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MEMORANDUM OF UNDERSTANDING (MOU)

Regarding Victims' Rights Under Vermont Law

I. PARTIES

This Memorandum of Understanding (MOU) is made and entered into by and among the following entities, referred to collectively as the "Parties":

1. **Vermont Department of State's Attorneys and Sheriffs (SAS).**[1]
2. **Vermont Department of Corrections (DOC).**
3. **Vermont State Police (VSP).**[2]
4. **Vermont Center for Crime Victim Services (CCVS).**
5. **Vermont Attorney General's Office (AGO).**

II. DEFINITIONS

1. Victim – "a person who sustains physical, emotional, or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency and shall also include the family members of a minor, a person who has been found to be incompetent, or a homicide victim." 13 V.S.A. 5301(4).
    a. The Parties often use the term "survivor" or "victim/survivor" rather than victim. For the purposes of this MOU, to align with Vermont Statutes, this document will use the term "victim" as reflected in the Vermont Statutes Annotated.
2. Offender or Defendant – The Department of Corrections often uses the term "incarcerated person" rather than offender, detainee or defendant to describe a person who is incarcerated. For the purposes of this MOU, to align with Vermont Statutes, this document will use the term "offender" or "defendant" as reflected in the Vermont Statutes Annotated.

[1] The SAS Executive Director is the signatory to this MOU. Individually elected State's Attorneys are responsible for the day-to-day operations of their county offices. The SAS Executive Director sought and incorporated the advice and counsel of SAS Victim Advocates regarding local practices in the application of victims' rights in contributing to this document. Furthermore, this MOU, when it was drafted, was vetted by SAS Victim Advocates who participated in the VINE Task Force and its foundational planning meetings, including SAS Victim Advocates from Windsor, Bennington, Rutland, and Chittenden counties.

[2] The Vermont State Police is a signatory to this MOU on behalf of the Vermont State Police. By signing this MOU, Vermont State Police does not represent any other law enforcement agency in the State of Vermont.

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III. PURPOSE

The purpose of this MOU is to establish a framework for interagency collaboration and communication and to better define the specific roles and responsibilities, to the extent that resources allow, of each Party in upholding the rights of crime victims throughout the criminal justice process, as guaranteed by Vermont law. All parties shall make a good faith effort to ensure and uphold/adhere to victims' rights across the spectrum of the duties afforded to actors in the criminal justice process. This MOU is grounded in the principles outlined in Title 13 Chapter 165 and Chapter 167; Title 33 Chapter 52 and Chapter 52A, Title 28, and Title 15 Chapter 21 ensuring that victims are treated with dignity, respect, and are provided with a meaningful opportunity to participate in the criminal justice process (investigations, filed and charged pending cases, and post-conviction).

IV. VICTIMS' RIGHTS

All Parties acknowledge and agree to make all reasonable efforts to protect and enforce the rights of crime victims under Vermont law and to coordinate amongst the parties concerning a victim's interactions with the criminal justice system, including the investigation of a crime, the filing of a criminal case, the pendency of a case, post-conviction hearings, and release of an offender.

1. **Right to Participation and Input:** Victims have the right to participate and have meaningful input throughout the criminal justice system.
2. **Right to Timely Information:** Victims shall be provided with timely information regarding the status and progress of a case during an investigation and after the case is charged, including, but not limited to, the following information:
    - The initial investigatory steps taken by the law enforcement agency responsible for investigating the crime.13 V.S.A. § 5314.
    - The date and time of offender's arraignment and any court orders regarding bail or conditions of release. 13 V.S.A. § 5308.
    - Scheduled court hearings
        1. Sentencing hearing or change of plea hearing. 13 V.S.A. § 5321.
        2. Status updates pertinent to a pending case.
    - Information about the negotiation process and possible plea agreement offers to resolve the case. 13 V.S.A. § 5321(f).
    - Information concerning release from custody. 13 V.S.A. § 5305.
    - The Status of an offender who is detained and in the custody of DOC. 13 V.S.A. § 5305.
    - Information concerning appeal or post-conviction remedies. 13 V.S.A. § 5315.

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- Post-sentencing events, including incarceration, probation, or parole.13 V.S.A. § 5305, 28 V.S.A. § 818(b)(4).
- Special rules concerning a victim's involvement in family court:
    1. *Listed Offense Victim's Rights: 33 V.S.A. § 5243*.
    2. *Non-Listed Offense Victim's Rights: 33 V.S.A. § 5243a*.
    3. *Rights of a Victim in Youthful Offender Proceedings: 33 V.S.A. 5288*.

3. **Right to Be Heard by the Court:** At certain hearings, including sentencing, the court is required to ask whether the victim is present, has filed a statement, or if a Victim Advocate has a statement to present on their behalf.
4. **Right to Information about Protection Orders:** Victims shall be informed about potential protective orders, both temporary and final, that may be issued by the court dependent on the facts and circumstances of the situation.
5. **Right to Restitution and Compensation:** Victims shall be informed about their right to restitution for financial losses and eligibility for victim compensation programs.
6. **Rights in "Listed" Crimes:** Victims of a listed crime as defined in 13 V.S.A. § 5301(7) have additional rights and protections.
7. **Earned Time Credit Calculation and Information:** Victims shall be notified about the earned time program afforded to some offenders. Victims shall be informed of the option to receive notifications from the Department of Corrections regarding an offender's reduction of offender's term of supervision due to earned time. 18 V.S.A. § 818.

V. ROLES AND RESPONSIBILITIES

Each Party is responsible for specific actions to ensure victims' rights are upheld. Each Party shall work in collaboration and make all reasonable efforts to ensure a seamless continuum of care, communication and support for victims of crime through the continuum of justice.

1. Vermont State Police pursuant to 13 V.S.A. § 5314.
    - After initial contact between a victim and a law enforcement agency responsible for investigating a crime, and prior to the filing of a charge with the courts, law enforcement shall provide victims, in writing, with the information outlined in the "Victims' Rights" pamphlet or equivalent information and explain the following:
        1. an explanation of victims' rights under Chapters 165 and 167 of Title 13;
        2. information concerning the availability of:

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a. assistance to victims, including medical, housing, counseling, and emergency services;

b. compensation for victims under chapter 167 of Title 13 of this title, and the name, street address, and telephone number of the Center for Crime Victim Services;

c. protection for the victim, including protective court orders; and

d. access by the victim and the defendant to records related to the case which are public under the provisions of 1 V.S.A. chapter 5, subchapter 3 (access to public records).

- Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:
    1. Information as to the accused's identity unless inconsistent with law enforcement purposes.
    2. Information as to whether the accused has been taken into custody.
    3. The file number of the case and the name, department's street address, and telephone number of the law enforcement officer who is currently assigned to investigate the case.
    4. The prosecutor's name, office street address, and telephone number.
    5. An explanation that no individual is under obligation to respond to questions that may be asked outside a courtroom or deposition.
        a. Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance
- Law enforcement will inform victims of the status of their case, including arrests and conditions of release, until the case is transferred to either a State's Attorney or the Attorney General.
- If a defendant is held at a correctional facility prior to their initial court hearing, law enforcement will inform the victim of:
    1. Where the defendant is held;
    2. If the defendant is released;
    3. How to locate the Department of Corrections' Vermont Offender Locator website; and

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4. How to register for automated notifications when the defendant is released.

- Law enforcement will facilitate referrals to SAS or AGO Advocates, DOC, CCVS, and community-based victim services, as applicable.

2. **SAS and AGO (Prosecutors and Victim Advocates[3]):**

- The Department of State's Attorneys and Sheriffs shall maintain the Victim Advocate Program.
- Prosecutors are responsible for ensuring that victim advocates are fully integrated into all victim-involved cases, currently pending in Vermont courts. "Pending" means that the case has been filed and is currently awaiting trial.
- Prosectors shall collaborate with Victim Advocates to provide victims with all legally required information in a timely fashion and to facilitate the victim's input in the case.
- Victim Advocates shall provide victims with the following information:
    1. the level of protection available,
    2. the procedures to be followed to receive applicable witness fees,
    3. the right to seek restitution as an element of the final disposition of the case, and
    4. the right to appear at sentencing. 13 V.S.A. § 5304(a)(1)
- Victim Advocates shall notify victims of:
    1. When a court proceeding involving their case is scheduled;
    2. When a court proceeding that they have been summoned to has been canceled;
    3. The final disposition of the case; and
    4. The victim's right to request notification of a person's release or escape. 13 V.S.A. 13 § 5304(a)(2).
- The prosecutor's office shall inform the victim about issues concerning bail and the prosecutor shall advise the court of the victim's position regarding bail. 13 V.S.A. § 5308.
- If an offender is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release. 13 V.S.A. § 5305(b).

[3] Victim advocates employed by either the Department of State's Attorneys and Sheriffs or the Attorney General's Office.

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- The prosecutor shall collaborate with a victim advocate to ensure the court is notified of a victim's presence or wishes to provide a statement at relevant hearings.13 V.S.A. § 5321.
- Victim advocates provide victims with information and guidance in obtaining financial assistance and minimizing loss of pay or other benefits resulting from involvement in the criminal justice process. 13 V.S.A. § 5301(a)(3)(B).
- Prior to the date of a restitution hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the Victims Compensation Fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the Victims Compensation Board.13 V.S.A. § 7043(c)(2).
- At or before the sentencing hearing, the prosecutor's office shall inform a victim whether the sentence includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections, and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through earned time credit, furlough, work-release, and other early release programs. The prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim, explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated, and inform the victim of the maximum amount of earned time that the defendant could accrue and that earned time only affects when a defendant is eligible for parole consideration but does not necessarily result in the defendant's release. 13 V.S.A. § 5321(d).
- Victim advocates will provide the victim with information about the automatic notifications available through VINE, including how to enroll in VINE and that the victim may opt-out of enrollment in VINE.
- The prosecutor shall make a reasonable effort to notify any victim of record of a motion filed to reduce a probationer's term. 28 V.S.A. § 252(d)(4).
- If an offender appeals or pursues a post-conviction remedy, the prosecutor's office shall promptly inform the victim of a listed crime of the offender's filing, explain the significance of such a proceeding, and shall promptly notify the victim of the date, time and place of any hearings and of the decision. 13 V.S.A. § 5315.

3. **Department of Corrections (DOC):**

- Victims or affected persons have the right to receive from DOC notifications regarding the offender's custody status and release, to include individuals who are under supervision as

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well as those who are serving an incarcerated sentence. DOC will provide such notifications. 13 V.S.A. § 5305.

1. DOC shall provide automatic notifications through VINE to victims for the detainment status of an offender in a correctional facility.
2. DOC shall provide victims with notification, as expeditiously as possible, regarding the offender's release, an escape, or parole hearings. 13 V.S.A. § 5305.
3. Unless a victim has requested to opt out of notifications, DOC shall notify victims of a listed crime as to parole board hearings concerning defendants and parole board decisions as provided in 28 V.S.A. §§ 502a and 507.
    a. At least 30 days prior to a parole eligibility hearing, DOC shall:
        i. inform the victim of a listed crime as to the time and location of the parole board hearing concerning the offender, and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider;
        ii. Inform the victim that the victim may waive notification about parole hearings;
        iii. Inform the victim of a listed crime that the offender will not be present when the victim testifies unless the victim waives the absence of the inmate; and
        iv. Promptly inform the victim of the decision of the Parol Board, including providing to the victim any conditions attached to the defendant's release on parole. 28 V.S.A. §§ 502a and 507.
4. DOC shall notify all victims of record of the earned time program and inform victims of the option to receive notifications from the DOC.
5. For victims who opt to receive notification, DOC will provide notice to the victim any time the offender receives a reduction in the offender's term of supervision. 28 V.S.A. § 818(b)(4)(A) &(B).

- DOC shall record any reduction in an offender's term of supervision monthly and ensure that victims who want information regarding changes in an offender's minimum release date have access to such information. 28 V.S.A. § 818(b)(4)(D).

- DOC shall work collaboratively with the Restitution Unit to assist with the collection of restitution. DOC shall provide the Restitution Unit with information about the location and employment status of the offender. 13 V.S.A. § 7043(f)(2).

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4. Vermont Center for Crime Victim Services (CCVS)

- The Vermont Center for Crime Victim Services is charged with operating the Vermont Restitution Unit. 13 V.S.A. § 5362.

- An obligation to pay restitution is part of a criminal sentence. 13 V.S.A. § 7043(p).

- The purpose of the Restitution Unit (Unit) is to provide financial support to victims of crime who have suffered a "material loss" through the disbursement and collection of funds pursuant to a court order (restitution judgment order) issued upon conviction. 13 V.S.A. § 7043.

- The Unit is authorized to administer funds established under 13 V.S.A. § 5363 in support of victims and the collection efforts of the Unit.

- The Unit is responsible for providing restitution payments to victims and for holding offenders accountable for those payments. 13 V.S.A. § 7043.

- The prosecuting attorney's victim advocates are tasked with providing information, assistance and guidance to victims to submit claims for restitution. 13 V.S.A §§5304 (a)(1) and (a)(3)(C).

- Prior to the date of a restitution hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the Victims Compensation Fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the Victims Compensation Board.13 V.S.A. § 7043(c)(2).

- The Unit is responsible for providing information to the Department of Corrections concerning supervised offenders, including an offender's restitution payment history and balance, address and contact information, employment information, and information concerning the Unit's collection efforts. 13 V.S.A. § 5362(a)(3)(B).

- The Vermont Victims Compensation Program is responsible for providing limited financial support to victims of crime for eligible expenses that are the result of the crime. 13 V.S.A. Chp.167(1).

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- Both the Vermont Center for Crime Victim Service (CCVS) (13 V.S.A. §5361) and the Vermont Compensation Board administer the Program, which is housed within CCVS. 13 V.S.A. §§5352(a) and (b).

- The Center shall provide training and technical assistance to providers in the field as needed, including, but not limited to, victim advocates and members of law enforcement.

VI. COLLABORATION AND COMMUNICATION

The Parties agree to maintain open and consistent communication to facilitate the seamless flow of information and ensure that no victim's rights are overlooked. This includes:

- Establishment of clear and accessible communication channels between all Parties.
- For victims of crime who consent and/or voluntarily provide contact information, parties should make reasonable efforts to provide that contact information to the appropriate parties to ensure that victims' information is available as required by law (law enforcement to prosecutor, prosecutor's office to DOC etc.).
    - Parties will create a guidance document to outline best practices for information sharing between parties.
- Regular review of practices and policies to identify and address any gaps in services or communication.

VII. FINANCIAL PROVISIONS

Unless otherwise arranged for in writing, each party intends to bear its own costs in relation to this MOU. This MOU is not an obligation or commitment of funds, nor does it serve as a basis for transfer of funds. Expenditures are subject to the parties' respective budgetary processes and availability of funds pursuant to applicable laws and regulations.

VIII. SIGNATURES

This MOU will take effect upon the date of the final signature below but may be subject to change or alteration upon agreement of the parties.

Signed by:
Jennifer Poehlmann
6708C37BE92F417...

Jennifer Poehlmann, Executive Director
Vermont Center for Crime Victim Services (CCVS)

Signed by:
A5379F6E93544CB...

Shawn Loan, Colonel
Vermont State Police (VSP)

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Signed by:
8E046F60F5D547F...

Jon Murad, Commissioner
Vermont Department of Corrections (DOC)

Signed by:
Tim Lueders-Dumont
EEFD670E155843A...

Timothy Lueders-Dumont, Executive Director
Vermont Department of State's Attorneys and Sheriffs (SAS)

Signed by:
EC474C8B26E94FB...

Charity Clark, Attorney General
Vermont Attorney General's Office (AGO)

Will expire upon November 1, 2029.