
 <p><b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Parental Contact Protocol</b></p>		<p>NO.</p> <p>9601</p>
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<p>SUPERSEDES</p> <p>DIR #9601 Dtd. 8/21/2013</p>	<p>DISTRIBUTION</p> <p>A B</p>	<p>PAGES</p> <p>PAGE 1 OF 9</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p>	<p>APPROVING AUTHORITY</p> 		

**I. POLICY:** The Department of Corrections and Community Supervision (DOCCS) recognizes that important parental legal rights must be considered in instances where:

- An individual who is expected to be under or is under community supervision (a releasee); and
- The releasee is the biological or adoptive parent of a minor (a person under the age of 18); and
- A condition of the releasee's supervision limiting or prohibiting such contact has been imposed or is contemplated by DOCCS.

A releasee may be subject to three possible scenarios, provided an Order of Protection or other Court Order does not prohibit or limit the type or level of contact the releasee is seeking, regarding parent-child contact while under community supervision when the other parent or guardian of the child(ren) supports contact with the child(ren):

- Unsupervised contact;
- Restricted contact; or
- No contact

Any community supervision Parental Contact conditions should also be considered in accordance with existing Court Orders of Protection or other Court Orders granting or limiting contact between the releasee and his or her child(ren). What conditions are reasonably necessary for a releasee to properly exercise his or her parental rights while protecting his or her child(ren) from harm or danger requires consideration of all the particular facts and circumstances of each case.

**II. WRITTEN NOTICE TO INDIVIDUALS EXPECTED TO BE UNDER OR UNDER COMMUNITY SUPERVISION**

Every individual scheduled to be reviewed by DOCCS staff on a pre-Board basis, and *again* at the time of their release, will be provided with written notice regarding the ability and attendant process for requesting the exercise of certain parental rights while under community supervision. Written notice shall also be provided by DOCCS staff to a releasee whenever conditions modifying, limiting, or prohibiting Parental Contact are subsequently imposed. This notice shall describe a releasee's eligibility for requesting Parental Contact (PC) approval from DOCCS and how such requests are to be processed, investigated, and determined, see [Form #CS9601A](#), "Pre-Release Notice."

At the time of a releasee's arrival report to DOCCS Community Supervision staff, notice regarding PC eligibility, as well as the processing of requests for PC, will be provided to the releasee. The written material provided shall include a form with instructions as to how the form must be completed and submitted to his or her assigned Parole Officer, see [Form #CS9601B](#), "Post-Release Notice."

### III. RELEASEE ELIGIBILITY FOR REQUESTING PARENTAL CONTACT

In any instance where DOCCS receives a written request from a releasee for PC, the eligibility determination process will be commenced within **2 business days** from the receipt of such request. If the request is received orally, the Parole Officer will direct the releasee to submit the request in writing and will provide the releasee with the authorized form to be utilized for that purpose.

All written requests will be determined eligible for processing by DOCCS staff under the PC procedures once the releasee has satisfactorily provided the following information to their assigned Parole Officer:

- The name(s) and age(s) of the child(ren), and a statement that the releasee desires to have contact with such child(ren);
- Proof that he/she is the biological or adoptive parent of the child(ren) by submission of original or certified copies of document(s) demonstrating a parent-child relationship from these possible sources:
  - (1) The child's birth certificate naming the releasee as a parent; or
  - (2) If applicable, a Court Order naming the releasee as the adoptive parent of the child; or
  - (3) Baptismal records showing the releasee to be the child's father or mother; or
  - (4) School records showing the releasee as the mother or father in order to enroll the child in school, attend parent/teacher sessions, sign the child out of school, etc; or
  - (5) Medical records showing the releasee as the mother or father of the child; or
  - (6) Public assistance, Social Security, or other social service records showing the releasee is the parent of the child; or
  - (7) Employment or tax records showing the child is the releasee's son/daughter or the releasee to be the parent of the child; or
  - (8) Insurance records (e.g., health insurance, life insurance, etc.) showing that the releasee listed the child as a son/daughter or made the child the beneficiary of the policy; or
  - (9) Child support records demonstrating an obligation or payment of child support by the releasee on behalf of the child; or
  - (10) Court records demonstrating that the releasee is the parent of the child; and
- A signed written statement from the other parent of the child(ren) that reflects support for the releasee having contact with the child(ren) and provides contact information that includes address and telephone number; and
- A statement made under the penalty of perjury that the releasee is not aware of any Order of Protection or other Court Order prohibiting or limiting either the type or level of contact with the child(ren) that the releasee is seeking.

#### IV. CASE REVIEW AND PARENTAL CONTACT (PC) INVESTIGATION

All written requests received from a releasee that meet the eligibility requirements will be reviewed and an investigation commenced within **5 business days** from receipt of the written request. Any special condition(s) regarding PC will remain in effect while the investigation is pending. For these reasons, the investigation should be completed within **45 days** from the date it was commenced. If the investigation is incomplete at the end of the 45 day time period, DOCCS shall document in the releasee's CMS record all of the reasons for delay and inform the releasee of the reasons for such delay. Any reasons for delay shall be subject to review by the Bureau Chief.

The investigation will:

- Seek to confirm the accuracy of information provided by the releasee;
- Identify case supervision needs in determining what conditions are reasonably necessary and appropriate for a releasee to properly exercise his or her parental rights while protecting his or her child(ren) from harm or danger;
- Address public and personal safety issues in determining the least restrictive conditions reasonably necessary and appropriate for a releasee to properly exercise his or her parental rights, while protecting his or her child(ren) and others from harm or danger; and
- Ensure, to the extent possible, that the conditions imposed will protect the child(ren) from an identified risk of harm or danger, and may be modified over time and addressed through the PC investigation process.

Release of information forms will be completed by the releasee or the other parent/guardian of the child(ren) that are deemed necessary by DOCCS in order to facilitate the PC investigation.

#### V. PROCESS

- A. In determining whether the releasee's child(ren) require protection from harm or danger presented by PC, the Parole Officer will seek to:
1. Contact the other parent or caretaker to obtain information regarding the releasee's prior history and relationship with his or her child(ren), including whether the releasee lived or visited with the child(ren) safely in the past; the household composition; and to determine whether this parent or caretaker supports unlimited, restricted, or no parental contact by the releasee. Depending upon the facts and circumstances of each individual case, the parent/caretaker and the child(ren) in the household may also be interviewed to determine:
    - a. The level of interest in and type of contact that is appropriate for the releasee and the child(ren);
    - b. Concerns, if any, regarding contact;
    - c. The ability to manage structured or supervised contact, if such contact is deemed appropriate; and
    - d. The presence of any minor step-children, or other minor children, in the household and whether their age or gender may affect Parental Contact.
  2. Visit the home in which PC is proposed, if pertinent to the case.

3. Contact collateral sources of information as appropriate to the facts and circumstances of the individual case, including but not limited to:
  - a. Sex offender treatment provider, substance abuse treatment provider, mental health treatment provider, family therapist, social workers and/or case managers;
  - b. Family members;
  - c. Individuals employed in law enforcement, probation or community supervision departments;
  - d. Employers;
  - e. School officials;
  - f. Child protective agency officials; and
  - g. Friends and neighbors of the parolee and child(ren).
- B. Additionally, in determining whether the releasee's child(ren) require protection from harm or danger presented by PC, the investigating Parole Officer will consider the following factors:
  1. The releasee's history of a relationship and prior contact with the child(ren) and other parent, taking into account that the releasee may have had limited contact while incarcerated;
  2. Any history of violence, domestic violence, or weapon use/possession;
  3. The releasee's level of compliance with the conditions of his or her present and past supervision;
  4. The characteristics of the releasee's prior victim(s), including age, gender, vulnerability;
  5. For individuals with histories of one or more sex offense and/or histories of sexually inappropriate behavior(s):
    - a. Persistence of sexually inappropriate behavior;
    - b. Predatory and/or sadistic nature of the sexually inappropriate behavior;
    - c. Proximity in time of prior sexually inappropriate behavior to the date of the PC request;
    - d. Any current sex offender polygraph information on file;
    - e. Any current sex offender treatment program evaluations or records that evaluate the releasee's current risk of sexually reoffending; and
    - f. The age and nature of any case records that reveal specific prior behaviors of the releasee that indicate he/she has sexually abused or mistreated other minor children.
- C. A releasee may challenge a delay in the investigation and the reasons for such delay by submitting their challenge in writing to the Bureau Chief on a form prescribed by DOCCS, see [Form #CS9601C](#), "Inquiry Regarding the Timeliness of Investigation."

## VI. CASE CONFERENCING

Once the investigation into the releasee's PC request has been completed and any requested reports have been received and evaluated, the Parole Officer will participate in a case conference with his or her Senior Parole Officer to determine whether the PC request should be approved, and if so, what, if any, parameters must be established with regard to such contact. The Case Conference shall be held within **10 days** from the completion of the PC investigation.

The purpose of the Case Conference is to determine if the releasee will be allowed the requested PC and if not, what conditions are reasonably necessary for a releasee to properly exercise his or her parental rights while protecting his or her child(ren) from an unreasonable risk of harm or danger. This determination requires consideration of all the particular facts and circumstances of each case.

- Unsupervised Contact Risk and Danger Assessment – Based upon the investigation, application of any limited contact provisions should only be considered after determining that unsupervised contact presents an unreasonable risk of harm or danger to the health or safety of the child(ren) and identifying those risks. Otherwise, approval of the PC request without supervision or limitations may be recommended.
- Limited Contact Provisions – In such instances, PC may be recommended on a gradual, limited, and/or a supervised basis. Any approval for limited contact must incorporate the least restrictive available conditions to obviate the previously identified unreasonable risk of harm or danger to the health or safety of the child(ren).

Identifying what conditions are reasonably necessary for a releasee to properly exercise his or her parental rights while protecting his or her child(ren) from the unreasonable risk of harm or danger requires consideration of all the particular facts and circumstances of each case. Important considerations include:

- (1) PC can occur in such a manner as to ensure the child(ren) is/are protected (e.g. supervised visitation);
- (2) PC can occur in such a manner that does not place other children at risk;
- (3) An adequate relapse prevention plan is in place and there is no reason to believe the releasee's proposed PC will present an unreasonable risk of harm or danger to the child(ren);
- (4) The releasee, through his or her behavior, has evidenced a willingness to work gradually toward establishing a fuller parental relationship with his or her child(ren);
- (5) The releasee understands that the failure to establish or maintain a safe, supportive environment for the child(ren) may result in a withdrawal of DOCCS's permission that allows for PC;

- (6) A reasonable means to achieve the goal of protecting the child(ren) from an unreasonable risk of harm or danger in light of the particular facts and circumstances of the individual case, is to have the first contacts monitored by a specified responsible adult approved by the Parole Officer. The frequency and duration shall be determined and modified over time in accord with case needs, the releasee's behavior and the positive progress achieved during such contacts; and
  - (7) Limited contacts may expand to more public or private settings with the consent of the other parent or primary guardian (school, shopping, sport activities) so as to avoid issues with confused family patterns, roles, and decision-making responsibilities.
- No Contact Risk and Danger Evaluation – Based upon the investigation, the application of a no PC condition should only be considered after determining that any form of limited contact (including letters and/or telephone calls) between the releasee and his or her child(ren) presents an unreasonable risk of harm or danger to the health or safety of the child(ren).

The results of the Case Conference, the supporting documentation gathered during the investigation, and a recommended determination shall thereafter be presented to the Bureau Chief within **45 days** of the commencement of the investigation. In accordance with Section VII infra., the initial decision to approve, modify, or not approve the releasee's PC request shall be made by the Bureau Chief. The Bureau Chief shall render their written decision within **10 days** of receiving results of Case Conference materials and supporting documentation.

## VII. NOTICE OF DETERMINATION TO RELEASEE

All written requests from eligible releasees for PC will require a written decision of the Bureau Chief upon completion of the investigation and Case Conference. This decision shall be referred to as the "Notice of Determination," see [Form #CS9601D](#). The *Notice of Determination* will provide instructions regarding the process by which the releasee may appeal the determination made by the Bureau Chief regarding his or her request for PC. A copy of the Bureau Chief's decision and all documentation related to the releasee's PC request shall be made a permanent part of the releasee's case record.

- In any case where the DOCCS's investigation finds one or more of the following circumstances exist, a decision **denying** the requested PC will be rendered by the Bureau Chief:
  1. The present conditions of community supervision are reasonably necessary to protect a releasee's child(ren) from harm or danger to their health or safety based upon the particular facts and circumstances as presented. This includes those cases where the other parent or guardian of the child(ren) refuses to support contact with the releasee (see Section III), *supra*; or
  2. An Order of Protection or other Court Order exists that prohibits contact between the releasee and the child(ren); or
  3. An Order of Protection or other Court Order limiting parental contact conflicts with the PC request submitted by the releasee.

- Any investigation that results in a decision to **deny** the releasee's PC request, DOCCS staff will record the determination and the reasons for the determination in the releasee's CMS record.
- The releasee shall be served with the Bureau Chief's written decision and the reasons supporting the decision during an office report with his or her assigned Parole Officer within **5 days** of the Bureau Chief's decision.
- Only when the reasons for the Bureau Chief's decision denying the requested PC can properly be deemed confidential (i.e., where the disclosure of the reasons could present a risk of harm to the child(ren) or any other individual, or information upon which the reason was based was obtained by DOCCS's staff upon a promise of confidentiality when the entity or person providing such information requested a promise of confidentiality), can the reasons be withheld from the releasee.

## VIII. APPEALS

- A. Upon being served with the written decision of the Bureau Chief denying the releasee's PC request, the releasee shall be informed:
  1. Of his or her right to appeal that decision and have it reviewed by the appropriate Regional Director; and
  2. The procedures for requesting an appeal.
- B. At the time the releasee is served with the Bureau Chief's written decision, the releasee shall also be provided with a *Notice of Appeal* that he or she, or their representative, i.e., legal counsel, shall utilize for submitting their written appeal to the Regional Director, see [Form #CS9601E](#), "Notice of Appeal."
- C. The releasee, or his or her counsel, shall submit a completed *Notice of Appeal* to the Office of the Regional Director within **60 days** from the date he or she was served with the Bureau Chief's written decision.
- D. If, on the *Notice of Appeal*, a request is made to examine the documents or evidence upon which DOCCS relied in making the appealed from decision, the Regional Director shall instruct the Bureau Chief to make such records available to the releasee or their representative as soon as practicable.
- E. The Bureau Chief may withhold in whole or in part such documentation or other evidence from review by the releasee or their representative if the Bureau Chief believes that such information could present a risk of harm to the child(ren) or any other individual, or the information was obtained by DOCCS upon a promise of confidentiality when the entity or person providing such information requested such a promise of confidentiality.

When it is necessary to preserve confidentiality and to avoid attendant harm resulting from possible disclosure, the Bureau Chief shall provide the releasee or their representative with a summary of the undisclosed material that includes sufficient notice of the nature of the information or the underlying allegations, so as to afford a fair opportunity for rebuttal, unless such summary disclosure may itself jeopardize confidentiality and expose the releasee or others to resultant harm.



- F. The releasee shall be served with the written decision of the Bureau Chief setting forth the reasons supporting the decision to withhold any documents or other evidence from the releasee or their representative within **10 days** from the Regional Director's receipt of the *Notice of Appeal*.
- G. A releasee may challenge a Bureau Chief's decision to withhold any documents or evidence based on confidentiality in the appeal from the initial decision that denied the request for PC.
- H. On the appeal, the Regional Director shall review the Bureau Chief's decision and the documents or evidence to determine whether a reasonable basis exists for maintaining confidentiality and withholding the documents or evidence from the releasee or their representative.
- I. If the releasee or their representative requests a Parental Case Conference on the *Notice of Appeal*, the Regional Director shall promptly schedule a conference within **30 days** from the receipt of the *Notice of Appeal*. Any party may request that a conference be adjourned to a later date for good cause.
- J. The documentation and information relied upon by the Bureau Chief shall be made available to the releasee or their representative (unless deemed confidential as described herein) and the releasee shall have the right to call witnesses and present evidence on his or her behalf. If the Regional Director calls any witnesses, the releasee or their representative shall have the right to cross-examine such witnesses (unless the Regional Director specifically finds good cause for not allowing confrontation). The formal rules of evidence shall not apply to the Parental Case Conference.
- K. A recording of the Parental Case Conference shall be made by the Regional Director in a manner to permit transcription of the conference. All documents and evidence related to the Regional Director's decision, including all documents or evidence presented at the conference, shall be preserved for possible judicial review. In the interest of fairness, the Regional Director may extend the time for the submission of additional evidence after the Parental Case Conference has been conducted.
- L. In lieu of a Parental Case Conference, the releasee may submit documentary evidence to the Regional Director within **30 days** from the date of the *Notice of Appeal*.
- M. Based on the record presented at the Parental Case Conference, or the documents submitted in lieu of a Parental Case Conference as described herein, within **30 days** of the date of the conference, or the date for submission of additional evidence or documentation, the Regional Director shall render a final written decision and state the reasons for that decision, see [Form #CS9601F](#), "Determination of the Regional Director." A copy of that decision shall be personally served upon the releasee at his or her next scheduled office report with their assigned Parole Officer, and a copy shall be mailed to their representative, if applicable.
- N. The releasee's case will be reviewed on a periodic basis (at least every six months) by the Parole Officer and Senior Parole Officer through the scheduled case conference process to determine the appropriateness of the decision made by the Regional Director with respect to the releasee's PC conditions.



- O. When reviewing a final decision of to deny or limit a releasee's PC with his or her child(ren), nothing herein shall be interpreted to restrict the right of any court from utilizing any applicable judicial standards when assessing the sufficiency and probativeness of evidence adduced at the conference.

#### **IX. APPROVAL/MODIFIED APPROVAL DETERMINATION**

Determinations that result in the approval of the releasee's request for PC or that result in a modified approval of such contact shall be set forth in writing. Any supervision plan allowing for and establishing the parameters for PC will be provided to both the releasee and the child(ren)'s other parent/primary guardian. The plan will outline the Parole Officer's expectations and indicate that all provisions are subject to verification by the Parole Officer to ensure compliance. The details of the approved PC will be memorialized through a written special condition.

The approval/modified approval will be reviewed on a periodic basis (at least every six months) by the Parole Officer, with the Senior Parole Officer, through the scheduled case conference process. Plans will be adjusted as required in accordance with any new case information received or obtained by the Parole Officer and any resulting changes to the details of the approved contact will be discussed with the releasee and memorialized by a written special condition.

#### **X. DOCUMENTATION**

Any information relative to a releasee's request for PC and any resulting investigation and determination by DOCCS must be documented in the releasee's CMS record.