

## Law Enforcement Handbook

### Chapter 5b: Victim Assistance Program – Victims' Rights and Services: Core Responsibilities Under VRRRA and CVRA

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**5.1 Responsibilities.** Law Enforcement Officers (LEOs), LEO support personnel and VAP personnel's obligations under the VRRRA and the CVRA will depend on whether the crime occurred in exclusive, concurrent, or proprietary jurisdiction and the role the LEO has in the investigation. As long as LEOs have a role in an investigation, they must provide VRRRA services or ensure victims requesting services receive them from the lead investigative agency until the case is transferred to another jurisdiction. DOI LEO bureaus and offices must develop contacts with federal, state, tribal, and local victim service organizations within their communities. If federal charges will be filed by the United States Attorney's Office in a case, LEOs and VAP personnel must ensure that qualifying victims are provided applicable CVRA rights.

The VRRRA and CVRA establish minimum requirements for according victims' rights and services. LEOs, LEO support personnel, and VAP personnel are strongly encouraged to act in favor of providing rather than withholding services and rights to victims. LEOs and VAP personnel also may provide assistance, within available resources, to persons affected by the crime who do not fall under the VRRRA or CVRA definition of victim (e.g., family members of the crime victim who do not otherwise meet the definition of victim under the CVRA). Victims may choose to opt out of receiving services and can at any time reverse their prior decision to receive services.

#### A. VRRRA Requirements

1. Responsible Official – The Director of OLES designates BDLE to be the Responsible Official ("RO"), responsible for ensuring that the requirements of the VRRRA are met within their bureau or office, and compliance is monitored in the IMARS program or bureau alternative. The ROs may delegate responsibilities to subordinates (e.g., LEOs and VAP personnel) in appropriate circumstances, and must instruct such personnel to discharge the requirements of the VRRRA; however, the responsible officials remain obligated to ensure that delegated responsibilities are addressed. For purposes of this chapter, the designation of responsible officials is contained in Appendix A.
2. Timing of VRRRA services – Under the VRRRA, BDLEs must ensure that their bureaus begin to provide mandatory services to victims as soon as a crime is detected or an investigation opened, as long as it does not interfere with the investigation. The end point often is difficult to

determine, and LEOs must use their sound judgment to assess whether an investigation or prosecution is finally concluded. At that point, LEOs may continue to provide services to the extent permitted by law and within available resources.

- a. Case Transfers –Once a case has been formally transferred to another jurisdiction or agency, the transfer has been documented, and DOI LEOs are no longer involved in any aspect of the investigation or prosecution of the crime, victims’ rights and service requirements no longer apply.
3. Description of VRRRA services to be provided to victims – At any point in the investigation, the victim can determine that they do not want to be provided with victims’ rights and services. If they do opt out of rights and services, they should be informed that at any time they can opt back in by contacting law enforcement involved in the case. LEO should document in writing that the victim opted out of receiving services in writing.
    - a. Identification of victims – LEOs and VAP personnel must obtain the victim’s full name, contact and alternate contact information and date of birth. LEOs are responsible for identifying victims throughout the duration of the case. All victim identifications must be coordinated with the lead LEO.
    - b. Reasonable protection – A crime victim has the right to be reasonably protected from the accused. Accordingly, DOI LEOs designated by the BDLEs as responsible officials, must take reasonable measures within available resources to address victims’ legitimate security concerns. Determining the nature and scope of such measures requires an evaluation of the threat level and identification of reasonable options to address that threat within available resources. As with other rights and services, victim may choose to accept or decline any options offered by the Department. The core laws (VRRRA and CVRA) do not require the Department to provide victims with, for example, bodyguards to ensure their physical security.

The responsibility for arranging reasonable victim protection remains with the responsible official of the investigative agency throughout the criminal justice process. Any concerns about victim safety and reports of threats should immediately be reported to the lead case agent.

Department personnel should use their discretion and sound judgment when discussing possible threats and security measure with victims. Trained personnel should make victims aware of the resources that may be available to promote their safety.

Responsible officials from the investigation, prosecution, and corrections components, as well as the Parole Commission, are encouraged to work together to meet the safety concerns of victims. Department of Justice policy “expects and encourages U.S. Attorneys to work with designated responsible officials from investigative agencies to develop collaborative procedures to meet the safety concerns of victims in their districts”.

BDLE’s should establish guidelines and training to help LEOs better understand what their responsibilities are, available agency resources, and resources they need to identify in their local areas, so LEO can be in a good position to assist victims with safety considerations.

- c. Service referrals for victims – As soon as possible after the detection of a crime and to the extent that it will not interfere with an investigation, LEOs and VAP personnel must make reasonable and diligent efforts to inform victims of the following:
  - i. *Emergency medical and/or social services* where a victim can receive services;
  - ii. *State crime victims’ compensation (CVC fund)* – LEOs should provide victims with police reports and loss information required for the CVC application process or any other relief to which the victim may be entitled, consistent with DOI FOIA and Privacy Act policies and procedures as set forth in DOI guidance on FOIA and Privacy Act; LEOs should not provide contact information of witnesses or other individuals listed in these reports if security concerns are present.
  - iii. *Mental health services* – to include public and private counseling, treatment and support programs.
  - iv. *LEO and VAP personnel contact info* - The name, title, business address and telephone number of the LEO and when applicable, contact information for BVAP personnel to who requests for services must be addressed.
- d. General information provided to victims – After an investigation has been started, the investigating LEO or VAP personnel must provide victims with the following general information as needed:
  - i. *Logistical information* concerning transportation, parking, childcare, translator services and other investigation-related requirements.

- ii. *Information about the criminal justice system*, including the roles and expectations of victims at different stages of a case. As soon as victims are identified, LEOs and VAP personnel must provide victims with and information about their rights and services and must provide the victim with local victim service referrals.
  - iii. *Information about the custody status of a defendant* - For cases that will be investigated or prosecuted federally, LEOs and VAP personnel must inform victims about the automated Victim Notification System (VNS) to provide automated notice to victims of court-related events. For cases that will be prosecuted by state or local authorities that involve DOI LEO, such personnel must inform victims about the “Victim Information and Notification Everyday” (VINE) system if applicable and available within that jurisdiction. VINE provides information about the custody status of a suspect or defendant to victims who wish to receive notification of this information.
- e. Notice of investigative case status – DOI LEOs must provide the victim with the earliest possible notice of:
- i. The *status of the investigation* of the crime to the extent that it is appropriate and will not interfere with the investigation;
  - ii. The *arrest and filing of charges* against a suspect, unless it has been determined that the U.S. Attorney’s Office is responsible for such notice in the relevant jurisdiction;
  - iii. *Defendant’s initial appearance* - DOI LEO should notify victims when the prosecutor’s office may not have timely information to provide such notice.
- f. Return of property – DOI responsible officials or their designees must ensure that any property of victims being held for evidentiary purposes is maintained in good condition and returned as soon as it is no longer needed for evidentiary purposes. To the extent that it does not interfere with the investigation, DOI LEOs must notify victims that the agency is holding the property. If it is likely the property will deteriorate or be damaged during the investigative process, or if the property cannot be returned promptly, LEOs and VAP personnel may advise victims of the status of the property, provided doing so does not interfere with the investigation.

- g. Employer and creditor notification – If the victim or witness makes a request, LEOs or VAP personnel are encouraged to notify the victim or witness’s employers if participation in an investigation causes the victim or witness to miss work. In addition, if requested by victims or witnesses, LEOs and VAP personnel may notify a creditor of the victim or witness if the crime or the investigation impacts the victim or witness’s ability to make timely payments.

B. CVRA Rights (court-enforceable rights)

1. Best efforts: In cases that will be prosecuted federally or in the Superior Court of the District of Columbia, LEOs and VAP personnel must make their best efforts to ensure that individuals who meet the CVRA definition of “victim,” are notified and accorded VRRRA and CVRA rights.
2. Timing of CVRA rights – Victims who qualify for CVRA rights may enforce their rights once charges are filed by criminal complaint, information, or indictment, and may continue to enforce their rights throughout the corrections and parole process. The CVRA provides victims with nine court-enforceable rights, many of which are most pertinent during the prosecution phase of a case. Below is a list of the rights that apply most often during the investigation stage of a case.
  - a. Right to be reasonably protected from the accused –Reasonable victim protection responsibilities remain with the lead investigative agency throughout the criminal justice process. The lead investigating officer must notify victims that it is a federal crime to harass, intimidate, threaten, retaliate against or otherwise tamper with witnesses and advise victims to report any such occurrences to the LEO. Once the case is transferred to the prosecuting authority, the lead investigative agency must ensure that the prosecutor is advised of the victim’s security concerns and the steps that have been taken to address these concerns. If DOI law enforcement are jointly investigating a case, but DOI LEO are not the lead, they must notify the lead investigator should they become aware of any security concerns;
  - b. Right to notice – A crime victim has the right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused. Victims must also be informed of any plea bargain or deferred prosecution agreements;
  - c. Right to receive notice of CVRA rights and VRRRA services;
  - d. Right to receive contact information for the Office of the Victims’ Rights Ombudsman of the United States Department of Justice;

- e. Right to full and timely restitution – As early as possible in the investigation, LEOs and VAP personnel must identify a suspect’s financial assets and record victim contact and loss information in order to facilitate victims’ claims for restitution;
  - f. Right to be treated with fairness and with respect for the victims’ dignity and privacy – At all times, LEOs and/or VAP personnel must treat victims fairly and with respect for their dignity and privacy;
    - (ii) *Dignity* – To the extent possible, DOI responsible officials must respond promptly to the needs, questions, and concerns of victims;
    - (iii) *Fairness* -In the absence of legitimate law enforcement considerations, and when appropriate and feasible based on the specific circumstances of a case, LEOs should use their best efforts to inform victims of significant public announcements pertaining to the case in advance of or concurrent with such public announcements or statements;
    - (iv) *Privacy* –LEOs and VAP personnel must use their best efforts to refrain from releasing personal or confidential information about victims and witnesses to the press or public. Requests for information should be referred to the Freedom of Information Act coordinator. Personnel or confidential information in this context may include an individual’s name, address, contact information, identifying information, or other information or material that may allude to the identity of the victim or witness.
    - (v) *Confidentiality* – DOI VAP personnel must inform victims that case related information they provide to the VAP personnel will be shared for law enforcement purposes and with other law enforcement entities, including prosecution personnel.
3. Enforcement of CVRA rights - Victims may enforce their rights by motions filed by the government or by the victim. Victims also have the right to file appeals when CVRA rights are denied.

**5.2 Jurisdictional Considerations.** The nature and extent of the obligations of LEOs, LEO support personnel and VAP personnel under the VRRRA and CVRA will depend on whether the crime occurred in exclusive, concurrent, or proprietary jurisdiction. As long as DOI LEOs have a role in the investigation of victim-involved crimes, they are responsible for providing VRRRA services, even when the case ultimately will be transferred to another jurisdiction.

All LEOs and VAP personnel are required to understand the types of jurisdictions in which they work and the specific victims' rights and services laws and requirements that apply in the jurisdictions. If the type of jurisdiction is unclear, LEOs and VAP personnel must provide VRRRA services until proper jurisdiction is determined. LEOs and VAP personnel who work with state, local, and tribal law enforcement and prosecution authorities must be familiar with victims' rights laws in these jurisdictions and must know where to refer victims for more information about these laws. In cases where DOI LEO are cross deputized and working on behalf of another jurisdiction, they must also accord victims' rights as required by the laws of that jurisdiction.

- A. Exclusive Jurisdiction: Federal LEOs, often aided by other investigators, will conduct all investigations in exclusive jurisdictions. DOI LEO investigating crimes in exclusive jurisdictions must provide the full range of VRRRA services to all victims who suffer direct physical, emotional, or pecuniary harm as a result of the crime. Once charges are filed, LEOs and VAP personnel must ensure that individuals who meet the CVRA definition of victim are notified of and accorded CVRA rights.
- B. Concurrent Jurisdiction: For federal cases that occur in concurrent jurisdictions, victims' rights and services obligations to victims are generally the same as in exclusive jurisdiction. In cases that may be investigated or prosecuted by a state, tribal, or local agency, DOI LEO must identify all victims and provide the full range of VRRRA services until the case is transferred. In addition, DOI LEOs and VAP personnel are encouraged to notify victims (as soon as it can be determined) which agency will investigate and prosecute the case.
- C. Proprietary Jurisdiction: For cases that occur in proprietary jurisdiction, LEOs and VAP personnel must provide VRRRA services once a crime is detected at the earliest opportunity at which it may be done without interfering with an investigation, or once charges are filed, until the case is transferred. Victims' services most relevant within the first 24 hours of the detection of a crime include: identification; reasonable protection; emergency medical and crisis intervention; identifying resources for forensic sexual assault exams; and providing general information, particularly about the criminal justice system. LEOs and VAP personnel also are encouraged to provide victims with information on crime victims' compensation programs; local victim services specific to the victim's needs; and information, about the law enforcement agency that will be handling the case after transfer, including contact information for the lead investigator and the VAP personnel.
- D. Indian Country Jurisdiction: BIA LEOs working in Indian Country are often co-investigating cases with the FBI and tribal law enforcement. The requirements to provide victims' rights would be comparable to those requirements discussed in 5.2 B (concurrent jurisdiction).

**5.3 Coordination of Victims' Rights and Services.** DOI LEO and VAP personnel must coordinate victims' rights and services with law enforcement, victim assistance, and prosecution personnel in the agency receiving the case as appropriate.

- A. Coordination of Cases with Other Federal Agencies - When DOI LEO with investigative powers remains the lead agency but is working with other federal agencies, LEOs and VAP personnel must coordinate providing victims' rights and services with law enforcement and victim assistance personnel in the other federal agencies as needed. Toward this end, LEOs and VAP personnel are encouraged to meet with and develop contacts with victim assistance personnel in the Federal Bureau of Investigation (FBI), U.S. Attorney's Offices and in federal law enforcement agencies.

When DOI LEO with investigative powers transfers the lead to another federal agency but remains involved in the investigation, LEOs and VAP personnel can not ignore the needs of victims who contact them. When LEOs and VAP personnel are contacted by victims after the case is transferred, LEO and VAP personnel must ensure that the lead investigative agency is made aware of the victim's needs and follows through with needed services. Further, LEO and VAP personnel must coordinate rights and services with responsible officials in the receiving other agency during the transfer. When DOI LEO transfers the lead to another federal agency and is no longer involved in the investigation or prosecution, responsibility for providing victim rights and services transfers completely to the lead agency.

Information that must be provided to law enforcement or victim services personnel at the receiving agency includes: victim contact information; victim rights and services that have been provided; and any security measures that have been or will be required to address victim safety concerns. LEOs and VAP personnel must provide the victim with the name and contact information of the law enforcement and VAP personnel who will be taking over victim responsibilities in the case, and if possible, introduce the victim to these individuals.

- B. Coordination of Cases Transferred to State, Local, or Tribal Agencies - In concurrent or proprietary jurisdictions, upon transferring a case to state, tribal, or local authorities, LEOs and VAP personnel must provide the following information to the receiving agency: victim's name and contact information; victim notification status; and a list of services and information that has been provided to the victim. LEOs must inform the receiving agency of victim safety concerns and coordinate transfer of any security measures that already have been provided. LEOs and VAP personnel should, if possible, introduce the victim to the law enforcement and/or victim assistance personnel who will be handling the

case for the receiving agency. Information provided to victims must include contact information for relevant local victim service providers if appropriate.

C. Coordination with Victim Service Providers

1. LEOs who are lead investigators - Whether working jointly with DOI VAP personnel or with other federal, state, tribal, or local victim service providers, when a DOI is the lead investigative agency, DOI LEO must make their best efforts to ensure that victims receive rights and services to which they are entitled. LEOs should maintain ongoing coordination with victim service providers. LEOs may establish Memoranda of Understanding (MOU) with victim service providers working outside of the Department to help ensure that rights and services are provided throughout the investigation.
2. Responsibilities for DOI LEO assisting the lead investigative agency - When DOI LEOs are assisting the lead investigative agency, DOI LEO must make their best efforts to ensure the lead investigative agency is made aware of the victims' request for services and victim security concerns and ascertain whether coordination with the lead agency will be sufficient to ensure the services requested will be provided by the lead agency. If the lead investigative agency is not responsive to victims' requests for services, DOI LEO's must make their best efforts to ensure the victim is provided such services, especially when the services involve victim safety.

**5.4 Witnesses who are not VRRRA or CVRA victims.**

- A. Victims' Services and Rights Laws do not apply to Witnesses – The VRRRA and CVRA do not require LEOs and VAP personnel to provide witnesses who are not VRRRA or CVRA victims with mandated services and rights. Nonetheless, LEOs and VAP personnel must employ reasonable efforts to assist witnesses to crime during the criminal justice process, to the extent that doing so does not interfere with the constitutional rights of defendants.
- B. Witness Security – LEOs and VAP personnel must take reasonable measures to address witness's security concerns. DOI LEOs must evaluate the threat to the witness and identify reasonable options to address the threat within available resources.

Investigative agencies primarily are responsible for arranging for reasonable witness security measures throughout the criminal justice process, but must coordinate witness security services with other law enforcement agencies as

appropriate and with the prosecutor's office once charges are filed. Concerns about a witness's safety must immediately be reported to the lead LEO.

- C. Intimidation and Harassment of Witnesses – LEOs routinely must advise victims and witnesses that it is a federal crime to intimidate, harass, tamper with, or retaliate against witnesses to federal crime. See 18 U.S.C §1512 and 18 U.S.C § 1513. DOI LEOs must, if warranted, advise appropriate DOJ personnel upon learning of the intimidation or harassment of any victim or witness.