only looked and spoke with five of the eight witnesses. And they submitted the case to the district attorney's office for a filing decision and the district attorney's office declined to file because of lack of information and evidence. We have no discretion on the decision that law enforcement chose to only contact five of the eight witnesses.

The decision as to whether to file or not file charges that is not under our discretion. And as I mentioned before, before plea agreement, so as long as the victim has been consulted with and

they're fully aware of what that plea agreement is, we have no discretion on the plea agreements that the district attorney's office provides to defense. This is a screenshot of the last 10 years of our very complaints that we have received. Typically, it's law enforcement and the District Attorney's offices who have received the majority of the complaints, however, they have the bulk of the VRA, they have a lot more responsibilities than our post sentencing agencies have, so they have a greater chance of getting those complaints. And we average probably about 45 complaints a year. And those are the formal complaints.

As far as the informal complaints, we resolve about 250 of them locally. As you can see, a lot of our complaints are being held and resolved locally behind the scenes before it even gets to our VRA subcommittee to review. Um, this is my contact information. If you guys have any questions, any concerns, anything that you would like to run by me or something that you felt you would have heard through this training and didn't it did not get addressed? Please feel free to reach out to me I am more than happy to answer any questions that you may have. And you're welcome to provide my contact information to victims and refer them to file a complaint or learn more about the complaint process if you feel that their rights have been violated.

Thank you so much for taking this training. I appreciate it and I hope everybody has a great rest of your day.