



# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b> 21-106	<b>PAGE NUMBER</b> 1 of 5
		<b>SUBJECT:</b> <b>VICTIM SERVICES: Facilities - Contact With Victims</b>	
<b>Approved By:</b>  <b>Secretary of Corrections</b>		<b>Original Date Issued:</b> 12-05-11	
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## POLICY

Family and social support through visits to inmates is a fundamental component of successful reintegrating and, often, to institutional adjustment as well. Caution is warranted in order to reduce potential physical or emotional risks to certain visitors, in particular, minor children, individuals who have been victimized by an offender, and other potentially vulnerable persons. However, contact with victimized family members cannot be denied solely on the basis of victim status.

Procedures for restricting victims from mail, phone and visiting lists of offenders must be logical, fair and consistently followed throughout the Kansas DOC. As a general rule, blanket restrictions applied to any category of visitors for all offenders are inappropriate. However, careful assessment of the risk that a given offender may present towards a particular individual or toward specific types of individuals must be conducted prior to allowing them on a visiting list.

Adult mentally competent victims retain a First Amendment right to voluntarily communicate with offenders who have victimized them, despite the presence of some form of a previous court order forbidding contact between victim and offender. If the victim initiates the contact with the offender under circumstances indicating that the victim's action is consensual, then contact should be permitted. Only if the offender was the petitioner or plaintiff in the legal action resulting in the no-contact order, or if the no-contact order in its terms forbids both parties to initiate contact, must the order be honored. Courts lack authority in a criminal proceeding to impose a no-contact order on an offender who is either in prison or under some form of release supervised by the Department.

## DEFINITIONS

**Coercion:** The act of forcing someone to do something against their will by utilizing force, threats, and/or manipulation.

**Divorce/ Annulment No contact:** A restraining order requiring no contact that is part of a divorce or annulment decree.

**Immediate Family:** Parents, step-parents, siblings, spouses of siblings, half-siblings, step-siblings, children, spouses of children, step-children, grandchildren, step-grandchildren, spouse, parents of spouse, grandparents, or any person who filled the role of a parent de facto with respect to the inmate as confirmed by the warden upon review of the social history.

Minor: Person less than 18 years of age. For purposes of inmate visiting, in accordance with K.A.R. 44-7-104, minors shall include siblings, stepsiblings, children, stepchildren, grandchildren, and step grand-children.

Probation/Parole No contact order: A no contact order put in place as part of an offender's probation or parole.

Protection from Abuse Order: A civil court order that prohibits someone who has been abusive from contacting their victim. In order to qualify for a PFA the following requirements must be met: Be living together or lived together in the past or be the parent of or living with a child who has been harmed by the abuser or have a child in common or be in or have been in a dating relationship.

Protection from Stalking Order: Civil order that prohibits someone from stalking and harassing another person. This order prohibits intentional harassment of another person that places the other person in reasonable fear for their safety. This order also prohibits credible threats communicated by electronic means, such as telephones, cell phones, computers, video recorders, fax machines, pagers and computer networks. Order requires that the stalking must be an intentional, malicious and repeated following or harassing of another person and making a credible threat with the intent to place such person in reasonable fear for that person's safety.

Sex Offender:

- A. **Convictions:** An offender whose crime of conviction is a sex crime as identified by any state or federal statute, an offender with a prior conviction or juvenile adjudication of a sex crime, or a person who has ever been convicted of a crime that was sexually motivated. The sexual motivation of the offense is determined through a judicial finding made at the time of sentencing.
- B. **Custodial Behavior:** An offender who, while not having been convicted of a sex offense, has, while in the Department's custody, engaged in sexually motivated behavior prohibited by Department rules as established through Departmental disciplinary or administrative segregation proceedings. Designation as a "sex offender" due to custodial behavior substantiated by due process, i.e. disciplinary hearing, and subsequent override process.
- C. **Excluded Convictions:** Individuals with convictions under K.S.A. 21-3512, Prostitution, 21-3513, a) and (b)(1), Promoting Prostitution, and/or 21-3515, Patronizing a Prostitute, shall be exempt from the embrace of this definition unless the override process, set forth elsewhere in this document, determines them to be within its scope.
- D. **Offender Previously Granted Full or Partial Override with Subsequent Prison Commitment with Non-Sex Offense:** In cases such as this, the previously granted override shall remain in effect. If information or behavior warrants a change, a subsequent override request shall be submitted.

Safety Plan: a plan developed by the victim, with the assistance of the Office of Victim Services, to predict and prepare for scenarios of possible risk from the offender.

Victim: Any person who suffers direct or threatened physical, emotional, or financial harm as the result of a commission or attempted commission of a crime against a person.

- A. **Primary victim:** the person(s) directly impacted by the crime (i.e. the person who is sexually assaulted)

- B. Secondary/co-victim: the person(s) indirectly impacted by the crime (i.e. witnesses to the crime or immediate family of the victim)

## **PROCEDURES**

### **I. Incarcerated Offenders And Contact With Victims**

- A. The offender shall be informed upon entry to the Reception and Diagnostic Unit at EDCF and TCF that he/she is not to initiate contact with the victim(s) in his/her case. The victim must initiate the process for contact with the offender.
- B. If the person requesting contact with the offender is determined to be the victim of the offender either through self-identification, by facility staff or by the Victim Services Liaison, the case will be screened by the Liaison prior to a decision about contact.
- C. If the victim makes contact with the facility and/or mails their visiting application to the facility, the victim will be referred to the local Victim Services Liaison or Victim Services at Central Office.
  - 1. The facility staff member responsible for processing visiting applications will scan and email a copy of the original visiting application to the assigned OVS Facility Liaison for screening.
  - 2. This referral of a scanned copy of the visiting application to the Facility Liaison will take place within 15 working days of receipt of the application by the staff member responsible for processing visiting applications.
  - 3. Facility staff should not send original visiting applications or birth certificates to the OVS Facility Liaison.
- D. Upon receipt of the visiting application the OVS Facility Liaison will conduct a thorough assessment:
  - 1. The OVS Facility Liaison will review the following information:
    - a. Court documents surrounding the case
    - b. Victim's file
    - c. Any current or past protection orders or no-contact orders (See Attachment A for information on the types of no-contact orders)
    - d. Any previous parole violations/revocations
    - e. Any other information determined to be relevant to the visiting decision.
  - 2. The Liaison will also conduct a safety plan with the victim.
  - 3. If the offender meets the definition of a sex offender, any decisions regarding contact will be made in accordance with IMPP 11-115 Sex Offender Treatment, Management, and Supervision.

4. If facility staff has any additional information about the victim and/or the offender that would impact the contact decision, including information that a victim is being coerced, they should contact the Victim Services Liaison for assistance on the case.
- E. The OVS Facility Liaison will provide a summary of this information to the Warden or designee by email within 10 business days of receipt of the request for contact/visiting.
1. Any information provided by the Office of Victim Services shall remain confidential, and will not be imaged with the visiting application materials or placed in the offender's file.
  2. If the visiting application was sent directly to Victim Services, then the original visiting application will be sent to the Visiting Clerk.
- F. The decision for contact will be made by the Warden or designee based on the information provided by the Victim Services Liaison.
1. If the information from the Victim Services Liaison and/or any additional sources the Warden defines indicates that a competent adult victim, without coercion or pressure from the offender or third parties, genuinely wishes to initiate contact with the offender, then whether the no contact order involved is in the criminal sentence, or is a PFA/PFS order that names *only* the victim as a plaintiff only, KDOC facility staff should not prevent or attempt to prevent the contact from occurring solely on the basis of the status as a victim.
  2. The only exception to this is if the no contact order or Protection order involved is actually intended to apply to both parties (i.e. mutual) because the victim has also been abusive of the offender. In this case, KDOC facility staff should enforce the order. If this exception applies, this will be indicated in the information provided to the Warden or designee from the Facility Liaison.
  3. If the victim indicates he/she is being coerced or pressured to have contact or visit the offender, or if other evidence of coercion is documented (i.e. phone calls during which the offender orders the victim to visit, etc), the facility can choose to follow any no-contact or Protection from Abuse or Protection from Stalking orders because the victim is not voluntarily pursuing contact, or may deny the contact based on the documented coercion regardless of the existence of a no contact order.
  4. All other decision rules regarding written/phone/visiting contact apply. Contact can be prohibited if there are documented concerns with a reasonable basis (i.e. security issues, disciplinary issues, etc.)
- G. If an offender is a victim and is the subject of a no contact order as such, that offender is also legally able to give up the protections of the order.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the

commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None

**REFERENCES**

K.S.A. 21-3512, 21-3513(a), 21-3513(b)(1), 21-3515  
K.A.R. 44-7-104  
IMPP 11-115

**ATTACHMENTS**

None