

POLICY TITLE: CONTACT WITH VICTIMS		PAGE 1 OF 11
POLICY NUMBER: 6.3		
CHAPTER: Victim Services		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
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I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Adult and Juvenile Facilities

III. POLICY

In order to aid in the protection of victims, promote rehabilitation of prisoners and residents, and minimize risks to safety, security, and orderly management of its facilities, the Department prohibits contact between a prisoner or resident currently in custody for domestic violence, a sex offense, child abuse, or child neglect and the victim, unless the prohibition is waived through the process established by this policy. This policy does not apply to contact with other victims.

IV. DEFINITIONS

1. Child abuse - includes, but is not limited to, an act of violence against a child, a threat of violence against a child, or endangering the welfare of a child by an act that the person knows or should know exposes a child to serious physical harm, such as by reckless driving with a child in the car, creating a police standoff with a child present, operating a meth lab in the child's home, intentionally starving a child, or purposely leaving a child in a hot car, etc.
2. Child neglect - includes, but is not limited to, omissions that endanger the welfare of a child, such as by failing to provide the child with adequate food, water, shelter, health care, or supervision, etc., on a reoccurring or enduring basis. Child neglect also includes substance abuse that causes an infant to be born addicted.
3. Domestic violence – any conduct committed against a family or household member that constitutes a crime under Title 17-A M.R.S.A. chapter 9 (offenses

against the person), chapter 13 (kidnapping and criminal restraint), section 454 (tampering with a victim), section 458 (retaliation against a victim), section 506-B (violation of a protective order), or section 758 (obstructing report of crime or injury); a crime under Title 15, section 1092 (violation of condition of release); or any other crime that by its nature involves domestic violence.

4. Domestic violence against a child - includes, but is not limited to, domestic violence directed at the child, domestic violence directed at another person in such a way that it also endangers the child (e.g., the prisoner or resident assaulted another person who was holding the child), the child being a witness to aggravated domestic violence, up to and including murder, etc.
5. Sex offense - any conduct that constitutes a crime under Title 17-A M.R.S.A. chapter 11 (sexual assaults) or chapter 12 (sexual exploitation of a minor).

V. CONTENTS

- Procedure A: Contact with Victims, General
- Procedure B: Waiver Requests and Decisions on Waiver Requests
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VI. ATTACHMENTS

[Attachment A: Prisoner or Resident Request for Waiver for Contact with Victim](#)

VII. PROCEDURES

Procedure A: Contact with Victims, General

1. A prisoner or resident who is currently in the Department’s legal custody for domestic violence, a sex offense, child abuse, or child neglect (i.e., the prisoner or resident was, is, or will be serving a sentence or disposition during the current time in custody for the domestic violence, sex offense, child abuse, or child neglect) is prohibited from having contact with the victim unless granted a waiver by the Commissioner, or designee.
2. This includes a prisoner or resident who is currently in custody on a conviction or adjudication for domestic violence, a sex offense, child abuse, or child neglect; on a conviction or adjudication for another offense if a formal charge of domestic violence, a sex offense, child abuse, or child neglect was pled down to the other offense or dismissed in exchange for a plea to the other offense; on a detention order for a charge of one these offenses; or on a revocation of administrative release, deferred disposition, probation, or supervised release for sex offenders due to a violation based on conduct consisting of one of these offenses. It also includes a prisoner or resident who is currently in custody due to an incident involving conduct consisting of one of these offenses.

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3. Also, a prisoner or resident who has a current child protection case with the Department of Health and Human Services (DHHS) regarding the victim is prohibited from having contact with the victim unless granted a waiver by the Commissioner, or designee.
4. A prisoner or resident is prohibited from having contact with the victim and may not request a waiver of a prohibition on contact with the victim if any of the following circumstances exist:
 - a. there is a written request from the victim, the legal guardian of an adult victim, or the parent or other legal guardian of a minor victim requesting all contact between the prisoner or resident and the victim be prohibited;
 - b. all contact between the prisoner or resident and the victim is prohibited by a current court order, e.g., a custody order or protection from abuse or other protective order, etc.;
 - c. all contact between the prisoner or resident and the victim is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, including any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation, current detention order for violation of conditional release, or current return from community reintegration status or from supervised community confinement;
 - d. there is a current notification issued pursuant to Title 17-A, section 506-A for the prisoner or resident not to engage in harassing conduct against the victim;
 - e. the victim is a child and the prisoner's or resident's parental rights have been terminated, unless the termination was voluntary and not the result, direct or indirect, of a child protection investigation by DHHS;
 - f. the facility Chief Administrative Officer (CAO), or designee, is currently prohibiting all contact between the prisoner or resident and the victim for any reason set out in Department Adult Facility Policies 21.2, Prisoner Mail; 21.3, Prisoner Telephone System; 21.4, Prisoner Visitation; or 24.10.1, Computer Tablets; or in Juvenile Facility Policies 16.1, Resident Mail; 16.2, Access to Telephones; or 16.3, Visitation.

Note: If a written request, court order, condition, or prohibition by the CAO, or designee, does not prohibit all contact with the victim, the granting of a partial waiver may be considered, provided any partial waiver shall only be for contact that is not prohibited.

5. When one or more of the above circumstances exists, a request for a waiver shall not be considered, and the Director of Victim Services, or designee (or in a child neglect case, the Chief Administrative Officer, or designee) shall so inform

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the prisoner's case manager or resident's social worker and document it in CORIS. The case manager or social worker, as applicable, shall inform the prisoner or resident that the waiver request is not being considered and why and document it in CORIS.

6. Unless an exception is made by the Director of Victim Services, or designee (or, in the case of child neglect, by the Chief Administrative Officer, or designee), a prisoner or resident shall be required to successfully complete a Department domestic violence education, sex offender treatment, or parenting program, or other relevant Department program, prior to being considered for a waiver. An exception may be made based on completion of a relevant community program.
7. Unless an exception is made by the Director of Victim Services, or designee (or, in the case of child neglect, by the Chief Administrative Officer, or designee), a prisoner or resident requesting a waiver for contact with a victim after completing a required Department program shall not be considered for a waiver if the prisoner or resident has contacted or attempted to contact the victim with whom he or she is requesting to be allowed contact while participating in the program or after completing the program but prior to the decision on the requested waiver. A prisoner or resident who is not considered for a waiver due to contact or attempted contact may apply for a waiver after at least three (3) months have passed without the prisoner or resident having contacted or attempted to contact the victim with whom he or she is requesting to be allowed contact.
8. The Department's Director of Victim Services, or designee (or, in the case of child neglect, by the Chief Administrative Officer, or designee), may make an exception to either or both of the above if there is an emergency, such as the impending death or serious medical condition of the prisoner or resident or the victim due to illness or accident; contact is needed for reentry planning; contact is needed for an impending court proceeding; contact is necessary to avoid serious emotional harm to a child victim; the prisoner or resident has not been able to complete the required program due to circumstances beyond the person's control; the situation is one of an isolated instance of relatively less serious conduct; or there are other extenuating circumstances as determined by the Director of Victim Services, or designee (or, in the case of child neglect, by the Chief Administrative Officer, or designee). The facility Chief Administrative Officer, or designee, may ask the Director of Victim Services, or designee, to consider other extenuating circumstances.
9. In order to determine whether a prisoner or resident has contacted or attempted to contact the victim with whom he or she is requesting to have contact, facility law enforcement officers shall:
 - a. periodically monitor the phone calls, mail, and, if applicable, text messages of every prisoner or resident at the facility who is prohibited to have contact with a victim by this policy and who is participating in a program he or she is required to successfully complete prior to being considered for a waiver;

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- b. upon request of the Department's Director of Victim Services, or designee, monitor the phone calls, mail, and/or text messages of a prisoner or resident who is prohibited to have contact with a victim by this policy, regardless of whether or not the prisoner or resident has requested a waiver for contact with a victim; and
 - c. randomly monitor the phone calls, mail, and, if applicable, text messages of other prisoners or residents at the facility who are prohibited to have contact by this policy.
10. When a facility law enforcement officer monitors phone calls, mail, and/or text messages to determine whether a prisoner or resident has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, the officer shall document in CORIS that the monitoring occurred pursuant to this policy and the results of the monitoring. The prisoner or resident shall not be notified of the reason for the monitoring.
 11. A copy of this policy shall be maintained in the library of each facility for review by prisoners or residents.
 12. It is the responsibility of each prisoner or resident to address any questions about this policy or about with whom he or she is allowed to have contact to his or her case manager (in the case of a prisoner), social worker (in the case of a resident), or other appropriate staff.
 13. The Chief Administrative Officer, or designee, of each reception facility shall ensure that every prisoner or resident is informed in writing at intake about the prohibitions on victim contact set out in this policy; the availability of a copy of this policy for review; and the staff to whom questions about the policy may be addressed.
 14. A prisoner or resident who has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy may be subject to criminal or juvenile criminal charges, revocation of probation (if a prisoner), facility discipline, or other appropriate legal or administrative action.

Procedure B: Waiver Requests and Decisions on Waiver Requests

1. If a prisoner or resident wishes to have contact with his or her victim and is permitted to request a waiver, the prisoner or resident shall submit a written request for a waiver of the prohibition using the Prisoner or Resident Request for Waiver for Contact with Victim form (Attachment A) to:
 - a. the Department's Director of Victim Services if it is a request for contact with a victim of domestic violence, a sex offense, or child abuse (even if the victim is also a victim of child neglect); or
 - b. the prisoner's Unit Manager or the resident's Juvenile Program Manager, as applicable, if it is a request for contact with a victim of child neglect only.

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2. The form shall be fully completed. An incomplete form or a false statement on a form may result in a waiver request not being considered.
3. Upon receipt of a completed form, the Department's Director of Victim Services, or designee, the prisoner's Unit Manager, or designee, or the resident's Juvenile Program Manager, or designee, as applicable, shall review the prisoner's or resident's record in CORIS and other relevant information to determine whether the prisoner or resident is permitted to request a waiver. If the prisoner or resident is not permitted to request a waiver due to one of the circumstances in Procedure A above, the prisoner or resident shall be notified as set out in that procedure.
4. If the prisoner or resident is not permitted to request a waiver because the prisoner or resident has not successfully completed a required Department program or the prisoner or resident has contacted or attempted to contact the victim within the prior three (3) months, and there is no exception made, the Director of Victim Services, or designee (or, in the case of child neglect, the Chief Administrative Officer, or designee) shall inform the prisoner or resident that the waiver request is not being considered and why and document it in CORIS.
5. If the prisoner or resident is permitted to request a waiver, the Director of Victim Services, or designee (or, in the case of child neglect, the Chief Administrative Officer, or designee) shall first determine whether the person with whom contact is being requested is a victim of domestic violence, a sex offense, child abuse, or child neglect committed by the prisoner or resident for which the prisoner or resident is currently in custody.
6. If it is determined that the person is not such a victim, the Director of Victim Services, or designee, (or, in the case of child neglect, the Chief Administrative Officer, or designee) shall so inform the prisoner's case manager or resident's social worker and document it in CORIS. The case manager or social worker, as applicable, shall inform the prisoner or resident that the waiver request is not necessary and why and document it in CORIS.
7. If it is determined that the person is such a victim, the Director of Victim Services, or designee (or, in the case of child neglect, the Chief Administrative Officer, or designee) shall determine whether or not to grant a waiver. If it is determined that the person is a victim of child neglect only, the prisoner's Unit Management Team or the resident's Unit Treatment Team, as applicable, shall make a recommendation to the Chief Administrative Officer, or designee, whether or not to grant a waiver.
8. In determining whether a person with whom a prisoner or resident is seeking contact is such a victim, and in determining whether to grant a waiver, information from the following sources shall be considered, as relevant and necessary:

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- a. the prisoner or resident;
 - b. the victim, if available;
 - c. in the case of a minor victim, the minor’s parent or other legal guardian or another relevant person in the community;
 - d. relevant court documents, including, but not limited to, affidavits, charging instruments and judgments and commitments, protection from abuse complaints and orders, bail and probation violation motions and orders, child custody orders, and preliminary protection orders, jeopardy orders, reunification and cease reunification orders, and orders for termination of parental rights;
 - e. police reports;
 - f. the prosecutor;
 - g. adult probation or juvenile community corrections officers;
 - h. the Department of Health and Human Services (DHHS);
 - i. facility staff; and/or
 - j. any other relevant source.
9. If needed to obtain any relevant and necessary information, the prisoner or resident shall be required to sign an authorization to disclose the information. Failure to sign a required authorization may result in a waiver request not being considered.
10. In determining whether to grant a waiver, the following factors shall be considered, as applicable:
- a. input from the victim (in writing or via email), if available;
 - b. in the case of a minor victim, input from the minor’s parent or other legal guardian or another relevant person in the community;
 - c. the relationship between the prisoner or resident and the victim;
 - d. relevant risk assessment information (e.g., ODARA, Static 99, LSI-R, etc.);
 - e. participation in a relevant Department program or program in the community;
 - f. whether the prisoner or resident has a history of domestic violence, sex offending, child abuse, or child neglect;
 - g. aggravating circumstances and/or higher risk issues present in relevant conduct, whether leading to the current time in custody or in the prisoner’s or resident’s history;
 - h. any known violation of a Department policy prohibiting contact with a victim;
 - i. whether there is documentation from a relevant professional of an emergency circumstance, e.g., victim’s, prisoner’s, or resident’s impending death or serious medical condition due to illness or accident; impending

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court proceeding requiring contact; or serious emotional harm to a child of the prisoner or resident if contact is not allowed with the child, etc.; and

- j. any other relevant factors (e.g., content of form, institutional behavior, other program participation, or need for reentry planning, etc.).
11. Whether or not there has been input from the victim, or, in the case of a minor victim, input from the minor’s parent or other legal guardian or another relevant person in the community, and the contents of any input shall be kept confidential and shall not be disclosed to the prisoner or resident or to any other person who is not making the determination whether to grant a waiver or who is not assisting the person making the determination.
 12. Under no circumstances shall a waiver be granted for contact with a victim if the contact is opposed by the victim. A request for contact made by the victim shall be considered as a factor but is not determinative of the decision.
 13. A waiver shall not be granted for contact with a minor if the contact is opposed by a parent or other legal guardian, unless a court in a protection from abuse case or child custody case orders that contact be arranged between the prisoner or resident and the minor victim. (Note: such a court order shall be considered as a factor but is not determinative of the decision.) A request for contact made by a parent or other legal guardian of a minor victim shall be considered as a factor but is not determinative of the decision.
 14. Under no circumstances shall a full or partial waiver, with or without conditions, be granted for contact with a minor if the contact is opposed by the Department of Health and Human Services (DHHS).
 15. If a court in a child protection case orders DHHS to arrange contact between the prisoner or resident and a minor victim for reunification or for any other purpose, or DHHS determines that such contact would be beneficial to the minor, a waiver shall be granted for that purpose, unless the Director of Victim Services, or designee (or, in the case of child neglect, the Chief Administrative Officer, or designee) determines that there is reasonable suspicion that allowing contact between them would facilitate criminal activity, juvenile criminal activity, or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
 16. The existence of a plea deal or condition of administrative release, deferred disposition, probation, or supervised release for sex offenders that does not prohibit contact or that permits contact shall not be considered as a factor in making a waiver decision.
 17. Upon review, the Director of Victim Services, or designee (or, in the case of child neglect, the Chief Administrative Officer, or designee) may:
 - a. grant a full waiver for all contact (i.e., visit, phone, mail, and, if applicable, text message);

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- b. grant a partial waiver for limited contact (e.g., contact by mail only, contact by phone only, one visit only, monitored contact only, etc.);
 - c. grant a full or partial waiver with condition(s) (e.g., waiver is conditioned on enrollment in and/or continued successful participation in a Department program; phone contact must be arranged through the prisoner's case manager; etc.); or
 - d. deny the waiver completely.
18. The Director of Victim Services, or designee, or the facility Chief Administrative Officer, or designee, as applicable, shall document the decision in CORIS.
 19. The Director of Victim Services, or designee, or the facility Chief Administrative Officer, or designee, as applicable, shall provide a written response to the prisoner or resident within forty-five (45) days of receipt of the request, unless documents needed to make the decision are still being gathered.
 20. All decisions to prohibit, limit or place condition(s) on contact are enforced at all times while the prisoner or resident is in the Department's legal custody, including but not limited to, when the prisoner or resident is:
 - a. on a furlough pass or furlough leave, in a community transition program (work release, education release, or public service release), on community reintegration status (if a resident) or supervised community confinement (if a prisoner);
 - b. boarded in a jail;
 - c. on transfer to an out of state facility; and
 - d. at a funeral or deathbed visit (unless a waiver has been granted for that specific purpose).
 21. If a waiver is granted to a prisoner or resident, it is effective only during the then current time in custody, and the waiver does not carry over to any subsequent time in custody. A prisoner or resident requiring a waiver during a subsequent time in custody must make a request for a new waiver.
 22. If, after a waiver has been granted in a child neglect case, it is discovered that the prisoner or resident has also committed domestic violence, a sex offense, or child abuse against that victim, the waiver is no longer in effect unless and until the prisoner or resident has requested and been granted a new waiver.
 23. A waiver for contact with a victim of domestic violence, a sex offense, or child abuse may be revoked by the Department's Director of Victim Services, or designee, and a waiver for contact with a victim of child neglect may be revoked the facility Chief Administrative Officer, or designee, if there are new circumstances or newly discovered circumstances that would have resulted in the request not being considered or in the request being denied if the circumstances had been in existence or had been known at the time of the

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waiver decision. A decision to revoke a waiver shall be provided to the prisoner or resident in writing and documented in CORIS.

24. Even if a waiver is granted, the facility Chief Administrative Officer, or designee, may deny, suspend, or restrict contact for any reason set out in Department Adult Facility Policies 21.2, Prisoner Mail; 21.3, Prisoner Telephone; 21.4, Prisoner Visitation, or 24.10.1, Computer Tablets; or in Juvenile Facility Policies 16.1, Resident Mail; 16.2, Access to Telephones; and 16.3, Visitation.

Procedure C: Appeals

1. Except for a decision to not consider a waiver request because of one of the circumstances set out in Procedure A above, a prisoner or resident may appeal a decision on a waiver request or a revocation of a waiver by sending a letter to the Deputy Commissioner, or designee. An appeal letter must be received within fifteen (15) days of when the Director of Victim Services, or designee, or the facility Chief Administrative Officer, or designee, as applicable, sent the written response to the prisoner or resident.
2. An appeal shall not delay the implementation of the decision.
3. If an appeal is late, it shall not be considered, and the Deputy Commissioner, or designee, shall ensure the prisoner or resident is so informed in writing and it is documented in CORIS.
4. If an appeal is timely, after reviewing the case with the Director of Victim Services, or designee, or the facility Chief Administrative Officer, or designee, as applicable, the Deputy Commissioner, or designee, shall make a decision on an appeal and send a written response to the prisoner or resident within fifteen (15) days after receiving a timely prisoner or resident appeal.
5. Upon review of the appeal, the Deputy Commissioner, or designee, may:
 - a. approve the decision;
 - b. reverse the decision;
 - c. modify the decision; or
 - d. request a new review be completed by the Director of Victim Services, or designee (or in the case of child neglect, the facility Chief Administrative Officer, or designee).
6. The Deputy Commissioner, or designee, shall provide a copy of the response to the Director of Victim Services, or designee, or the facility Chief Administrative Officer, or designee, as applicable, who shall then document the final decision in CORIS.
7. The Deputy Commissioner, or designee, is the final authority on an appeal (i.e., there is no further administrative level of appeal).

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Procedure D: Documentation

1. All requests for waiver, documents reviewed, responses to waiver requests, appeals, and decisions on appeals in domestic violence, sex offense, and child abuse cases shall be maintained in the Office of Victim Services per the Department’s record retention schedule.
2. All requests for waiver, documents reviewed, responses to waiver requests, appeals, and decisions on appeals in child neglect cases shall be maintained at the facility separate from the prisoner’s or resident’s other records per the Department’s record retention schedule.
3. A facility Chief Administrative Officer, or designee, shall forward to the Director of Victim Services, or designee, upon his or her request, a copy of these records.
4. Any documents received from the Department of Health and Human Services shall be destroyed once the prisoner or resident has been released from custody.

VIII. PROFESSIONAL STANDARDS

None

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