



**Department of State's Attorneys and Sheriffs**

**Act 159 Survey Report**

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**Introduction**

Pursuant to Act 159 (2024), the Joint Legislative Justice Oversight Committee is seeking feedback concerning Earned Time eligibility, education credits towards Earned Time, and the Vermont Automated Notification System (VANS). This document details the opinions of 15 Victim Advocates that work for the Department of State's Attorneys and Sheriffs ("SAS or "the Department") that participated in a statewide survey asking for feedback on these policy issues.

**Methods**

Victim Advocates Christopher Lukasik (Windham) and Meghan Place (Windsor) authored and issued a survey to fellow SAS Victim Advocates in August 2024 to receive feedback concerning certain questions posed by Act 159. The survey asked 7 questions and allowed for respondents to participate anonymously to allow for a higher level of comfort in responding to each of the questions, however Victim Advocates had the opportunity to name themselves in one of the questions if they so wished. Respondents were only allowed to respond once to the survey, and administrators of the survey do not know who responded, unless a respondent identified themselves. The Department chose to ask questions about both Earned Time and VANS because if Earned Time expands, Vermont Department of Corrections (DOC) has a responsibility to keep victims of incarcerated or supervised individuals informed of what to expect. Due to the gender makeup of the Victim Advocates, pronouns for all respondents will be they/them regardless of anyone's identified gender (the survey also did not ask for a respondent's gender).

Further, a statewide Victim Advocate meeting was held on September 11, 2024 to discuss the findings and solicit additional feedback.

Four questions were framed as a Yes/No/Decline to Answer<sup>1</sup> format, and three questions were open-ended questions. The questions included the survey were as follows:

- Should Earned Time be expanded to include parolees?

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<sup>1</sup> We do not make any assumptions about why a respondent may choose how to answer or may choose not to answer at all. We have reported the responses that were received, however it should be noted that those that made the choice not to answer shortened the response pool.

- *Yes/No/Decline to Answer*
- Should Earned Time be expanded to allow for incarcerated individuals to earn time for educational credits they work towards?
  - *Yes/No/Decline to Answer*
- Do you have confidence in the operation and effectiveness of the Vermont Automated Notification System (VANS)?
  - *Further clarification was made that this question is only in reference to VANS, and not any other software that is offered to the public by the Department of Corrections (ie., Offender Locator).*
  - *Yes/No/Decline to Answer*
- Do you believe VANS has the ability to effectively handle the expansion of earned time?
  - *Yes/No/Decline to Answer*
- Do you know of a victim who would be interested in testifying at the Joint Justice Committee?
  - *Respondents were then prompted to either share contact information of those victims, or to encourage those victims to reach out to SAS Central Office.*
- Are you interested in testifying at the Joint Justice Oversight Committee?
  - *Respondents were then prompted to name themselves and share an overview of their thoughts, knowing that responses would likely be shared with legislators.*
- Any other comments concerning these questions or earned time credit in general?
  - *This question provide a space for all SAS Victim Advocates an opportunity to write out thoughts to be included in this Report, and for future use by the Department.*

Respondents to the survey are all Vermont State employees and work in State's Attorney's Offices. There are 27 Victim Advocates across Vermont in State's Attorney's Offices<sup>2</sup>. Out of 27 Victim Advocates, 15 responded (55% response rate). Data on where these advocates work was not collected to protect confidentiality.

### Results

- **Should Earned Time be expanded to include parolees?**
  - Yes: 0 (0%)
  - No: 14 (93%)
  - Decline to Answer: 1 (7%)

**Summary:** SAS Victim Advocates broadly disagree with expanding Earned Time to people on Parole.

- **Should Earned Time be expanded to allow for incarcerated individuals to earn time for educational credits they work towards?**
  - Yes: 0 (0%)
  - No: 12 (80%)

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<sup>2</sup> Further, there are additional advocates who may be co-located from a Vermont Network Member Organizations but are not directly employed by a State's Attorney's Office—this survey was not administered to those advocates.

- Decline to Answer: 3 (20%)

**Summary:** SAS Victim Advocates generally disagree that earned time should be expanded to allow for credits for education.

One Victim Advocate explained that they voted no because of they had concerns of equity, and the education credits for Earned Time further stigmatizing people with limited means, limited literacy levels, or people who may enroll in education programs that would not count towards this Earned Time expansion.

- **Do you have confidence in the operation and effectiveness of the Vermont Automated Notification Service (VANS)?**
  - Yes: 2 (13%)
  - No: 12 (80%)
  - Decline to Answer: 1 (7%)

**Summary:** SAS Victim Advocates generally do not have confidence in the operation and effectiveness of the VANS that Vermont offers the public. SAS Victim Advocates generally find that the concept underpinning VANS, a useful tool for victims to receive as quick of notice as possible, and support VANS in theory, however in practice, VANS is not a useful tool for victims to receive the information they need.

Verbal feedback gained from Victim Advocates on VANS included:

- Notices provided by VANS are not concise, and written for members of the public who do not have prior professional experience with the criminal legal system.
- Victims should be given the choice to receive automated or personalized notifications from the Department of Corrections, or to decline notifications altogether.
- There is no easy way to input victim contact information to the Department of Corrections without SAS Victim Advocates manually inputting information into VANS, or emailing Corrections employees
  - One Advocate did explain that Corrections staff do email when there is no information available in VANS, however this is not uniform across all Corrections staff members. It relies on staff to take an extra step, rather than have an automated way to share information.
- **Do you believe VANS has the ability to effectively handle the expansion of earned time?**
  - Yes: 0 (0%)
  - No: 14 (93%)
  - Decline to Answer: 1 (7%)

**Summary:** SAS Victim Advocates broadly do not believe that VANS, as it currently is administered, has the ability to handle the expansion of earned time to allow for victims to receive regular notices when an incarcerated individual's minimum and maximum time changes.

### Commentary on Results & Direct Quotes

The Department intends to make available those Victim Advocates that are interested and willing to testify concerning the questions posed by Act 159. It should be noted that the responses of the six SAS Victim Advocates, below, represents a broad array of different perspectives concerning both the status of Vermont's criminal justice system, as it currently functions and as experienced by the Advocate, and the value of programs offered by the Department of Corrections.

Concerning any expansion of Earned Time, SAS Victim Advocates noted concerns about the impact on victims – in particular, that continuous changes to Earned Time will continue to create confusion, ambiguity, and lack of finality, for victims of crime and defendants alike. SAS Victim Advocates hold concerns regarding the quality of services that victims are provided post-disposition of a criminal case. SAS Victim Advocates are in support of concrete conclusions to cases so that victims can have a sense of finality for the crime perpetrated against them. It should be noted that finality is a pillar of sentencing in criminal cases.

**Person 1:** “The integrity of the criminal justice system is put into question without truth in sentencing. **The message that this type of approach would send victims is that their experience doesn't matter**, and the most important thing to the legislature is defendants- not the actual people who were harmed.”

**Person 2:** “We have cut so many corners, so many times, it is starting to become nothing but a circle. A circle to emphasize the constant, never ending, benefits or credits offenders are awarded throughout the criminal justice process and **the constant, never-ending frustration, stress, re-victimization and unknowns that victims of crime here in Vermont face.**

There is **no “truth in sentencing..., closure, ever, for victims** [plea agreements and verdict by jury convictions are subject to further litigation]..., **inadequate notification systems post-conviction..., ...understanding about who is actually incarcerated** in Vermont.”

One Advocate reflected on the implementation of Earned Time, and the manner that victims were notified by DOC that Earned Time was now available to already incarcerated individuals. This advocate explained that many victim's lack of confidence in the criminal legal system because of constant legislative changes. The advocate also noted their concerns regarding VANS notices.

**Person 3:** “**the last legislative change [about Earned Time] impacted victims and further eroded confidence in the criminal legal system....**

[and was] **an opportunity to highlight the shortcomings of the VANS system** and Corrections' over-reliance on it to share information we are obligated to share by statute”

On October 19, 2020, all people who were enrolled in VANS received this notification:

Department of State's Attorneys and Sheriffs (SAS), Act 159 Survey Report  
September 2024

This is an important message from the VAN Service, the Vermont Automated Notification Service.

The Vermont Department of Corrections invites members of the public and victims of crime to respond to a new earned good time program. This rule, required by Act 148, allows eligible offenders to earn up to 7 days off their minimum and maximum sentence for each month they meet the program requirements.

The program goes into effect January 1, 2021. Victims of crime have the right to be made aware of the program and to access information about the reduction in terms for the perpetrators of crime. Interested parties can make comments on the proposed rule at a virtual public meeting on October 26, 2020.

Please visit <https://doc.vermont.gov/policies-directives-and-rules> for information on the proposed rule, how to join the meeting, or provide written feedback.

This notification is sponsored by the VAN Service. It is our hope that this information has been helpful to you.

Thank you,

The VAN Service, made available by VINE

Enrolled people, which did not encompass all victims of supervised or incarcerated individuals, were given one week to respond to the Department of Corrections and provide their own input.

Person 3's concern was that the Department of Corrections only used VANS to reach victims of crime, and did not take a holistic (phone call, email, mailing) approach to involve victims in this change to the system.

The issues that arose during the 2024 legislative session (earned time, education credits, and VANS) sparked SAS Victim Advocates' reflections on the system as a whole and how any additional changes would impact other parts of the system, including parole and prosecution as noted by Person 4 and Person 5.

**Person 4:** "It is so difficult and frustrating to not be able to give victims real estimates of when people will get out. Also, related to parole, the current conditions coming out of the parole board are incredibly lax. **Parole has less teeth than probation and yet is often for more serious crimes.**"

**Person 5:** "Victims have so few rights and the ones they do have are seemingly unenforceable. **What is the point of prosecution if every tool and sentence is taken from us or is so diluted it is completely ineffective?**"

Person 6 provided perspective concerning Vermont's criminal justice system and what the system offers offenders and victims.

**Person 6:** "... [Vermont lawmakers] continue to provide services and lessen the sentence for defendants while victims do not receive any benefits from these laws.

There is no COSA for victims, no free iPads, no free counseling, etc. Furthermore, they continue to require SA [Victim Advocates]'s [to do] the work and not the DOC [Victim Advocate]'s."

At no point during discussions or commentary did Victim Advocates want to take away these services from offenders. Victim Advocates believe that successful systems seek to rehabilitate offenders and to do so systems must do all that they can to assist offenders in their rehabilitative journey to, but the system as a whole is falling short in serving victims as it attempts to serve offenders. We believe the effort to assist those who have committed crime should not come at a cost to those who have

experienced crime. The feedback given by Person 6 offers a vision into future programming that the State can explore to better support all people who interact with the criminal legal system.

### Recommendations

- **Do Not Extend Earned Time to Parole & Do Not Extend Earned Time for Educational Credits**
  - **Victim Advocates prefer finality in cases**, so that the information provided to victims at the Sentencing Hearing is the ongoing correct information rather than a moving target
  - Of note, concerning potential earned time education credits, we believe there may be an equity. We fear that education credits that may count towards earned time will only benefit people with the means and ability to do so. A financially or socioeconomically privileged person may be better situated and likely to enroll in education programs. Likewise, a person who is struggling to make ends meet or is without a home may not have the resources to enroll and successfully complete education programs and thus may not be able to benefit from educational earned time.
  - Additionally, it is, at present, how the term “education,” would be defined. For example, successful completion of a degree program from an accredited University vs. a data analytics certificate program that is completed online.
  - The opinions of Advocates are subject to change with more information and detail.
  
- **Future VANS Adjustments Should Include customizable notifications, and updates to minimum and maximum with Earned Time – with calculations provided by the Department of Corrections.**
  - **Victim Advocates believe that victims should be given the most up to date information on a regular basis, especially when it comes to changing minimum and maximum release dates for incarcerated and supervised individuals.** However, victims may decide that they do not want regular updates when incarcerated individuals received Earned Time, and a tiered approach where victims can select the types of notifications they want should be implemented. Victims who want regular updates about Earned Time should receive them, and victims who do not want those regular updates should be able to exercise an option not receive notifications.
  - SAS Victim Advocates do not have sentence calculation tools available to them, and as such, it is inappropriate for SAS Victim Advocates to give victims what they think would be the minimum and maximum release date if the individual was to receive all available earned time.<sup>3</sup> Additionally, placing this responsibility on Victim Advocates and not giving them the tools to appropriately carry out this responsibility means that victims are likely to receive wrong information, which is not the intent of the legislature.

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<sup>3</sup> It should be noted that SAS Victim Advocates are, at present, experiencing caseloads of roughly 600 cases per Advocate.

- It should be noted that the Department of Corrections provided a training to all SAS employees during the 2021 SAS annual training.
- The Department of Corrections is the only agency in Vermont that holds sentence calculation tools, and as such, the Department of Corrections should hold the primary responsibility of notifying the victim of minimum and maximum release dates, including any changes to those days through Earned Time. SAS does not have the staff, time, or resources to provide calculations concerning earned time. **The Department of Corrections 2021 Presentation made clear to SAS employees that the Department of Corrections could provide research concerning the estimated amount of pre-sentence credit. This type of assistance is greatly appreciated by all SAS employees, as it helps us make more informed decisions about case resolutions.**
- **Alleviate non-court postconviction-specific victim services from SAS Victim Advocates as SAS Victim Advocates are not staffed to engage with non-court postconviction matters**
  - Victim Advocates do not have the tools readily available to give good faith information about an incarcerated or supervised individual beyond the publicly available information on the DOC Offender Locator or by calling DOC staff. During a 2023 survey of SAS Victim Advocates, the Department estimated that SAS Advocates, on average, are handling roughly 600 cases. With substantial caseloads SAS Victim Advocates are already over capacity. During the 2024 legislative session the Department asked for additional fulltime Victim Advocates to relieve caseloads—unfortunately, no permanent positions were funded or allocated by the legislature.
  - Additionally, should victims not want their information inputted into the Department of Corrections' system, they are de-facto declining all future victim services related to Corrections, as the Department of Corrections, in practice, relies solely on the information inputted into VANS. **Victim Advocates would like to see a system that can easily transfer information without having to manually type in a person's contact information.** Further, **SAS Victim Advocates believe that the Department of Corrections should not rely, solely, on the VANS system to contact victims.**
  - Further, if an offender does not enter a facility and is only supervised by the Department of Corrections, in the community, it is physically impossible for Victim Advocates to enroll victims into VANS, as an offender needs to be logged into VANS as an incarcerated individual for SAS Victim Advocates to be able to enroll victims into notifications.
  - SAS Victim Advocates often interact with victims prior to the filing of a case by the State's Attorney. However, SAS Victim Advocates typically commence their work when the case is filed by the State's Attorney and then continue to work with the victim as the case navigates through the court process, including but not limited to: Arraignment, Depositions, Motion Hearings, Trials/Merits Hearings, Sentencing/Disposition Hearings, Violation of Probation Hearings, Post-Conviction Relief, and Appeals. Adding responsibility to SAS Victim Advocates beyond any

court involvement results in unfunded additional work for SAS Victim Advocates – meaning less time for those victims involved with active and pending court matters.

- **Language in VANS notices need to be concise and understandable to people who have never interacted with the criminal legal system**

- Victim Advocates are concerned that VANS notices ARE written in a manner that assumes that victims are well-versed in the jargon of the criminal justice process. VANS notices should be reduced to plainspeak to ensure that victims can understand the information being transmitted.
- See below for screenshot of a redacted VANS notice sent on September 11, 2024. The notice makes the following assumptions:
  - The victim has or can easily access contact information for the Brattleboro Probation and Parole Office.
  - The victim can easily access the Offender Locator linked in the email.
  - The victim has or remembers the offender's original release date.
  - If the victim was to have an immediate safety concern, that local law enforcement can appropriately act on that concern, or that local law enforcement is notified of the offender's release.
  - The victim knows that their concern is a "victim-related question or need."

This e-mail is to inform you that [NAME] with offender number [Number] was released from jail on 09/11/2024. The offender will continue to be supervised in the community by the Department of Corrections. The offender will be supervised by Brattleboro Probation and Parole. If you have any concerns about your immediate safety, contact your local law enforcement agency or, if you have an emergency, call 911.

If you would like more information about this offender, please contact the offender's supervising officer. The supervising officer's name and contact information can be found by visiting [www.vinelink.com](http://www.vinelink.com) and clicking on "Record Details" located on the offender record.

Please be aware that Supervised and Incarcerated Individuals are eligible for "Earned Time." This means they are eligible to earn up to 7 days a month off their sentence and may be released earlier than anticipated. Please check the [offender locator](#) for an updated release date. Earned Time is updated monthly.

If you have a victim-related question or need, please contact the VT DOC Victim Services Unit by email at [AHS\\_DOCVictimServices@vermont.gov](mailto:AHS_DOCVictimServices@vermont.gov), or phone at 888-810-1847, during State of Vermont hours of operation, 7:45am-4:30pm.

This notification is sponsored by the VAN Service. It is our hope that this information has been helpful to you.

Thank you,

The VAN Service, made available by VINE

- - SAS Victim Advocates believe that by eliminating language that makes assumptions will assist victims in obtaining and understanding information in a clear and concise way. Notices should provide information that explains how long the offender will be supervised for, the specific name of the supervising officer and their phone number. Eliminating the need for victims to click additional links and input information on makes it easier for victims to engage with the system. Importantly, if there is a need for DOC staff to make a phone call or send a personalized email to a victim, those efforts should occur concurrent to any reliance on VANS.
- **Full system education on the role of SAS Victim Advocates, and when it is and is not appropriate to refer victims to SAS Victim Advocates**



- SAS Victim Advocates discussed that it is clear that **system actors still hold gaps of knowledge concerning what SAS Victim Advocates do on a daily basis, and the capacities that they have**. On average (meaning some people have more and some people have less), a singular victim advocate carries about 600 cases – this does not mean 600 individual victims, as multi-count dockets bring forth multiple victims. Those 600 cases need regular maintenance, outreach, correspondence, phone calls, etc. SAS Victim Advocates are partners to the prosecutor in criminal and juvenile cases, and as such SAS Victim Advocate duties must only be confined to court involvement. Additional responsibilities should be set solely by the county State's Attorney or the Legislature – not by other agencies. **SAS Victim Advocates cannot be used as the go-to professional for all victim-related needs in Vermont, particularly after disposition or prior to the filing of charge, as the SAS Victim Advocate job description and pay grade do not reflect that level of responsibility.**
- Ensuring that VT Department of Corrections leadership and staff are properly educated on the role and responsibilities of the SAS Victim Advocates may lead to better victim engagement for cases involving Supervised and Incarcerated Individuals.