

Open Meeting Rules, Victim/Offender Input, Rights & Representation to Weld County Community Corrections Board

The Weld County Community Corrections Board ("WCCCB") and its Review Committee meetings are Open Meetings under Colorado Law. Notice that a WCCCB meeting is scheduled will be communicated by Weld County Justice Services personnel to the Clerk of the Board for Weld County Board of Commissioners; agendas of Full WCCCB meetings shall be conspicuously posted at an approved location(s) of Weld County. Unless otherwise noted all WCCCB meetings shall utilize the provisions of *Roberts Rules of Order, as Amended*.

Submission of Written Statements:

- a. Pursuant to Colorado's Victim Rights Act--VRA (see relevant statutory excerpt below), victims of VRA crimes have the right to submit a written Victim Impact Statement to the WCCCB when the WCCCB is considering an offender's potential placement. Victim Impact Statements shall be tendered to Justice Services staff by no later than the Friday before a Full WCCCB meeting. Letters must be submitted to Justice Services staff by no later than noon on the Monday of the week in which the Wednesday Review Committee is scheduled to occur. Distribution of written correspondence received by Justice Services shall be distributed to WCCCB members prior to reviewing the offender for placement.
- b. Members of the public, the victim, friends or family members of the victim, the offender, friends or family members of the offender, representatives of the victim or offender, are permitted to submit a written letter to the WCCCB for consideration prior to the Full WCCCB meeting or the Review Committee meeting. Said written correspondence shall be submitted to Justice Services staff by no later than the Friday before the Full WCCCB meeting. Letters must be submitted to Justice Services staff by no later than noon on the Monday of the week in which the Wednesday Review Committee is scheduled to occur. A copy of all written correspondence received by Justice Services staff will be distributed to WCCCB members prior to reviewing the offender for placement.

Oral Comment:

Pursuant to Colorado's Open Meetings laws, the WCCCB shall allow the public, the offender, the victim(s), the victim's or offender's family, friends, other representatives, or attorneys (defense or prosecution) to attend and offer comment with its approval and within reasonable parameters set by the WCCCB . Victims of VRA crimes have the right to attend community corrections board meetings. Whether a victim of a VRA crime may make an oral Victim Impact Statement is at the discretion of the WCCCB. If permitted to provide a formal oral

statement, the individual addressing the WCCCB, including victims of VRA crimes, shall adhere to applicable procedures set forth in the sections below.

- a. The Chairperson, or WCCCB member(s) at a Review Committee, may invite anyone in attendance to speak if any WCCCB member has a question or requests information. In addition, a victim of a VRA crime may be allowed to make an oral Victim Impact Statement at the discretion of the WCCCB. Other individuals may be allowed to make statements at the discretion of the WCCCB.
- b. The public, a victim of a VRA crime, an offender's or victim's family, friends, other representatives of the victim or the offender, or an attorney(s) (defense or prosecution) who are present may only address the WCCCB upon the express instruction of the Chairperson or his/her designee at Full WCCCB meetings. At Review Committee meetings, Justice Services staff shall serve in this capacity.
- c. The following are the parameters that will be adhered to when an individual has been allowed by the WCCCB to respond to a question or a request for information from the WCCCB:
 1. The individual responding to the request for information or the question from the WCCCB shall limit the response to the question or request for information posed.
 2. Any WCCCB member may intervene and stop the individual from continuing his or her response to the WCCCB if such response exceeds the scope of the question asked or the information requested.
 3. Individuals responding to WCCCB questions or requests for information will be advised by the Chairperson or designee that the guilt or innocence of the offender is not a topic to be addressed at the WCCCB meeting and that any WCCCB member may interrupt the individual speaking if his or her comments extend beyond the scope of the question or request for information.
- d. The following are the parameters to be adhered to when a victim of a VRA crime or other individual has been authorized by the WCCCB to make an oral statement:
 1. The authorized speaker may be allowed up to five (5) minutes for their oral statement. The Chairperson, or the WCCCB member designated to serve as the Acting Chairperson, may set time limits if it appears that more than one person will be addressing the WCCCB to advocate a

particular position. The time allotted by the Chairperson to present verbal statements shall be of equal duration for the victim and for the offender.

2. Verbal comments made to the WCCCB by attorneys and/or the public concerning potential placement of an offender shall focus on community safety, whether the community corrections program can reasonably supervise the offender, and whether the offender would benefit from rehabilitative programs offered by the community corrections program. The WCCCB meeting is not a forum to retry the criminal case. The WCCCB may request information about the nature of an offender's case to include, but not limited to, the nature and the scope of the plea agreement, as well as any aggravating or mitigating circumstances of the offender that may affect the ability to supervise safely the offender in a community placement.
3. The WCCCB will not accept oral or written public comment related to, or make decisions regarding, the offender's guilt or innocence of the criminal charges filed or pending against the offender.

Rights Afforded to Victims:

Colorado Revised Statute §24-4.1-302.5, in part states:

(1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime shall have the following rights:

. . . (j.3) The right to be notified of a referral of an offender to community corrections;

(j.5)(I) The right to provide a written victim impact statement, an oral victim impact statement, or both, that will be included with any referral made by the department of corrections or a district court to place an offender in a community corrections facility or program.

(II) For purposes of this paragraph (j.5), the community corrections board considering the referral shall have discretion to determine whether a victim may provide a separate oral statement to the board and to place reasonable parameters on the provision of an oral statement by the victim. If a community corrections board denies the offender's referral to community corrections, the victim's right under this subparagraph (II) to provide an oral statement at the discretion of the board shall not take effect.

C.R.S. 24-4.1-302(5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the

crime or a crime arising from the same conduct, criminal episode, or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative. For purposes of notification..., any person under the age of eighteen years is considered incapacitated, unless that person is legally emancipated. It is the intent of the general assembly that this definition of the term "victim" shall.....not be applied to any other provision of the laws of the state of Colorado that refer to the term "victim."

Victim Rights Amendment (VRA) criminal acts:

- ✓ Murder;
 - ✓ Manslaughter;
 - ✓ Criminally Negligent Homicide and Vehicular Homicide;
 - ✓ Assault;
 - ✓ Menacing;
 - ✓ Kidnapping;
 - ✓ Sexual Assault;
 - ✓ Robbery;
 - ✓ Aggravated Robbery;
 - ✓ Incest and Aggravated Incest;
 - ✓ Child Abuse;
 - ✓ Sexual Exploitation of Children;
 - ✓ Crimes Against At Risk Adults and At Risk Juveniles;
 - ✓ Crimes designated by the District Attorney, Law Enforcement, or found on the record by the court to be an act of Domestic Violence:
 - ✓ Stalking;
 - ✓ A Bias-Motivated Crime as defined in C.R.S. 18-9-121;
 - ✓ Careless Driving Resulting in Death;
 - ✓ Failure To Stop At An Accident Involving Death;
 - ✓ Retaliation of a Victim or Witness;
 - ✓ Intimidation of a Victim or Witness and Aggravated Intimidation of a Victim or Witness Tampering with a Victim or Witness;
 - ✓ Indecent Exposure;
 - ✓ Violation of a Criminal Protection Order issued against a person charged with Sexual Assault;
 - ✓ Any Criminal Attempt, Conspiracy, Criminal Solicitation, or Accessory involving any of the crimes listed above.
- g. The WCCCB shall make every effort to preserve the rights of victims.
- h. The Probation Department, District Attorney's Office or DOC is statutorily responsible to inform the WCCCB and/or Justice Services staff when/if a victim

has specifically requested to provide separate written and/or oral statements to the WCCCB regarding the possible placement of an offender in Weld County. At that time only, Justice Services on behalf of the WCCCB, may initiate contact with a victim(s). Contact shall be in the form of a letter addressed to the listed victim(s) informing the victim(s) of the methods available to address the WCCCB, and the date, time and location of the WCCCB meeting.

- i. If a victim(s) chooses to attend a WCCCB meeting, they shall adhere to all provisions set forth above in Sections a – d.
- j. If a victim believes that his or her rights pursuant to the VRA have not been complied with, the victim is encouraged to seek relief with the WCCCB (with assistance of Justice Services staff, if necessary.) Contact may be done verbally and/or in writing. At a suitable time, the WCCCB shall formally address the victim's concerns. Decisions of the WCCCB shall be communicated verbally to a victim, if the victim is present, and the victim shall also be provided with a written decision from the WCCCB. The victim is also encouraged to contact the Colorado Department of Public Safety, Victim Rights Act Specialist, and assistance will be provided to the victim, upon request by the victim, by Justice Services staff as to how to contact the Colorado Department of Public Safety.

Ensuring the Rights of Crime Victims:

All WCCCB members have a responsibility to ensure that victims of VRA crimes are afforded their rights pursuant to the following provision of the VRA:

1. C.R.S. §24-4.1-303(1) Law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies shall assure that victims of crimes are afforded the rights described in section [24-4.1-302.5](#).
2. Consistent with the VRA and with the WCCCB's commitment to making every effort to preserve the statutory and constitutional rights of crime victims, the Chairperson and any WCCCB member has a responsibility to ensure that victims of crime are treated with fairness, respect and dignity. C.R.S. §24-4.1-302.5(1) (a). As a result, the Chairperson and/or a WCCCB member shall intervene in the event that an individual speaking to or submitting a written statement to the WCCCB violates a policy of the WCCCB, such as speaking as to matters beyond the scope of the WCCCB's authorization.
3. In addition, when considering whether to allow an offender, his family or a representative to make a statement in support of the offenders request for consideration for placement into the community corrections program, the WCCCB shall ensure fairness of process for the victim(s) of a VRA crime by allowing such victim, or a representative designated by the victim, an equal

opportunity to provide a verbal statement to the WCCCB. A victim, or a representative designated by the victim, who is authorized by the WCCCB to speak shall not be compelled to make a statement. This provision shall not apply to situations when the offender's attorney addresses the WCCCB, and in such instance, the District Attorney's Office shall be provided with an equal opportunity to address the WCCCB after legal counsel for the offender has addressed the WCCCB.

4. WCCCB members will respond appropriately to concerns from a victim who would like to attend a WCCCB meeting but is reluctant to do so due to fear of the offender. If possible, the WCCCB shall make accommodations, such as seating the victim away from the offender and allowing the victim to leave the meeting before the offender leaves.