 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>163</h1>
Chapter:	Juvenile Justice	
Subject:	Notifying Victims of Juvenile Delinquency	Page 1 of 6
Approved:	Don Mandelkorn, Division Director	Effective: 5/21/04 INTERIM
Supersedes:		Dated:

## Purpose

To outline the requirements of Act 73, passed by the Vermont General Assembly in 2004.

## Policy

When a juvenile has been adjudicated guilty of a act listed in 13 V.S.A. § 5301 (see Appendix A for list), the district office will send a copy of **Request For Notification For Victims of Juvenile Delinquency (FS-320)** to the victim.


If the victim requests notification, the district office must attempt to notify the victim before the juvenile is released from residential facility *to a community setting*. The name of the facility will not be disclosed.

If the victim cannot be reached, the discharge may still occur. If release without notification occurs, the district office will take reasonable steps to give notification of the release as soon as possible. Notification efforts are considered reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.

Notice may be verbal, but in cases when verbal notice is given, the district office will follow up with written notice, using the **Victim Notification Letter (FS-321)**. A copy of the written notice will be filed in the juvenile's case record.

## Introduction

Effective March 1, 2004, 33 V. S. A. Chapter 55 § 5520, has been amended to expand the rights of the victims of juvenile delinquency. To implement the new provision, the juvenile court has established the following two protocols that govern treatment and involvement of victims of delinquent acts.

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This introduction describes all aspects of victim involvement and notification. Please note that DCF responsibilities are outlined in the Policy section.

### **Delinquent acts not described in 13 VSA Chapter 165 § 5301 (“non-listed” acts)**

#### **After filing of the delinquency petition**


- The court receives the delinquency petition from the state’s attorney, along with the name and address of the victim.
- The court sends a letter to the victim outlining the victim’s rights and responsibilities and soliciting a Victim Impact Statement.
- The letter informs the victim that he or she will be notified of the outcome of the case regardless of whether or not a Victim Impact Statement is filed. This letter does not identify the juvenile charged.
- If the victim chooses to file a Victim Impact Statement, it is due to the court within 2 weeks of the receipt of the letter.

#### **After First Hearing**

- The court notifies the victim of the juvenile’s identity and of any conditions of release initially ordered, or as modified **only** if conditions of release pertain to the victim or the victim’s family or household.

#### **After Receipt of Victim Impact Statement**

- Copies are sent to counsel.
- The judge is informed whether the victim requests (1) release of the juvenile’s identity and/or (2) to be present at the disposition hearing.

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#### After Adjudication

- If the judge has decided that release of the juvenile’s identity is in the best interest of the juvenile and the victim, the victim will be informed of the identity.
- If the judge had decided that the victim’s presence at the disposition hearing is in the best interests of the child and the victim, the victim is notified of the date and time.

#### At Disposition

- The victim may be present at the disposition hearing for the sole purpose of presenting to the court the impact of the delinquent act on the victim and the need for restitution if the court finds that the victim’s presence at the disposition hearing is in the best interests of the child and the victim.
- A victim may not be personally present at any portion of the disposition hearing except to present the impact statement unless authorized by the court.
- The court shall take a victim’s views into consideration in the court’s disposition order.


#### After Disposition

- The court shall inform the victim of the disposition in the case (without revealing the identity of the juvenile, unless the judge has determined that release of the juvenile’s identity to the victim is in the best interests of both child and victim).

### Delinquent acts described in 13 VSA Chapter 165 § 5301 (“listed” acts)

#### After filing of the delinquency petition

- The court receives the delinquency petition from the state’s attorney, along with the name and address of the victim.
- The court sends a letter to the victim outlining the victim’s rights and responsibilities, ***including the right to be notified by DCF before the juvenile is released from a secure or staff-secure residential facility.***

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- This letter does not identify the juvenile charged.
- The Victim Advocate solicits a Victim Impact Statement.

**After First Hearing**

- The state’s attorney notifies the victim of the juvenile’s identity and of any conditions of release initially ordered, or as modified **only** if conditions of release pertain to the victim or the victim’s family or household.
- The state’s attorney notifies the victim of the scheduling of any pre-dispositional or dispositional proceeding.
- The state’s attorney notifies the victim of the delinquency adjudication or disposition.
- Upon the victim’s request, DCF must notify the victim if the juvenile is being released from any secure or staff-secure residential facility.

**After Adjudication**


At the victim’s request, the state’s attorney will release the name of the juvenile to the victim.

**At Disposition**

- The victim may be present at the disposition hearing for the sole purpose of presenting to the court the impact of the delinquent act on the victim and the need for restitution.
- A victim may not be personally present at any portion of the disposition hearing except to present the impact statement unless authorized by the court.
- The court shall take a victim’s views into consideration in the court’s disposition order.

**After Disposition**

- The state's attorney shall inform the victim of the disposition in the case.

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### Appendix

"Listed act" means any of the following offenses listed in 13 VSA Chapter 165§ 5301:

- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;
- (N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;
- (O) arson causing death as defined in section 501 of this title;
- (P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;
- (Q) maiming as defined in section 2701 of this title;
- (R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;
- (S) unlawful restraint in the second degree as defined in section 2406 of this title;
- (T) unlawful restraint in the first degree as defined in section 2407 of this title;
- (U) recklessly endangering another person as defined in section 1025 of this title;
- (V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

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(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in section 1210(e) and (f) of Title 23;

(X) careless or negligent operation resulting in serious bodily injury or death as defined in section 1091(c) or (d) of Title 23;

(Y) leaving the scene of an accident with serious bodily injury or death as defined in section 1128(b) or (c) of Title 23;

(Z) burglary into an occupied dwelling as defined in section 1201(c) of this title; and

(AA) the attempt to commit any of the offenses listed in this section. (Added 1985, No. 182 (Adj. Sess.), § 2, eff. Sept. 1, 1986; amended 1989, No. 290 (Adj. Sess.), § 1; 1995, No. 170 (Adj. Sess.), § 5, eff. Sept. 1, 1996; 1999, No. 4, § 1.)