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NO. 49525-2-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

SUPPLEMENTAL
RESPONSE OF THE
DEPARTMENT OF
CORRECTIONS

The Respondent, Department of Corrections (Department or DOC), through its attorneys, ROBERT W. FERGUSON, Attorney General, and AARON WILLIAMS, Assistant Attorney General, hereby responds to the Supplemental Brief of Petitioner, which contrary to its heading, does not involve an appeal but rather the Personal Restraint Petition (PRP) of Mark Jonathan Gossett filed in the Court of Appeals, Division II.

I. BASIS FOR INCARCERATION

The Petitioner, Mark Jonathan Gossett, DOC #317246, is currently in the custody of DOC at the Stafford Creek Corrections Center (SCCC) pursuant to a valid judgment and sentence for two counts of second degree rape of a child and two counts of second degree child molestation. Appendix 1, Declaration of Katrina Toal, Attachment A, Offender Management Network Information (OMNI), excerpts of Legal Face Sheet, at 1, 4-5. Mr. Gossett was sentenced on June 10, 2010. Appendix 1, Attachment A, at 4. Mr. Gossett's potential early release date is September 6, 2027. Appendix

1, Attachment A, at 1. Mr. Gossett is not directly challenging his underlying conviction in this petition. Even if he wished to collaterally attack his judgment and sentence through a PRP, he could not do so because he did not file his PRP until October 5, 2016, which is more than one year after the date of his sentence. RCW 10.73.090 specifically states, “[n]o petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction”. For this reason, the references in the Supplemental Brief to an appeal and an underlying record are not applicable to this matter.

II. STATEMENT OF FACTS

Because he is not collaterally attacking his Judgment and Sentence, Mr. Gossett filed this PRP claiming the conditions or manner of his restraint are unlawful pursuant to RAP 16.4(c)(6). Supplemental Brief of Petitioner (Supp. Br.) at 1. Mr. Gossett’s identifies five “supplemental issues” and “assignments of error”. Supp. Br. at 1. These “issues” all involve his claim that the Department violated his federal constitutional rights or a Department policy by preventing him from visiting his minor child and by allegedly preventing him from visiting his adult children. Supp. Br. at 1. It is unclear what the “assignments of error” are since this PRP is not an appeal of any “error”; this PRP was first filed in this Court, not the Superior Court.

A. Visitation with Minor Children

On October 12, 2010, Ms. Liza Rohrer, then a Correctional Program Manager at Stafford Creek Corrections Center (SCCC), received an email from Pat Glebe, then Superintendent at SCCC, asking that she look into an email Mr. Glebe had received from Linda Gossett, wife to the Petitioner in regard to a visitation issue. Appendix 2, Declaration of Liza Rohrer, ¶ 3. Ms. Rohrer reviewed the email from Ms. Gossett and related electronic files noting that the children had been denied visitation on June 27, 2010, while Mr. Mark Gossett was housed at the Washington Corrections Center (WCC). Appendix 2, ¶ 3.

DOC Policy 450.300 Visits for Prison Offenders (effective 02/01/2010) (XIII.) Appeals for Visiting Privileges, states, “(A) A visitor may appeal visiting privilege restrictions in writing, to the facility Superintendent. The letter should state the circumstances surrounding the suspension, denial, termination, or no contact provision, and state why visiting privileges should be restored. (B) The Superintendent has final approval on visiting privilege appeals”. Appendix 2, Attachment A, DOC Policy 450.300, effective February 1, 2010. Ms. Rohrer reviewed DOC records and did not see that Ms. Gossett had appealed the denial of visiting privileges. Appendix 2, ¶ 4. She sent an email to the visitation coordinator Andrew Burke to ask the status of the visiting applications and whether or

not the Department had received an appeal letter. Appendix 2, ¶ 4. Mr. Burke responded that visitation applications for the minor children had been denied at WCC and that Ms. Gossett had been informed that she needed to submit an appeal letter and a copy of any amended Judgment and Sentence. Appendix 2, ¶ 4. Ms. Rohrer was able to locate a copy of the amended Judgment and Sentence in the Department's electronic database. Appendix 2, ¶ 4. She reviewed Mr. Gossett's criminal history noting his conviction for Rape of a Child 2nd (2 counts) and Child Molestation 2nd, (2 Counts). Appendix 2, ¶ 4. She also reviewed the original Judgment and Sentence in Cause No. 08-1-02102-9 and the amended Judgment and Sentence dated August 4, 2010. Appendix 2, ¶ 4; CP 1-14; CP 25-26.

The Judgment and Sentence indicated in section 4.4, “[a]ll conditions contained in Appendix ‘H’ are hereby incorporated by reference to this J and S and are in full force and effect. Defendant shall complete certified sexual deviancy treatment. Defendant shall have no contact with any minor, including his own adopted or biological children”. CP 5. The Order Amending and Clarifying Judgment and Sentence dated 08/04/2010 stated the following:

ORDERED that the Judgment and Sentence entered by the above entitled Court on June 10, 2010 be and the same hereby is modified and clarified to allow for the Defendant to have visitation with his children at any Department of Correction's facility in which the Defendant is housed;

That the children will not have visitation alone with the Defendant and such visitation shall be supervised by the Department of Correction's personnel in the normal course of the visitation process followed by the Department of Correction's facility the Defendant is in;

That the normal supervision of visitation by two or more correctional officers in an open room where numerous other inmates may be exercising visitation privileges, is sufficient supervision for the Defendant to have visitation with his children.

CP 26.

Per DOC Policy 450.300 Visits for Prison Offenders (effective 02/01/2010) section (VII) Who May not Visit, states at A.3: “[p]ersons restricted per the Judgment and Sentence. While supervised visits may be allowed per the Judgment and Sentence, supervision by facility visiting staff does not constitute supervised visitation”. Appendix 2, Attachment A at 8. Ms. Rohrer states, “consistent with legitimate penological objectives and the goal of protecting public safety, the Department does not generally allow visitation which requires supervision”. Appendix 2, ¶ 7. And while, the amended Judgment and Sentence language indicates that visitation could be “supervised” in accordance with the rules and regulations of the Department, it is not typical for DOC to allow such contact that requires supervision. Appendix 2, ¶ 7; Attachment C at 2. Indeed as explained by Belinda Stewart, the Department's Visitation Program Administrator, “Based on the limited staffing and inability to directly monitor

offenders/visitors at all times, the Department does not provide supervised visits as envisioned by the modified Judgment and Sentence. Appendix 3, Declaration of Belinda Steward, at ¶ 19. Accordingly, Ms. Rohrer prepared a quick report to Superintendent Glebe advising him that this case should be reviewed by the Facility Risk Management Team (FRMT) assigned to Mr. Gossett for a possible prohibited contact review. Appendix 2, ¶ 7.

On October 14, 2010, the FRMT reviewed Mr. Gossett's file material and criminal history as part of a Prohibited Contact Review. Appendix 2, ¶ 8. They noted that Mr. Gossett's Judgment and Sentence prohibits contact with the individual or class of individuals during or upon release. Appendix 2, ¶ 8. They also noted that an order of no contact was rescinded or did not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives. Appendix 2, ¶ 8. The FRMT chaired by Correctional Unit Supervisor, Greg Jones, recommended denial of contact between Mr. Gossett and his adopted/biological children for the purpose of visitation. Appendix 2, ¶ 8; Attachment D, Prohibited Contact Review regarding Mr. Gossett dated October 14, 2010.

Ms. Rohrer upheld the FRMT's recommendation stating:

Victim of Offender Gossett's current conviction is the minor aged adopted daughter of the offender. Previous criminal history also shows that offender Gossett was original

charged with an Assault 3rd of a Child which was later pled down to an Assault 4th DV. [Pre-sentence Investigation] notes that the victim of this was crime was Gossett's 10 year old foster son. Offender has displayed a history of victimizing both sexually and physically minor aged children both male and female. Original J/S noted Defendant shall have no contact with any minor, including his own adopted or biological children. J/S modified months later to read that the offender may have contact with his children as supervised by the DOC personnel in the normal course of the visitation process followed by the DOC facility that the offender is located in and that the normal supervision of visitation by two or more C/O in an open room is sufficient. However, DOC Policy 450.300 VII. Who May Not Visit: A. 3. Persons restricted per the Judgment and Sentence. While supervised visits may be allowed per the J/S, supervision by facility visiting staff does not constitute supervised visitation. Based on criminal history noting two separate convictions for crimes against children and the recent modification of a no contact provision I am approving a prohibited contact [restriction] between this offender and minor aged children.

Appendix 2, ¶ 9; Attachment D.

DOC Policy 450.050 Prohibited Contact, effective date 08/30/2010, Policy at I. states: “Consistent with legitimate penological objectives and public safety, the Department will restrict incarcerated offender contact in any form (i.e., visits, correspondence, telephone) with specific individuals or classes of individuals.” Appendix 2, ¶ 10; Attachment E, DOC Policy 450.050. DOC Policy 450.050, Directive Section I.C., states, “[a]n offender may be prohibited from contact with his/her own children only if the offender’s Judgment and Sentence and/or a No Contact Order prohibits such

contact or if necessary to protect the children from any specific and documented threat of harm”. Appendix 2, ¶ 11; Attachment E at 3. This section goes on to state, “[d]ocumentation includes, but is not limited to: 1. The written opinions of mental health professionals or Child Protective Services, and 2. Specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated in a Department facility”. Appendix 2, Attachment E at 3.

Ms. Rohrer explains that this is a case where DOC has made the decision that restricting Mr. Gossett from visitation privileges with his minor child is necessary to protect the child from a specific threat of harm. Appendix 2, ¶¶ 12, 16. The visiting room at SCCC in 2010 holds over 75 tables which can hold 75 offenders and up to 300 visitors. Appendix 2, ¶ 12. Ms. Rohrer explains that the visitation department has a total of 4 Correctional Officers and one Correctional Sergeant assigned to monitor up to 375 people. Appendix 2, ¶ 12. One officer is assigned the public access position located in a building separate from the visiting room. Appendix 2, ¶ 12. This officer processes in and out the visitors. Appendix 2, ¶ 12. One officer is assigned the back strip area of the visitation building and is separated from the visitors by a door and long hallway. Appendix 2, ¶ 12. This officer monitors the video screens and processes offenders into/out of the visitation room. Appendix 2, ¶ 12. Two officers are assigned to monitor

the offenders/visitors in the visiting room. Appendix 2, ¶ 12. They also have responsibility to open doors, assign seating for visitors/offenders, process paperwork, and allow visitors/offenders the use of restroom facilities. Appendix 2, ¶ 12. Based on the limited staffing and inability to directly monitor offenders/visitors at all times, the facility does not allow supervised visiting. Appendix 2, ¶ 12. Ms. Rohrer explains that SCCC has had incidents where offenders have assaulted visitors or engaged in inappropriate sexual behaviors while in the visiting room as it is difficult to monitor so many people at one time. Appendix 2, ¶ 12.

On March 18, 2011, Ms. Rohrer received an email from staff member Bill Tuffree in the mailroom at SCCC. Mr. Tuffree had questions regarding the prohibited contact and asked if it pertained to mail. Appendix 2, ¶ 13. Ms. Rohrer reviewed the prohibited contact notice she signed on October 14, 2010. Appendix 2, ¶ 13. It indicated, “[t]his notice includes a prohibition against visits, correspondence, telephone calls and use of third party to communicate. This prohibited contact decision may be appealed to the Superintendent”. Appendix 2, ¶ 13; Attachment F, October 14, 2010 Prohibited Contact Notice. Ms. Rohrer checked with the Superintendent’s office and was told that the offender or family had not appealed the prohibited contact. Appendix 2, ¶ 13. Ms. Rohrer modified the Prohibited Contact Notice to remove the language prohibiting correspondence,

telephone calls and the use of a third party. Appendix 2, ¶ 13, Attachment G, June 22, 2011 modified Prohibited Contact Notice regarding Mr. Gossett.

On October 26, 2011, Mr. Gossett appealed the denial of visiting to the Assistant Secretary of Prisons. Appendix 2, ¶ 14. At that time, the DOC Family Service Department recommended that the visits be denied between Mr. Gossett and the minor children. Appendix 2, ¶ 14. They noted in their appeal tracking sheet:

The case has been vetted with the SOTP Manager, Sally Neiland. She says: "I have reviewed the attachments as well as the J&S, Prohibitive Contact and PSI. This is a complicated case. I have a long list of concerns which include two items in the J&S. To date, Mr. Gossett has not fulfilled 1) Obtain a sex offender evaluation 12) Do not enter into a relationship with any person who has minors in their care or custody without approval of your assigned CCO or SOTP (this includes his wife). This alone backs up the current Prohibitive Contact.

Of concern is that Mr. Gosset all file material I have had access to indicates that he continues to deny his sexual offending and refer to the victim as a 'liar and a bad Christian.' In addition, even though his ERD is very far out, he has not acknowledged his behavior nor has he made attempt to apply for SOTP.

In addition to that Mr. Gossett not only has 2 ROC 2 convictions and 2 Child Molest 2 convictions as well as a DV 4 conviction. In addition file material indicates that his wife 'beat the victim with a belt and a spoon.' I do not believe that DOC visitation staff should hold the responsibility for supervision of these minor children given the circumstances, and the attention they must pay to a full

visiting room. The liability for the children, the visiting staff and the DOC seems to outweigh the visit request.

A suggestion would be to allow for written correspondence to be reviewed both outgoing and incoming do he can maintain safe and observable contact with the children.

Please let me know if I can help further. At this point I believe we should uphold the Prohibited Contact.”

Appendix 2, ¶ 14; Attachment H, October 26, 2011 Appeal Tracking Sheet.

The Department’s Deputy Director Dan Pacholke upheld the visiting denial on October 28, 2011, noting in a letter with that date:

In your letter you point out that there was a modification to the original Judgment and Sentence that allows you to participate in visiting with your children. The modification does not mandate visitation. Due to your conviction history and nature of the crime, I am upholding the denial of visiting privileges with your children. If you choose to submit to a sexual deviancy evaluation and participate in Sex Offender Treatment Program during your incarceration, this issue may be reconsidered. Unless this provision is met, all of your appeal opportunities have been exhausted.

Appendix 2, ¶ 15; Attachment I, October 28, 2011 Pacholke letter.

In summary, Ms. Rohrer explains that the denial to allow Mr. Gossett visits from minor aged children was made after review of a Pre-Sentence Investigation, Police Reports, and a review of both the original and amended Judgment and Sentence. Appendix 2, ¶ 16. The decision took into consideration Mr. Gossett’s Rape of a Child and Child Molestation convictions as well as a previous conviction for Assault IV, Domestic

Violence against a minor aged child. Appendix 2, ¶¶ 9, 16, Attachment D. Both the sexual offenses and the assault offense involved minor aged children who were in the care of Mr. and Ms. Gossett. Appendix 2, ¶ 16. Further, the police reports and the pre-sentencing investigation indicated that the victim of the Rape of Child offenses had indicated that Ms. Gossett had abused her physically. Appendix 2, ¶ 16. Staff who supervise the visiting room do not have the ability to provide direct observation of the family during the entire visitation period which can place the minor children at risk for further victimization. Appendix 2, ¶ 16.

Ms. Rohrer explains that it is common in prison for inmates with convictions for child rape, child molestation, or domestic violence against children to be restricted from visiting minor children, including their own children. Appendix 2, ¶ 17. Ms. Stewart confirms this stating, “[p]rohibiting inmates convicted of crimes against children from visiting with minor children---even their own children---is not at all unusual in Department facilities. It is, in fact, a typical part of the incarcerated experience of inmates convicted of such crimes”. Appendix 3, ¶ 20.

This is particularly true where, as here, the inmate has victimized his own adopted children. Appendix 2, ¶ 17. This is not done for arbitrary reasons but rather because of the legitimate fear on the part of Department staff and society at large that permitting such visitation risks further

victimization of children. Appendix 2, ¶ 17. Any individual committing these offenses in Washington can expect that he or she will likely be restricted from visiting minor children, including his own children, as an ordinary incident of prison life. Appendix 2, ¶ 17.

B. Visitation with Adult Children

In his Supplemental Brief, Mr. Gossett claims that the Department is preventing him from visiting his own adult children. Supp. Br. at 4. However, according to Ms. Stewart, none of Mr. Gossett's adult children have applied for visitation in many years. Appendix 3, ¶ 4. Mr. Gossett is a prodigious user of the DOC visitation program, having over 30 approved visitors on his approved visitor's list. Appendix 3, ¶ 5. Department records show only four individuals who have submitted applications as a son or a daughter for visitation. Appendix 3, ¶ 5.

Department records show that Mr. Gossett's son Andrew, who is now 23 years of age, last applied to visit Mr. Gossett in 2010. Appendix 3, ¶ 6. At that time Andrew was a minor and his application was denied. Appendix 3, ¶ 6. There is no record of him having applied as an adult. Appendix 3, ¶ 6. Department records show that Mr. Gossett's daughter Lauren, who is now 19 years of age, last applied to visit Mr. Gossett in 2010. Appendix 3, ¶ 7. At that time Lauren was a minor and her application was

denied. There is no record of her having applied as an adult. Appendix 3, ¶ 7.

Department records show that Mr. Gossett's daughter Samantha, who is now 30 years of age, last applied to visit Mr. Gossett in 2010. Appendix 3, ¶ 8. At that time, her application was initially approved for visitation. Appendix 3, ¶ 8. She has only come to visit Mr. Gossett once. She has not visited him since 2010. Appendix 3, ¶ 8. In 2013, facility staff removed Samantha from the approved visitation list when Mr. Gossett's Judgment and Sentence was amended. Appendix 3, ¶ 8. According to Ms. Stewart, Samantha's removal appears to have been in error. Appendix 3, ¶ 8. Finally, Department records do not show that Mr. Gossett's child Kaleb has ever submitted an application to visit Mr. Gossett. Appendix 3, ¶ 10.

The Department receives over 40,000 visit applications per year. Appendix 3, ¶ 12. Since any of Mr. Gossett's adult children have applied, there have been significant changes to the process for evaluating visitation applications, which have vastly improved the accuracy, consistency, and efficiency of decisions made when visitation applications are processed. Appendix 3, ¶ 11. Today, all DOC visitation applications are processed by a single visit application processing unit located at Department headquarters. Appendix 3, ¶ 15.

According to Ms. Stewart, if Mr. Gossett's adult children were to submit visitation applications today, they would be processed at Department headquarters by the visit application processing unit. Appendix 3, ¶ 16. Provided that his adult children meet the requirements all other applicants are required to pass for visitation such as a criminal background check, their visitation applications would be approved if they were to submit their applications today. Appendix 3, ¶ 16. The same would be true of Mr. Gossett's minor son "C" if he were to submit a visitation application when he reaches the age of 18. Appendix 3, ¶ 16. Because of the nature of Mr. Gossett's crime, the provisions of his Judgment and Sentence, and his history of abusing both male and female minors, DOC would not approve "C" for visitation if he were to submit an application today. Appendix 3, ¶ 17.

III. STATEMENT OF ISSUES

1. Whether Department policies are the laws of the State of Washington permitting Petitioner to seek relief under RAP 16.4(6)?

2. Whether, even if Department policies were laws of the State of Washington, the Department violated those policies at all since, by their plain language, they do not require only documented cases of harm to children while the inmate is incarcerated in order to prohibit contact with an inmate's own minor aged children as alleged by Petitioner?

3. Whether the Department's decision to prohibit contact between Petitioner and his minor child represents an atypical and significant deprivation from the normal incidents of prison life such that it would create a liberty interest carrying due process protections when inmates with a past documented history of harm to children are routinely prevented from visiting their own minor children?

4. Whether, even if the Department's decision to prohibit contact between Petitioner and his minor child represented an atypical and significant deprivation from the normal incidents of prison life, Mr. Gossett's Petition should be dismissed because he has received all requisite due process?

5. Whether Petitioner's claims regarding visitation with his adult children are moot because none of them have applied for visitation in many years and it is likely that their applications would be approved today if they met the conditions applicable to all other adult visitors?

6. Whether the Department violated a Court Order when it refused to permit supervised visits between Petitioner and his own minor children in the visiting room as envisioned by the Petitioner's Modified Judgment and Sentence where the Superior Court lacked personal jurisdiction over the Department?

7. Whether the relief sought by Petitioner for his federal constitutional claims is permitted under the Prison Litigation Reform Act,

which governs injunctive relief for all federal claims involving incarcerated persons that do not involve the fact or duration of confinement?

IV. EVIDENCE RELIED UPON

Appendix 1: Declaration of Katrina Toal

Attachment A: Offender Management Network Information (OMNI), *excerpts* of Legal Face Sheet.

Appendix 2: Declaration of Liz Rohrer, originally attached to the Department's January 20, 2017 Response. It is provided again here for the Court's convenience with the exception of Attachments B and C, which have been provided by Petitioner in the clerk's papers

Attachment A: DOC Policy 450.300, effective February 1, 2010;

Attachment B: *Replaced in record by* CP 1-14, Original Judgment and Sentence in cause No. 08-1-02102-9;

Attachment C: *Replaced in record by* CP 25-26, Order Amending and Clarifying Judgment and Sentence in cause No. 08-1-02102-9 dated August 4, 2010;

Attachment D: Prohibited Contact Review regarding Mr. Gossett dated October 14, 2010;

Attachment E: DOC Policy 450.050;

Attachment F: October 14, 2010 Prohibited Contact Notice;

- Attachment G: June 22, 2011 modified Prohibited Contact Notice regarding Mr. Gossett;
- Attachment H: October 26, 2011 Appeal Tracking Sheet; and
- Attachment I: October 28, 2011 Pacholke letter.

Appendix 3: Declaration of Belinda Stewart

- Exhibit A: Current DOC Policy 450.300 as revised on September 1, 2016; and
- Exhibit B: Current DOC Policy 450.050 as revised on November 21, 2015.

V. STANDARD OF REVIEW

To prevail on a PRP alleging constitutional error, the petitioner must show he or she is under restraint and the restraint is unlawful under the provisions of RAP 16.4(c). *In re Dyer*, 143 Wn.2d 384, 391–92, 20 P.3d 907, 911 (2001). A petitioner is under a "restraint" if the petitioner has limited freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to imminent confinement, or the petitioner is under some other disability resulting from a judgment or sentence in a criminal case. RAP 16.4(b). Mr. Gossett has been restrained; he is incarcerated. Where, as here, a petitioner contests the conditions or manner of confinement, he or she must demonstrate the unlawful nature of restraint by showing “[t]he conditions or manner of the restraint are in violation of the Constitution of the United States or the

Constitution or laws of the State of Washington” in order to obtain relief under RAP 16.4(c)(6). Conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990).

When reviewing a PRP, such as this one, that challenges administrative decision making in prison, review is properly limited to determining whether the action taken was arbitrary and capricious. *In re Dyer*, 143 Wn.2d at 395. A decision is arbitrary and capricious only if the agency’s action is wholly unsupported. *In re Stockwell*, 28 Wn. App. 295, 302, 622 P.2d 910 (1981).

VI. ARGUMENT

A. Department Policies Are Not Laws of the State of Washington Permitting Petitioner to Seek Relief Under RAP 16.4(c)(6)

As explained above, in order to obtain relief under RAP 16.4(c)(6), a petitioner must demonstrate that “[t]he conditions or manner of the restraint are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington”. Citing to *Kozol*, Mr. Gossett contends that this Court should reach the merits of his claim under RAP 16.4(c)(6) because he alleges that the Department has not followed its own policies. *Kozol v. Washington State Dep’t of Corr.*, 185 Wn.2d 405, 409, 379 P.3d 72, 74 (2016), *as corrected* (Aug. 1, 2016); Supp. Br. at 5-

11. In doing so, Mr. Gossett attempts to elevate Department policies to the status of “laws of the State of Washington”. But policies are not recognized as laws in the State of Washington or under federal law and *Kozol* involved an allegation that the Department had not followed a regulation in the Washington Administrative Code (WAC), not policies. *Kozol*, 185 Wn.2d at 410 (WAC provisions constitute the laws of Washington for purposes of determining when an inmate is under “unlawful restraint” as defined under RAP 16.4(c)(6))¹.

According to the United States Supreme Court, state policies are “not designed to confer rights on inmates,” but are instead “primarily designed to guide correctional officials in the administration of a prison.” *Sandin v. Conner*, 515 U.S. 472, 481-482, 115 S. Ct. 2293, 132 L.Ed.2d 418 (1995). Furthermore, in *Cherry*, the Washington Supreme Court held that a municipal policy banning employees from possessing weapons onboard Metro buses was not preempted by a statute preempting the entire field of firearms regulation within the boundaries of the state because the municipal policy was not a law or an ordinance. *Cherry v. Municipality of Metro*.

¹ *Kozol* cites to *In re Pers. Restraint of Cashaw*, 123 Wn.2d 138, 149 n.6, 866 P.2d 8 (1994) for the proposition that WAC provision are laws within the meaning of RAP 16.4(c)(6). The *Cashaw* Court explained that, “[b]ecause administrative rules and regulations are adopted through delegated legislative powers to make law, they are given the force and effect of laws”. *Cashaw*, 123 Wn.2d at 149, n.6. *Cashaw* does not hold that policies are laws.

Seattle, 116 Wn.2d 794, 801, 808 P.2d 746, 749 (1991). The *Cherry* court explained, “[t]he ‘laws and ordinances’ preempted are laws of application to the general public, not internal rules for employee conduct”. *Id.*

Finally in *Joyce*, the Washington Supreme Court explained, referring to Department of Corrections’ policies, “[u]nlike administrative rules and other formally promulgated agency regulations, internal policies and directives generally do not create law. *Joyce v. State, Dep’t of Corr.*, 155 Wn.2d 306, 323, 119 P.3d 825, 834 (2005). However, “where a policy directive is the equivalent of a liability-creating administrative rule, such status may endow the directive with the force of law”. *Id.* “But because the Department’s policy directives are not promulgated pursuant to legislative delegation, they do not have the force of law”. *Id.* (citing *State v. Brown*, 142 Wn.2d 57, 62, 11 P.3d 818 (2000)). Accordingly, Department policies, in and of themselves, are not laws such that relief may be granted under RAP 16.4(c)(6) simply because the policy was not followed.

B. Mr. Gossett Does Not Have a Protected Liberty Interest in Visitation with His Children, which Would Entail Procedural Due Process Protections

Violation of a policy may involve a procedural due process claim under the Fourteenth Amendment if the Department’s action involved a protected liberty interest. *In re Dyer*, 143 Wn.2d 384, 392, 20 P.3d 907, 911 (2001). Protected liberty interests “may arise from two sources—the Due

Process Clause itself and the laws of the States.” *Ky. Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460, 109 S. Ct. 1904, 104 L. Ed. 2d 506 (1989) (quoting *Hewitt v. Helms*, 459 U.S. 460, 103 S. Ct. 864, 74 L. Ed. 2d 675 (1983)). “The due process clause of the federal constitution does not, of its own force, create a liberty interest under the facts of this case, for it is well settled that an inmate does not have a liberty interest in the denial of contact visits by a spouse, relatives, children, and friends”. *Dyer*, 143 Wn.2d at 392. The denial of a prisoner's access to a particular visitor “is well within the terms of confinement ordinarily contemplated by a prison sentence.” *Id.* (citing *Thompson*, 490 U.S. at 461 (quoting *Hewitt*, 459 U.S. at 468). Consequently, like the inmate in *Dyer*, Mr. Gossett has no constitutional interest in visiting his minor child that is protected by the Due Process Clause itself. *Dyer*, 143 Wn.2d at 392.

State statutes or regulations or policies can create a due process liberty interest where none otherwise would have existed. *Thompson*, 490 U.S. at 461. Prior to *Sandin*, for a state law to create a liberty interest, it had to have contained “explicitly mandatory language,” in connection with the establishment of “specified substantive predicates,” to limit discretion. *Thompson* 490 U.S. at 463 (quoting *Hewitt*, 459 U.S. at 472).

However, contrary to Mr. Gossett’s assertions, as explained by the *Dyer* Court, “[i]n *Sandin*, the United States Supreme Court held that liberty

interests are not created by negative implications from mandatory language in prison regulations. Rather, to create a liberty interest, the action taken must be an atypical and significant deprivation from the normal incidents of prison life”. *Dyer*, 143 Wn.2d at 393 (citing *Sandin*, 515 U.S. at 484). As in *Dyer*, there is a hardship to Mr. Gossett in not being able to visit his own minor child; however, this is not an atypical and significant hardship. *Dyer*, 143 Wn.2d at 393.

Mr. Gossett’s Petition does not challenge the constitutionality of DOC’s visitation policies. Supp. Br. at 6. Instead he claims that his “due process” rights were violated because “the Department of Corrections has ignored its own policies”. Supp. Br. at 6. So the operative question before the Court here is whether Mr. Gossett can establish a constitutional violation based on a protected liberty interest created by a state policy rather than the Due Process Clause itself.

Here, Mr. Gossett cannot show that the restriction on his visitation privileges with his children is “an atypical and significant deprivation from the normal incidents of prison life”. *Id.* Mr. Gossett has been convicted of and is currently serving a sentence for two counts of second degree rape of a child and two counts of second degree child molestation. Appendix 1, Attachment A, pp. 1, 5-6. He also has a previous conviction for Domestic

Violence against one of his own minor aged children. Appendix 2, ¶¶ 9, 16, Attachment D.

Ms. Rohrer explains that it is common in prison for inmates with convictions for child rape, child molestation, or domestic violence against children to be restricted from visiting minor children, including their own children. Appendix 2, ¶ 17. This is particularly true where, as here, the inmate has victimized his own adopted children. Appendix 2, ¶ 17. Any individual committing these offenses in Washington can expect that he or she will likely be restricted from visiting minor children, including his own children, as an ordinary incident of prison life. Appendix 2, ¶ 17. This view is confirmed by Ms. Stewart, who states, “[p]rohibiting inmates convicted of crimes against children from visiting with minor children---even their own children---is not at all unusual in Department facilities. It is, in fact, a typical part of the incarcerated experience of inmates convicted of such crimes”. Appendix 3, ¶ 20. So the restriction on Mr. Gossett’s ability to visit his minor children is not an “an atypical and significant deprivation from the normal incidents of prison life” and he does not have liberty interest in such visitation. *Sandin*, 515 U.S. at 484.

C. Even if DOC Policies Did Create a Liberty Interest, there Would Be No Constitutional Violation Because the Department Did Not Violate Its Own Policy

Mr. Gossett claims that he is constitutionally entitled to visitation privileges with his children because the Department disregarded its own policies. Supp. Br. at 6. However, a close look at DOC policy reveals that it was never disregarded.

DOC Policy 450.050, Directive Section I.C., states:

An offender may be prohibited from contact with his/her own children only if the offender's Judgment and Sentence and/or a No Contact Order prohibits such contact or if necessary to protect the children from any specific and documented threat of harm. Documentation *includes, but is not limited to:*

1. The written opinions of mental health professionals or Child Protective Services, and
2. Specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated in a Department facility.

Appendix 2, ¶ 11; Attachment E at 3 (emphasis supplied). The decision to deny Mr. Gossett visits with minor aged children was based on documented threats of harm to the children resulting from contact. Specifically, it was based on the Pre-Sentence Investigation, Police Reports, and a review of both the original and amended Judgment and Sentence, which documented Mr. Gossett's convictions for Rape of a Child and Child Molestation as well as a previous conviction for Assault IV, Domestic Violence against a minor

aged child. Appendix 2, ¶ 16. The decision was also based on police reports and the pre-sentencing investigation indicating that the victim of the Rape of Child offenses had claimed that Mr. Gossett had abused her physically. Appendix 2, ¶ 16. So the decision to restrict Mr. Gossett's visitation privileges was wholly consistent with DOC policy. Appendix 3, ¶ 22.

In his Supplemental Brief, Mr. Gossett misapprehends this policy provision by claiming:

The Department argues that the facts of Mr. Gossett's offense of conviction constitute documented instances of harm. Response of the Department of Corrections, pp. 16-17, But the plain language of the policy requires documentation of "specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated..." (Appendix D, p. 3) (emphasis added). DOC is unable to point to any instances of harm to the children after Mr. Gossett's confinement.

Supp. Br. at 10, n.2.

As the quoted language above confirms, DOC Policy 450.050, Directive Section I.C, by its own terms, clearly does not require specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated..." as claimed by Mr. Gossett. Appendix 2, ¶ 11; Attachment E at 3. What it states is that "[a]n offender may be prohibited from contact with his/her own children only if the offender's Judgment and Sentence and/or a No Contact Order prohibits such contact or if necessary to protect the children from any specific and

documented threat of harm”. Appendix 2, ¶ 11; Attachment E at 3. By its plain language, that documentation “*includes, but is not limited to*” specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated in a Department facility. Appendix 2, ¶ 11; Attachment E at 3 (emphasis supplied). Thus, while documentation of harm while a prisoner is confined is one source of documentation, it is not the *only* form of documented harm that may be used by the Department to prohibit contact. In other words while specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated in a Department facility is *sufficient* documentation, it is not *necessary* documentation.

This view of DOC Policy 450.050 is further affirmed by the Declaration of Belinda Stewart, the Department’s Visitation Program Administrator, who states:

While a documented history of harm to the children resulting from contact with the offender while she or he was incarcerated in a Department facility is one form of documentation that supports prohibited contact, it is not the only form of documentation that can be used for that purpose. In this case, Mr. Gossett’s documented pre-incarceration abuse of both male and female minors and the provisions of his Judgment and Sentence support the Department’s decision to prohibit contact between Mr. Gossett and “C” while “C” is still a minor. Prohibiting Mr. Gossett from visiting “C” until “C” becomes an adult is, therefore, both appropriate and consistent with Department policy.

Appendix 3, ¶ 22. Accordingly, the Department has not violated its own policy.

D. Mr. Gossett Received All Requisite Due Process

Even if Mr. Gossett had a protected liberty interest in visitation, the procedures provided by the Department adequately satisfy due process. When evaluating the types of procedures that are required by the Due Process Clause, courts apply the framework in *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). This test considers three factors: (1) the nature of the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of such an interest through the existing procedures and the probative value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that additional or a different procedure would require. *Mathews*, 424 U.S. at 335; *Wilkinson v. Austin*, 545 U.S. 209, 125 S. Ct. 2384, 162 L. Ed. 2d 174 (2005).

The private interest here is the ability to have visitation with a minor child. However, this interest must be evaluated within the context of the prison environment. *Wilkinson*, 545 U.S. at 225. "Prisoners held in lawful confinement have their liberty curtailed by definition, so the procedural protections to which they are entitled are more limited in cases where the

right at stake is the right to be free from confinement at all.” *Id.* Thus, although Mr. Gossett has some interest in visitation generally, his interest in the ability to have visits with a particular individual is fairly low given his incarcerated status.

In terms of the second factor, the Department’s current procedures provide appropriate procedures to protect against erroneous deprivations. The United States Supreme Court has indicated that the ability to receive notice of the basis for the decision and a fair opportunity for appeal are among the most important procedural safeguards for avoiding erroneous deprivations. *Wilkinson*, 545 U.S. at 226. The current policy provides that “individuals denied placement on an offender’s approved visitor list will be informed, in writing, of the reasons for the denial.” Appendix 3, Exhibit A at 10. Additionally, the Prohibited Contact policy states that designated Department staff “will ensure [the Prohibited Contact Review form] is distributed to inform the offender and employees/contract staff.” Appendix 3, Exhibit B at 3. Both a visitation denial and a prohibited contact have procedures by which the affected individual can appeal. Appendix 3, Exhibit A at 13 (discussing two-step appeal process in which an individual can appeal to the Superintendent and the Assistant Secretary for Prisons if the Superintendent upholds the appeal). In addition to providing a two-step review process, the visitation policy provides that the Superintendent “will

respond with a written decision” at the first level appeal. Appendix 3, Exhibit A at 13. These procedures adequately guard against the risk of erroneous deprivations.

Finally, the third factor weighs heavily in favor of the Department’s current process. The *Wilkinson* court indicated that this factor is the dominant factor in the context of prison management. *Wilkinson*, 545 U.S. at 227. Prisons have a strong interest in ensuring that visitors are appropriately vetted. Given the number of inmates, the number of possible visitors, and the need to maintain security, the Department needs a fair process but also a process that allows the Department to efficiently manage any potential concerns. In this specific case, the Department has an interest in protecting Mr. Gossett’s minor child “C” from harm. The Department has an interest in protecting “C” from visitation with Mr. Gossett based on his history of inappropriate behavior, including sexual abuse, of his own adopted child. Appendix 2, ¶ 9; Appendix 3, ¶ 17.

In light of the interests involved, the Department’s current procedural protections comport with due process and Mr. Gossett’s rights were not violated because he was afforded the procedures established in the policy. Therefore, the Department’s restriction of his visitation with his minor child does not violate his due process rights.

E. Mr. Gossett’s First Amendment Claim Fails Under the *Turner* Analysis

As explained by the Supreme Court, “outside the prison context, there is some discussion in our cases of a right to maintain certain familial relationships, including association among members of an immediate family and association between grandchildren and grandparents.” *Overton v. Bazzetta*, 539 U.S. 126, 131, 123 S. Ct. 2162, 2167, 156 L. Ed. 2d 162 (2003). But prison cases are not appropriate cases for further elaboration of those matters. *Id.* “The very object of imprisonment is confinement”. *Id.* Many of the liberties and privileges enjoyed by other citizens must be surrendered by the prisoner. *Id.* An inmate does not retain rights inconsistent with proper incarceration. *Id.* And Supreme Court cases have established that freedom of association is among the rights least compatible with incarceration. *Id.*

The *Overton* Court went on to apply the *Turner* factors to determine that restrictions on visitation with children “bear a rational relation to [prison administrators’] valid interests in maintaining internal security and protecting child visitors from exposure to sexual or other misconduct”. *Id.* at 133. Under *Turner*, when a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to

legitimate penological interests. *Turner v. Safley*, 482 U.S. 78, 89, 107 S. Ct. 2254, 2261, 96 L. Ed. 2d 64 (1987).

The *Turner* Court identified four factors for determining whether a prison regulation or practice is reasonably related to a legitimate penological interest. *Id.* at 89–91. Accordingly, this Court should consider the following *Turner* factors: (1) whether there is a valid, rational connection between the regulation and the interest used to justify the regulation; (2) whether prisoners retain alternative means of exercising the right at issue; (3) the impact the requested accommodation will have on inmates, prison staff, and prison resources generally; and (4) whether the prisoner has identified easy alternatives to the regulation which could be implemented at a minimal cost to legitimate penological interests. *Id.*

In this case, there is a rational connection between the DOC regulation, which permits Mr. Gossett’s visitation privileges to be restricted, and legitimate penological interests. Specifically, the legitimate penological interest here is the interest the Department has in preventing the risk of further victimization of children. So the first *Turner* factor weighs in favor of the Department’s policy. Appendix 2, ¶ 17. Mr. Gossett is able to communicate with all but one of his children, “C”, so there is an alternative means of permitting Mr. Gossett to communicate with his family and, assuming “C” meets the background check qualifications for visitation, he

should be able to begin visiting Mr. Gossett when “C” turns 18. Appendix 3, ¶¶ 16, 17. So the second *Turner* factor weighs in favor of the Department.

Third, permitting Mr. Gossett visitation privileges in the visitation room at SCCC would clearly impact inmates, prison staff, and prison resources generally because there is limited staffing and consequently an inability to directly monitor offenders/visitors at all times at SCCC. Appendix 2, ¶ 12. SCCC has had incidents where offenders have assaulted visitors or engaged in inappropriate sexual behaviors while in the visiting room as it is difficult to monitor so many people at one time, so the third *Turner* factor weighs in favor of the Department. Appendix 2, ¶ 12. Finally, the fourth *Turner* factor weighs in favor of the Department because Mr. Gossett has not identified easy alternatives to the regulation which could be implemented at a minimal cost to legitimate penological interests. Accordingly, under these circumstances, Mr. Gossett has no constitutional right to visit his minor child.

F. Even if the Department Had Violated Its Own Policy, This Court’s Review of Mr. Gossett’s Due Process Claims Would Be Limited to Determining Whether the Department’s Action Was Arbitrary and Capricious

As explained above, when reviewing a PRP, such as this one, that challenges administrative decision making in prison, review is properly limited to determining whether the action taken was arbitrary and

capricious. *In re Dyer*, 143 Wn.2d at 395. A decision is arbitrary and capricious only if the agency's action is wholly unsupported. *In re Stockwell*, 28 Wn. App. 295, 302, 622 P.2d 910 (1981). Mr. Gossett's visitation restrictions are supported, inter alia, by his documented convictions so the Department's decision is not "wholly unsupported" and, therefore, it is not arbitrary and capricious. Appendix 2, ¶ 17; Appendix 3, ¶ 18.

G. Mr. Gossett's Claims About Visitation with His Adult Children Are Moot

In his Supplemental Brief, Mr. Gossett claims that the Department is preventing him from visiting his own adult children. Supp. Br. at 4. However, according to Ms. Stewart, none of Mr. Gossett's adult children have applied for visitation in many years. Appendix 3, ¶ 4.

Department records show only four individuals who have submitted applications as a son or a daughter for visitation. Appendix 3, ¶ 5. His son Andrew, who is now 23 years of age, last applied to visit Mr. Gossett in 2010 when Andrew was a minor. Appendix 3, ¶ 6. His daughter Lauren, who is now 19 years of age, last applied to visit Mr. Gossett in 2010 also when she was a minor. Appendix 3, ¶ 7. Department records do not show that Mr. Gossett's child Kaleb has ever submitted an application to visit Mr. Gossett. Appendix 3, ¶ 10.

Department records show that Mr. Gossett's daughter Samantha, who is now 30 years of age, last applied to visit Mr. Gossett in 2010. Appendix 3, ¶ 8. At that time, her application was initially approved for visitation. Appendix 3, ¶ 8. She has not visited him since 2010. Appendix 3, ¶ 8. In 2013, facility staff removed Samantha from the approved visitation list when Mr. Gossett's Judgment and Sentence was amended. Appendix 3, ¶ 8. According to Ms. Stewart, Samantha's removal appears to have been in error. Appendix 3, ¶ 8.

As explained by Ms. Stewart since Samantha was removed from the visitation list in 2013, there have been dramatic changes in the way that visitation is managed in the Department. These changes include significant modifications to the process for evaluating visitation applications, which have vastly improved the accuracy, consistency, and efficiency of decisions made when visitation applications are processed. Appendix 3, ¶ 11. Today, all DOC visitation applications are processed by a single visit application processing unit located at Department headquarters. Appendix 3, ¶ 15.

According to Ms. Stewart, if Mr. Gossett's adult children were to submit visitation applications today, they would be processed at Department headquarters by the visit application processing unit. Appendix 3, ¶ 16. Provided that his adult children meet the requirements all other applicants are required to pass for visitation such as a criminal background check, their

visitation applications would be approved if they were to submit their applications today. Appendix 3, ¶ 16. The same would be true of Mr. Gossett's minor son "C" if he were to submit a visitation application when he reaches the age of 18. Appendix 3, ¶ 16. Thus, while there may have been cause for concern about the visitation status of one adult child in 2013, those concerns simply do not exist today given the significant changes to the visitation program that have occurred since. Mr. Gossett's claims about visitation with his adult children are, therefore, moot.

H. The Department Did Not Violate the Superior Court's Order Because the Superior Court Did Not Have Jurisdiction to Order the Department to Provide Supervised Visitation

In his Supplemental Brief, Mr. Gossett claims that the Department acted arbitrarily and capriciously by not permitting visitation with his minor children "when the sentencing court explicitly ordered that visitation should be permitted". Supp. Br. at 1. Specifically, in this case, Mr. Gossett's original Judgment and Sentence specifically stated that he was prohibited from having contact with any minor. Appendix 3, ¶ 19; CP 7. It was later modified and clarified to prohibit Mr. Gossett from having visitation alone with his children and providing "such visitation *shall be supervised* by Department of Correction's personnel in the normal course of the visitation process followed by the Department of Correction's facility the Defendant is in". CP 25-26 (emphasis supplied).

DOC Policy 450.300 specifically states that “supervision by visit employees does not constitute supervised visiting as required by court orders”. Appendix 3, ¶ 19; Exhibit A at 5. According to Ms. Stewart, the reason for this is that the limited number of Department visitation staff are tasked with many other duties including processing visitors in and out of the facility, screening offenders for contraband after they have completed their visits, and monitoring the behavior of up to 75 offenders or more and their visitors in the visitation room. Appendix 3, ¶ 19. Based on the limited staffing and inability to directly monitor offenders/visitors at all times, the Department simply does not provide supervised visits as envisioned by the modified Judgment and Sentence. Appendix 3, ¶ 19. Accordingly, Mr. Gossett is prohibited from visiting his son “C” because “C” is still a minor. Appendix 3, ¶ 19.

Regardless of the Department’s ability to provide the type of supervision envisioned by the Sentencing Court, the Court lacked jurisdiction to order the Department to provide such visitation. In *Zamora*, a sentencing court attempted to place conditions on the release of a mentally ill prisoner from Department of Social and Health Services custody to DOC custody. *State, Dep’t of Soc. & Health Servs. v. Zamora*, 198 Wn. App. 44, 64, 392 P.3d 1124, 1134, *review denied sub nom. State v. Zamora*, 189 Wn.2d 1004, 400 P.3d 1251 (2017). DOC filed a special appearance to

oppose the imposition of the conditions. *Id.* DOC argued that because DOC was not a party to the proceedings, the court did not have jurisdiction to impose conditions on DOC. *Id.* at 64-65. The Sentencing Court disagreed and imposed conditions on DOC. *Id.* at 65.

The Court of Appeals, Division One, disagreed with the Sentencing Court in *Zamora*, explaining:

A court does not have personal jurisdiction over a party if the individual or entity is not designated as a party and has not been made a party by service of process. *Martin v. Wilks*, 490 U.S. 755, 761, 109 S.Ct. 2180, 104 L.Ed.2d 835 (1989); *City of Seattle v. Fontanilla*, 128 Wash.2d 492, 502, 909 P.2d 1294 (1996); *State v. G.A.H.*, 133 Wash.App. 567, 576, 137 P.3d 66 (2006). If a court lacks personal jurisdiction over a party, any order entered against that party is void. *State v. Breazeale*, 144 Wash.2d 829, 841, 31 P.3d 1155 (2001); *Marley v. Dep't of Labor & Indus.*, 125 Wash.2d 533, 541, 886 P.2d 189 (1994); *G.A.H.*, 133 Wash.App. at 576, 137 P.3d 66. Because the undisputed record establishes DOC was not designated as a party and was not made a party by service of process, the court did not have jurisdiction to impose conditions on DOC. In addition, the superintendent of each correctional institution is “responsible for the supervision and management of... the prisoners committed, admitted, or transferred to the institution.” RCW 72.02.045(1).

Zamora, 198 Wn. App. at 73.

Here the text of the Sentencing Court’s “Order Amending and Clarifying Judgment”, clearly identifies the parties that appeared and agreed to the clarification of the Judgment and Sentence to impose supervision duties upon DOC. CP 25. The parties were Mr. Gossett, appearing though

his attorney and the State appearing through the Thurston County Prosecuting Attorney. CP 1. It does not indicate that DOC was represented at the hearing at all. CP 1. As in *Zamora*, because the undisputed record establishes DOC was not designated as a party and was not made a party by service of process, the court did not have jurisdiction to impose conditions on DOC. *Zamora*, 198 Wn. App. at 73. Because the Sentencing Court in this case lacked personal jurisdiction over DOC, any order entered against DOC is void as a matter of law. *Id.*

I. The Provisions of the Federal Prison Litigation Reform Act Mandate that this Court Give Deference to the Department's Legitimate Safety and Security Concerns

In his Supplemental Brief, Mr. Gossett requests a Court Order requiring DOC to permit visitation. Supp. Br. at 17. An injunction is defined as “[a] court order commanding or preventing an action.” Black's Law Dictionary 800 (8th ed. 2004). Thus the relief Mr. Gossett seeks is a form of injunction.

Mr. Gossett's claims appear to rely exclusively on federal constitutional law. Supp. Br. at 1. Unless otherwise restricted, states have concurrent jurisdiction with the federal courts to enforce rights created by federal law. *See Charles Dowd Box Co. v. Courtney*, 368 U.S. 502, 507–08, 82 S. Ct. 519, 7 L. Ed. 2d 483 (1962). On matters of federal law, courts in Washington are bound by the decisions of the United States Supreme Court.

W.G. Clark Const. Co. v. Pac. Nw. Reg'l Council of Carpenters, 88080-8, 2014 WL 1098013 (Wash. Mar. 20, 2014) (citing *Home Ins. Co. of N.Y. v. N. Pac. Ry.*, 18 Wn.2d 798, 808, 140 P.2d (1943)). As noted by the United States Supreme Court in rejecting a state statute purporting to limit federal causes of action, Congress “surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action.” *Felder v. Casey*, 487 U.S. 131, 144, 108 S. Ct. 2302, 101 L. Ed. 2d 123 (1988) (quoting *Wilson v. Garcia*, 471 U.S. 261, 269, 105 S. Ct. 1938, 85 L. Ed. 2d 254 (1985)). Therefore, because Washington courts are bound by the opinions of United States Supreme Court on matters of federal law, and that court has held that application of the PLRA is best left to Congress rather than state courts and legislatures, provisions of the PLRA apply where, as here, there is State action involving conditions of confinement.

Pursuant to the provisions of the PLRA:

Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

18 U.S.C. § 3626(a)(1)(A). Furthermore:

In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

18 U.S.C. § 3626(b)(2).

For many years, binding precedent in Washington has established that a personal restraint petition is a civil action. *In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 409, 972 P.2d 1250, 1267 (1999), *as amended* (June 30, 1999) (“It is well-settled a personal restraint petition is a civil matter”.); *see also In re Pers. Restraint Petition of Lord*, 123 Wn.2d 737, 739, 870 P.2d 964, 966 n.2 (1994) (“a PRP is a civil procedure”); *State v. LaBeur*, 33 Wn. App. 762, 764, 657 P.2d 802, 804 (1983) (personal restraint petition is a collateral attack in a civil proceeding).

Similarly, the PLRA defines the term “civil action with respect to prison conditions” as “any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison”. 18 U.S.C. § 3626(g)(2). Thus, because this

case is not the type of habeas proceeding that challenges the fact or duration of Mr. Gossett's confinement, but rather only his conditions of confinement under RAP 16.4(c)(6), it falls squarely within the provisions of the PLRA requirements for injunctive relief.

Consequently, in order for this Court to grant relief to Mr. Gossett, it must find that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. 18 U.S.C. § 3626(a)(1)(A). The Court must also give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief. 18 U.S.C. § 3626(a)(1)(A).

Because the Court must give substantial weight to any adverse impact on public safety or the operation of the criminal justice system, and the Department has demonstrated that there are legitimate safety and security concerns regarding visitation between Mr. Gossett and "C", DOC respectfully suggests that injunctive relief is inappropriate under these circumstances given the mandatory requirements of the PLRA. Appendix C, ¶¶ 17-19.

VII. CONCLUSION

For the reasons stated above, the Respondent respectfully requests that Mr. Gossett's Personal Restraint Petition be denied.

RESPECTFULLY SUBMITTED this 27th day of February, 2018.

ROBERT W. FERGUSON
Attorney General

s/ Aaron Williams

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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the foregoing SUPPLEMENTAL RESPONSE OF THE DEPARTMENT OF CORRECTIONS with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following non electronic filing participant:

SKYLAR T BRETT
LAW OFFICES OF LISE ELLNER
PO BOX 18084
SEATTLE WA 98118

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 27th day of February, 2018, at Olympia, Washington.

s/ Katrina Toal
KATRINA TOAL
Legal Assistant 3
Corrections Division
PO Box 40116
Olympia WA 98504-0116
(360) 586-1445
KatrinaT@atg.wa.gov

Appendix 1

NO. 49525-2-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

DECLARATION OF
KATRINA TOAL

I, KATRINA TOAL, make the following declaration:

1. I am a legal secretary with the Corrections Division of the Attorney General's Office in Olympia, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. I am familiar with the Offender Management Network Information system (OMNI) used by the Department of Corrections (DOC). I am authorized by the DOC to retrieve information from OMNI. Among other things, information regarding an offender's location, custody, birth date, sentence, infractions and grievances are entered and tracked in OMNI. Attached to this declaration is a true and correct copy of a document which I obtained from OMNI for Jonathan Gossett, DOC #317246:

Attachment A: OMNI Legal Face Sheet, *excerpts*

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 27th day of February, 2018, at Olympia, Washington.



KATRINA TOAL

Attachment A

Inmate: GOSSETT, Mark Jonathan (317246)

Gender: Male	DOB: [REDACTED]	Age: 48	Category: Regular Inmate	Body Status: Active Inmate
RLC: LOW	Wrap-Around: No	Comm. Concern: No	Custody Level: Minimum 3 - Long Term Minimum	Location: SCCC — H2 / H2071U
ERD: 09/06/2027	CC/CCO: Schnase, Lee Ann M			

Offender Information (Combined)

Prison Max Expiration Date: Life	Last Static Risk Assessment Date: 02/13/2018	DOSA:
Planned Release Date:	Last Offender Need Assessment Date: 08/10/2017	ISRB? No
Earned Release Date: 09/06/2027	RLC Override Reason:	CCB? Yes
ESR Sex Offender Level:		SOSSA? No
ESR Sex Offender Level Date:	Offender Release Plan: Investigation	WEP? No
County Sex Offender Level:	Victim Witness Eligible? Yes	
Registration Required? Undetermined	County Of First Felony Conviction: Thurston	
ORCS? Unknown	P U L H E S D X T R	
IDCNF? No		
SMICNF? No		

Personal Characteristics

Aliases, Dates of Birth and Places of Birth

Aliases			
*Last Name:	First Name:	Middle Name or Initial:	Suffix:
Dates of Birth		Places of Birth	
*Dates of Birth:	Use for Age Calculation?	City:	State / Province: Country:
[REDACTED]	Yes	San Francisco	California United States

Education

Last School Attended				
State:	City:	School:	School District:	Other School in Washington:

Identifications

General			
FBI Number:	FBI Fingerprint Code:	WA State ID Number:	ICE Registration Number:
279355TC2		WA24064146	

Cause: AB – 081021029 – Thurston

Convicted Name:	Date Of Sentence:	Cause Status:	Offense Category:
Mark Gossett	06/10/2010	Active	Sex Crimes
Distinct Supervision Type:	Start Date:	Scheduled End Date:	Consecutive Supervision:
CCB	12/29/2019		

Count: 1 – RCW 9A.44.076 – Rape of a Child 2

Count Start Date:	Supervision Length:	Length In Days:	Count End Date:	Stat Max:
12/29/2019	Life	Life		Life
Violent Offense?	DW / FA Enhancement?	Anticipatory:		
Yes	N			

Count: 2 – RCW 9A.44.076 – Rape of a Child 2

Count Start Date:	Supervision Length:	Length In Days:	Count End Date:	Stat Max:
12/29/2019	Life	Life		Life
Violent Offense?	DW / FA Enhancement?	Anticipatory:		
Yes	N			

Cause: AC – 081021029 – Thurston

Convicted Name:	Date Of Sentence:	Cause Status:	Offense Category:
Mark Gossett	06/10/2010	Active	Sex Crimes
Distinct Supervision Type:	Start Date:	Scheduled End Date:	Consecutive Supervision:
CCP	12/29/2019	12/28/2022	

Count: 3 – RCW 9A.44.086 – Child Molestation 2

Count Start Date:	Supervision Length:	Length In Days:	Count End Date:	Stat Max:
12/29/2019	0Y, 36M, 0D	1,095	12/28/2022	01/06/2028
Violent Offense?	DW / FA Enhancement?	Anticipatory:		
No	N			

Count: 4 – RCW 9A.44.086 – Child Molestation 2

Count Start Date:	Supervision Length:	Length In Days:	Count End Date:	Stat Max:
12/29/2019	0Y, 36M, 0D	1,095	12/28/2022	01/06/2028
Violent Offense?	DW / FA Enhancement?	Anticipatory:		
No	N			

Sentence Structure (Inmate)

Cause: AB – 081021029 – Thurston

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Mark Gossett	06/10/2010	
Time Start Date:	Confinement Length:	Earned Release Date:	
06/11/2010	0Y, 245M, 0D	09/06/2027	

Count: 1 – RCW 9A.44.076 – Rape of a Child 2

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?
 0Y, 245M, 0D 15.00% 09/06/2027 Life Life Yes

Supervision Type: CCB
 Supervision Length: Life
 Consecutive Count:
 Hold To Stat Max Expiration:

Count: 2 - RCW 9A.44.076 - Rape of a Child 2

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?
 0Y, 245M, 0D 15.00% 09/06/2027 Life Life Yes

Supervision Type: CCB
 Supervision Length: Life
 Consecutive Count:
 Hold To Stat Max Expiration:

Cause: AC - 081021029 - Thurston

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Mark Gossett	06/10/2010	
Time Start Date:	Confinement Length:	Earned Release Date:	
06/11/2010	0Y, 116M, 0D	10/17/2016	

Count: 3 - RCW 9A.44.086 - Child Molestation 2

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?
 0Y, 116M, 0D 33.33% 10/17/2016 12/29/2019 01/06/2028 No

Supervision Type: CCP
 Supervision Length: 0Y, 36M, 0D
 Consecutive Count:
 Hold To Stat Max Expiration:

Count: 4 - RCW 9A.44.086 - Child Molestation 2

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?
 0Y, 116M, 0D 33.33% 10/17/2016 12/29/2019 01/06/2028 No

Supervision Type: CCP
 Supervision Length: 0Y, 36M, 0D
 Consecutive Count:
 Hold To Stat Max Expiration:

Conditions

Cause: AB - 081021029 - Thurston

Condition Name	Narrative	Imposing Authority	Effective Date	End Date
Advise CCO-Change/Address		Court Ordered	06/11/2010	
Advise CCO-Change/Employment		Court Ordered	06/11/2010	
Advise CCO-Prescribed Meds		Court Ordered	06/11/2010	

Appendix 2

NO. 49525-2-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

DECLARATION OF
LIZA ROHRER

I, LIZA ROHRER, make the following declaration:

1. I have knowledge of the facts herein, am over eighteen years of age, and am competent to testify to such facts. I am not a party to this lawsuit.

2. I am currently employed by the Department of Corrections (DOC) as a Community Corrections Supervisor. My current duties involve providing oversight for Grays Harbor Two and Pacific County Community Corrections Field Offices. In October 2010, my title was Correctional Program Manager and my work location was Stafford Creek Corrections Center (SCCC). In that role I provided oversight for the management of four housing units with capacity of housing 272 inmates in each unit, the Visitation Department, the Extended Family Visit (EFV) Program, the Law Library and the Records Department. I directly supervised 9 staff members and indirectly supervised 84 custody and non-custody staff. I was

custody staff. I was responsible for the classification and management of up to 1088 convicted felons.

3. On October 12, 2010, I received an email from Pat Glebe, Superintendent at SCCC, asking that I look into an email he had received from a Linda Gossett, wife to offender Mark Gossett, DOC #317246, in regard to a visitation issue. I reviewed the email from Ms. Gossett and our electronic files noting that the children had been denied visitation on June 27, 2010, while Mr. Mark Gossett was housed at the Washington Corrections Center (WCC).

4. Per DOC Policy 450.300 Visits for Prison Offenders. (effective 02/01/2010) (XIII.) Appeals for Visiting Privileges, "(A) A visitor may appeal visiting privilege restrictions in writing, to the facility Superintendent. The letter should state the circumstances surrounding the suspension, denial, termination, or no contact provision, and state why visiting privileges should be restored. (B) The Superintendent has final approval on visiting privilege appeals". Attachment A is a true and correct copy of DOC Policy 450.300, effective February 1, 2010. I reviewed our records and did not see that Ms. Gossett had appealed the denial of visiting privileges. I sent an email to the visitation coordinator Andrew Burke to ask the status of the visiting applications and if we had received an appeal letter. Mr. Burke responded that visitation applications for the minor

children had been denied at WCC and that Ms. Gossett had been informed to submit an appeal letter and a copy of any amended Judgment and Sentence. I was able to locate a copy of the amended Judgment and Sentence in our electronic database. I reviewed Mr. Gossett's criminal history noting his conviction for Rape of a Child 2nd (2 counts) and Child Molestation 2nd, (2 Counts). I reviewed the original Judgment and Sentence cause No. 08-1-02102-9 and the amended Judgment and Sentence dated August 4, 2010. Attachment B is a true and correct copy of the original judgment in cause No. 08-1-02102-9. Attachment C is true and correct copy of the Order Amending and Clarifying Judgment and Sentence in cause No. 08-1-02102-9 dated August 4, 2010.

5. The Judgment and Sentence indicated the following section 4.4, "[a]ll conditions contained in Appendix 'H' are hereby incorporated by reference to this J and S and are in full force and effect. Defendant shall complete certified sexual deviancy treatment. Defendant shall have no contact with any minor, including his own adopted or biological children". Attachment B at 5. The Order Amending and Clarifying Judgment and Sentence dated 08/04/2010 stated the following:

for an Order Modifying and clarifying the Judgment and Sentence to make sure the Defendant, MARK GOSSETT is allowed to have visitation with his children, as supervised by the Department of Corrections, during normal visitation in accordance with the rules and regulations of the

Department of Correction's; that the Court having reviewed the files and records contained herein and being otherwise fully advised in the premises, now, therefore, it is hereby

ORDERED that the Judgment and Sentence entered by the above entitled Court on June 10, 2010 be and the same hereby is modified and clarified to allow for the Defendant to have visitation with his children at any Department of Correction's facility in which the Defendant is housed;

That the children will not have visitation alone with the Defendant and such visitation shall be supervised by the Department of Correction's personnel in the normal course of the visitation process followed by the Department of Correction's facility the Defendant is in;

That the normal supervision of visitation by two or more correctional officers in an open room where numerous other inmates may be exercising visitation privileges, is sufficient supervision for the Defendant to have visitation with his children.

Attachment C.

6. Per DOC Policy 450.300 Visits for Prison Offenders (effective 02/01/2010) section (VII) Who May not Visit, A.3: "[p]ersons restricted per the Judgment and Sentence. While supervised visits may be allowed per the Judgment and Sentence, supervision by facility visiting staff does not constitute supervised visitation". Attachment A at 8.

7. Consistent with legitimate penological objectives and the goal of protecting public safety, the Department does not generally allow visitation which requires supervision. The amended Judgment and

and regulations of the Department. Attachment C at 2. However, it is not typical for DOC to allow such contact that requires supervision. Accordingly, I prepared a quick report to Superintendent Glebe advising him that this case should be reviewed by the Facility Risk Management Team (FRMT) assigned to Mr. Gossett for possible prohibited contact review.

8. On October 14, 2010, the FRMT reviewed Mr. Gossett's file material and criminal history as part of a Prohibited Contact Review. They noted that the Offender's Judgment and Sentence prohibits contact with the individual or class of individuals during or upon release. They also noted that an order of no contact was rescinded or did not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives. The FRMT chaired by Correctional Unit Supervisor, Greg Jones, recommended denial of contact between the offender and his adopted/biological children for the purpose of visitation. Attachment D is a true and correct copy of the Prohibited Contact Review regarding Mr. Gossett dated October 14, 2010.

9. I upheld the FRMT's recommendation stating:

9. I upheld the FRMT's recommendation stating:

Victim of Offender Gossett's current conviction is the minor aged adopted daughter of the offender. Previous criminal history also shows that offender Gossett was original charged with an Assault 3rd of a Child which was later pled down to an Assault 4th DV. [Pre-sentence Investigation] notes that the victim of this was crime was Gossett's 10 year old foster son. Offender has displayed a history of victimizing both sexually and physically minor aged children both male and female. Original J/S noted Defendant shall have no contact with any minor, including his own adopted or biological children. J/S modified months later to read that the offender may have contact with his children as supervised by the DOC personnel in the normal course of the visitation process followed by the DOC facility that the offender is located in and that the normal supervision of visitation by two or more C/O in an open room is sufficient. However, DOC Policy 450.300 VII. Who May Not Visit: A. 3. Persons restricted per the Judgment and Sentence. While supervised visits may be allowed per the J/S, supervision by facility visiting staff does not constitute supervised visitation. Based on criminal history noting two separate convictions for crimes against children and the recent modification of a no contact provision I am approving a prohibited contact [restriction] between this offender and minor aged children.

Attachment D.

10. DOC Policy 450.050 Prohibited Contact, effective date (08/30/2010), Policy at I. states: "Consistent with legitimate penological objectives and public safety, the Department will restrict incarcerated offender contact in any form (i.e., visits, correspondence, telephone) with specific individuals or classes of individuals." Attachment E is a true and correct copy of DOC Policy 450.050.

11. DOC Policy 450.050, Directive Section I.C., states, “[a]n offender may be prohibited from contact with his/her own children only if the offender’s Judgment and Sentence and/or a No Contact Order prohibits such contact or if necessary to protect the children from any specific and documented threat of harm”. Attachment E at 3.

12. The visiting room at SCCC in 2010 held over 75 tables which could hold 75 offenders and up to 300 visitors. The visitation department had a total of 4 Correctional Officers and one Correctional Sergeant assigned to monitor up to 375 people. One officer was assigned the public access position located in a building separate from the visiting room. This officer processed in and out the visitors. One officer was assigned the back strip area of the visitation building and was separated from the visitors by a door and long hallway. This officer monitored the video screens and processed offenders into/out of the visitation room. Two officers were assigned to monitor the offenders/visitors in the visiting room. They also have responsibility to open doors, assign seating for visitors/offenders, process paperwork, and allow visitors/offenders the use of restroom facilities. Based on the limited staffing and inability to directly monitor offenders/visitors at all times, the facility does not allow supervised visiting. Stafford Creek has had incidents where offenders have

assaulted visitors or engaged in inappropriate sexual behaviors while in the visiting room as it is difficult to monitor so many people at one time.

13. On March 18, 2011, I received an email from staff member Bill Tuffree in the mailroom at SCCC. Mr. Tuffree had questions regarding the prohibited contact and asked if it pertained to mail. A review of the prohibited contact notice signed by me on 10/14/2010, which indicated, "[t]his notice includes a prohibition against visits, correspondence, telephone calls and use of third party to communicate. This prohibited contact decision may be appealed to the Superintendent". Attachment F is a true and correct copy of the October 14, 2010 Prohibited Contact Notice. I checked with the Superintendent's office and was told that the offender or family had not appealed the prohibited contact. I modified the Prohibited Contact Notice to remove the language prohibiting correspondence, telephone calls and the use of a third party dated 06/22/2011. Attachment G is a true and correct copy of the June 22, 2011 modified Prohibited Contact Notice regarding Mr. Gossett.

14. On October 26, 2011, Offender Gossett appealed the denial of visiting to the Assistant Secretary of Prisons. At that time, the DOC Family Service Department recommended that the visits be denied between Mr. Gossett and the minor children. They noted in their appeal tracking sheet:

The case has been vetted with the SOTP Manager, Sally Neiland. She says: "I have reviewed the attachments as well as the J&S, Prohibitive Contact and PSI. This is a complicated case. I have a long list of concerns which include two items in the J&S. To date, Mr. Gossett has not fulfilled 1) Obtain a sex offender evaluation 12) Do not enter into a relationship with any person who has minors in their care or custody without approval of your assigned CCO or SOTP (this includes his wife). This alone backs up the current Prohibitive Contact.

Of concern is that Mr. Gossett all file material I have had access to indicates that he continues to deny his sexual offending and refer to the victim as a 'liar and a bad Christian.' In addition, even though his ERD is very far out, he has not acknowledged his behavior nor has he made attempt to apply for SOTP.

In addition to that Mr. Gossett not only has 2 ROC 2 convictions and 2 Child Molest 2 convictions as well as a DV 4 conviction. In addition file material indicates that his wife 'beat the victim with a belt and a spoon.' I do not believe that DOC visitation staff should hold the responsibility for supervision of these minor children given the circumstances, and the attention they must pay to a full visiting room. The liability for the children, the visiting staff and the DOC seems to outweigh the visit request.

A suggestion would be to allow for written correspondence to be reviewed both outgoing and incoming do he can maintain safe and observable contact with the children.

Attachment H is a true and correct copy of the October 26, 2011 Appeal Tracking Sheet.

15. The Deputy Director Dan Pacholke upheld the visiting denial on October 28, 2011, noting in a letter with that date:

In your letter you point out that there was a modification to the original Judgment and Sentence that allows you to participate in visiting with your children. The modification does not mandate visitation. Due to your conviction history and nature of the crime, I am upholding the denial of visiting privileges with your children. If you choose to submit to a sexual deviancy evaluation and participate in Sex Offender Treatment Program during your incarceration, this issue may be reconsidered. Unless this provision is met, all of your appeal opportunities have been exhausted.

Attachment I is a true and correct copy of the October 28, 2011 Pacholke letter.

16. In summary, the denial to allow Mr. Gossett visits from Minor aged children was made after review of a Pre-Sentence Investigation, Police Reports, and a review of both the original and amended Judgment and Sentence. The decision took into consideration Mr. Gossett's Rape of a Child and Child Molestation convictions as well as a previous conviction for Assault IV, Domestic Violence against a minor aged child. Both the sexual offenses and the assault offense involved minor aged children who were in the care of Mr. and Ms. Gossett. Further, the police reports and the pre-sentencing investigation indicated that the victim of the Rape of Child offenses had indicated that Ms. Gossett had abused her physically. Staff who supervise the visiting room do not have the ability to provide direct observation of the family

during the entire visitation period which can place the minor children at risk for further victimization.

17. It is common in prison for inmates with convictions for child rape, child molestation, or domestic violence against children to be restricted from visiting minor children, including their own children. This is particularly true where, as here, the inmate has victimized his own adopted children. This is not done for arbitrary reasons but rather because of the legitimate fear on the part of Department staff and society at large that permitting such visitation risks further victimization of children. Any individual committing these offenses in Washington can expect that he or she will likely be restricted from visiting minor children, including his own children, as an ordinary incident of prison life.

EXECUTED this 17 day of January, 2017 at Aberdeen, Washington.


LIZA ROHRER

Attachment A



STATE OF WASHINGTON
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APPLICABILITY PRISON		
OFFENDER/SPANISH MANUALS		
REVISION DATE 2/1/10	PAGE NUMBER 1 of 12	NUMBER DOC 450.300
TITLE VISITS FOR PRISON OFFENDERS		

POLICY

REVIEW/REVISION HISTORY:

Effective: 1/7/00
 Revised: 2/20/03
 Revised: 11/15/06
 Revised: 4/18/07 AB 07-012
 Revised: 2/20/09
 Revised: 2/1/10

SUMMARY OF REVISION/REVIEW:

Policy III. - Adjusted to include status as a state registered domestic partner
 II.B. - Added that professional visitors do not need to be on the offender's visitor list
 V.D.1. - Adjusted that an immediate family member may be placed on more than one offender's visitor list with approval of each facility's Superintendent
 V.E. - Adjusted that when transferred to another facility, the offender's visitor list when remain and be available in Info Port
 Attachment 1 - Several adjustments to dress standards and adjusted that money/debit cards may be used by both offenders and visitors during visits at minimum security facilities

APPROVED:

ELDON VAIL, Secretary
 Department of Corrections

 1/3/10
 Date Signed



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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; ACA 4-4156; ACA 4-4498; ACA 4-4499-1; ACA 4-4500; ACA 4-4503; ACA 4-4504; DOC 420.340 Searching and Detaining Facility Visitors; DOC 450.050 Prohibited Contact; DOC 850.030 Employee Relationships/Contacts With Offenders

POLICY:

- I. The Department will support offenders in maintaining ties with family, friends, and the community by allowing and setting reasonable criteria for personal visits.
- II. The Department recognizes the need to engage community stakeholders, partners, and offender families in the re-entry initiative.
- III. For the purposes of this policy, immediate family will be defined as spouse/state registered domestic partner, parent, stepparent, sibling, stepbrother, stepsister, half brother, half sister, child, stepchild, grandparent, grandchild, and as documented in the offender's central file, person(s) acting in place of a parent and/or foster children.

DIRECTIVE:

- I. General Guidelines
 - A. The Department will provide visiting opportunities, visit programs, and a secure and welcoming space for offenders and their families by:
 1. Providing sufficient and safe space for regular visiting which is consistent with the required level of custody supervision. Designated visit areas should include a section that has a child-friendly environment. Visiting areas and programs should provide as normal a family experience as possible.
 - a. Visit rooms will provide toys and games suitable for interaction by family members of all ages.
 - b. Reasonable accommodation will be provided for visitors with disabilities. Depending on the nature of the accommodation, advance notice may be required.
 - c. Appropriate seating for all ages should be provided.
 2. Informing all visit staff of the importance of visiting to maintain ties with family and friends, and in some cases reunite with families and significant others. Rule enforcement will be sensitive to visitors, particularly children.



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3. Actively encouraging a collaborative working relationship with social service and other private community based organizations providing transportation, housing, food, clothing, and other similar forms of assistance to the offender and his/her family.
- B. Visitors and offenders will be treated courteously. Reasonable efforts will be made to ensure that the visiting facility is comfortable, pleasant, and permits informal communication and limited, appropriate physical contact. [4-4499-1]
- C. The Superintendent will establish the following:
1. Process to ensure the Visit Guidelines (Attachment 1) are implemented,
 2. Hours and days for personal visits, to include appropriate arrival,
 3. Approval process for adding names to visitor lists,
 4. Check in process for visitors, [4-4503]
 5. Procedures for no contact visiting in cases of substantiated security risk, and [4-4499-1]
 6. Other processes and information deemed necessary for pleasant, positive visits, taking into account safety and security issues.
- D. The Visiting Guidelines will be provided to the offender in the orientation packet the day of his/her arrival.
- E. Visitors will only bring limited items into the facility visiting room, as outlined in Attachment 1.
1. Copies of the Visit Guidelines (Attachment 1) will be available to all visitors at the facility and at <http://www.doc.wa.gov>. Information will also be provided concerning transportation to the facility. [4-4504]
 2. Requests for exceptions to the Visit Guidelines (Attachment 1) will be submitted to the Deputy Director for approval.
- F. [4-4498] The number of visitors an offender may receive and the length of visits may be limited only by facility schedule, space, and personnel constraints, or when there are substantial reasons to justify the limitations.
- G. Visitors aged 16 and older must present current photo identification per the Visit Guidelines (Attachment 1).
- H. Persons who are not United States (U.S.) citizens must provide proof of legal entry into the U.S. Aliens require documentation to visit. Acceptable documentation includes:



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1. Work permits,
2. Passports,
3. Travel permits/tourist visas, or
4. Any other documentation that can be validated by the U.S. Department of Justice, U.S. Immigration and Immigration Customs Enforcement, U.S. Customs and Border Protection, and/or the alien's consulate.

- I. [4-4156] Space is provided for a visiting room or area for contact visiting and, if necessary, non-contact visiting. There is adequately designed space to permit screening and searching of both offenders and visitors. Space may be provided for the proper storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.

II. Special Visits

- A. [4-4500] Special visits may be permitted for:

1. Persons who have come long distances (i.e., 300 miles or more),
2. Offenders who are in disciplinary status or are hospitalized, and
3. Professional visits between offenders and their attorneys, clergy, social service agency representatives, etc.

- B. [4-4500] Except for professional visitors, special visits will only be approved for individuals who are on the offender's approved visitor list.

1. Special visits must be requested on DOC 21-787 Special Visit Request and submitted to the offender's Counselor. For professional visits, either the offender or the professional may complete the form.
2. Superintendent/designee (e.g., Visit Program Supervisor) will coordinate adjustments to established times and days for individuals on the approved visitor list to accommodate special requests.
3. The Superintendent/designee may grant exceptions for special visits by individuals not on the offender's approved visitor list.

- C. Special visits will be subject to regular Visit Guidelines (Attachment 1).

III. Video Visits for Out-of-State Offenders

- A. Scheduling

1. Visit requests should be received at least 2 weeks prior to the requested visit date, when possible. If the date and session time requested is



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unavailable, the visitor(s) will be notified via electronic mail and/or telephone.

2. Visits will be scheduled on a first come, first served basis. Visitors will be notified via electronic mail and/or telephone of the scheduled visit date and time. Video visits will be 20 minutes in length.
 3. Visitors who do not appear for a scheduled video visit must re-apply for a new visit date and time. After 3 missed appointments, the visitor will not be scheduled for further video visits.
- B. Offenders may have up to 6 approved visitors involved in each video visit. Visitors will not be allowed to enter and exit the video visiting site and/or change places with another approved visitor.
- C. Visitors will comply with the Visit Guidelines (Attachment 1). Visits will be monitored.
- D. Offenders in segregation will not be allowed video visitation. Upon returning to general population, video visits may be scheduled with the offender if all other qualifying conditions are met.

IV. Approval Process

- A. The approval process must be completed before a name is placed on an offender's approved visitor list.
- B. Each prospective adult visitor, and the non-incarcerated parent/legal guardian of each prospective visitor under 18 years of age, must complete DOC 20-060 Visitor's Questionnaire. The form may be accessed at <http://www.doc.wa.gov/facilities/docs/DOCVisitingForm.pdf>, or mailed to the adult or non-incarcerated parent/legal guardian at the offender's expense. Questionnaires will be processed within 10 business days of receipt.
- C. The non-incarcerated parent/legal guardian of all individuals under 18 years of age must complete the Parent or Legal Guardian Consent portion of the form. This portion must be notarized.
 1. Parentage of all individuals under 18 years of age must be verified by providing a certified copy of the minor's birth certificate. A copy from the Department of Social and Health Services (DSHS) Children's Administration will also be acceptable.



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2. The Superintendent/designee may consider alternate forms of parental documentation in exceptional cases where an original birth certificate is not available for a minor born outside of the U.S. (e.g., children of adults who have been granted asylum in the U.S. or who are immigrants from countries where complete record systems may not exist).
 - a. An adult whose country of origin maintains a consulate/embassy/station in the U.S. must provide a certified or notarized letter on official consulate stationery stating the original, certified birth certificate is not available. A copy of the birth certificate, if available, and a form of alternate documentation should accompany this.
 - b. An adult whose country of origin does not maintain a consulate/embassy/station in the U.S. and cannot obtain proof from an official source that the original birth certificate is not available may use an alternate form of documentation.
 - c. Alternate documentation must be accompanied by a sworn affidavit from the parent stating the minor's birth date and place and that the minor is in fact his/her child. Documentation may include:
 - 1) Orders entered by U.S. Immigration and Customs Enforcement recognizing that the minor is allowed in the U.S. as a result of his/her relationship to the refugee parent,
 - 2) DSHS records showing family identity for the purposes of calculating support and entitlement payments, or
 - 3) A certified copy of an asylum or refugee application bearing the minor's name.
 - d. The Assistant Secretary for Prisons/designee must approve any exceptions to these requirements.
3. Legal guardianship of all individuals under 18 years of age must be verified by providing a copy of the filed court order establishing legal guardianship. If there is no legal guardian or non-incarcerated parent, the Superintendent may accept a notarized Power of Attorney signed by the incarcerated parent and the individual granted custody of the minor.

V. Approved Visitor List



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- A. There is no limit to the number of visitors an offender may have on his/her approved visitor list, except at Washington Corrections Center (WCC) - Reception Diagnostic Center, which will have a limit of 5 persons. All individuals must be approved by the facility for visiting.
- B. Each facility will identify the maximum number of visitors each offender is allowed during visiting hours.
- C. All National Crime Information Center (NCIC), Washington State Crime Information Center (WACIC), and District and Municipal Court Information Center (DISCIS) checks will be made to verify the individual's identity and ensure the accuracy of DOC 20-060 Visitor's Questionnaire. Information on an offender's approved visitor list is confidential.
- D. Individuals may only be on one offender's approved visitor list, with the exception of immediate family members of more than one offender.
 1. To be added to more than one approved visitor list, the immediate family member must be approved for visitation by the Superintendent of each facility using DOC 20-438 Approval for Visitation with Multiple Offenders.
- E. When an offender is transferred to another facility, his/her approved visitor list will remain and be available in Info Port.
 1. Offenders will be responsible for notifying their visitors of transfers.
 2. The receiving facility may conduct a review of each individual listed for updated law enforcement and intelligence data.
 - a. If new information is discovered, the visit approval may be denied.
 - b. If there is no new information, the individual will be approved.
 3. When the receiving Superintendent believes visiting should be denied, the matter will be referred to the Deputy Director prior to making the final decision.
- F. When an offender is released from confinement, his/her approved visitor list will be deleted. If an offender is re-incarcerated, s/he must go through the approval process to create a new visitor list.

VI. Minors

- A. Persons under 18 years of age must be accompanied during the entire visit by their non-incarcerated parent/legal guardian or a designated escort (i.e., an adult approved by the Appointing Authority/designee who is on the offender's



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approved visitor list or is a volunteer sponsor or sponsoring organization staff, and who has notarized written approval from the non-incarcerated parent/guardian). At the Superintendent's discretion, exceptions may be granted authorizing a minor to be accompanied by an adult other than the parent/legal guardian/designated escort if:

1. The non-incarcerated parent/legal guardian requests the exception in writing,
2. The individual accompanying the minor is on the offender's approved visitor list and the minor is the offender's immediate family member, or
3. There is no legal guardian or non-incarcerated parent.

B. Visitors with minors are responsible for supervising the minors at all times.

C. In addition to brief, appropriate contact at the beginning of each visit, an offender may have physical contact with his/her child(ren) up to age 8 per the Visit Guidelines (Attachment 1).

VII. Who May Not Visit

A. The following may not visit Prison offenders:

1. Minor aged victims of the offender, unless they have written approval from the Children's Administration and/or sentencing court, the Superintendent, and the Deputy Director/designee.
2. Persons associated with the offender in the commission of the offense for which s/he is incarcerated. Exceptions may be granted by the Superintendent for immediate family members or if there is a clear demonstration the visits would benefit the offender.
3. Persons restricted per the Judgment and Sentence. While supervised visits may be allowed per the Judgment and Sentence, supervision by facility visiting staff does not constitute supervised visitation.
4. Persons prohibited from visiting per DOC 450.050 Prohibited Contact, who will be informed of denial/termination of visiting privileges on DOC 21-760 Prohibited Contact Notice.

B. Persons with criminal records will not automatically be excluded from visiting. In determining whether to approve a person with criminal records, the nature and extent of his/her total criminal record, including recent criminal activity, will be weighed carefully against the benefits of visitation. The Superintendent/



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designee will retain final authority to review, assess, and approve/deny applications. Failure to list previous criminal convictions on DOC 20-060 Visitor's Questionnaire may result in denial of visiting privileges.

- C. Generally, offenders on community supervision or persons having pending charges will not be granted permission to visit during service of sentence. Exceptions may be made for immediate family members, who may be allowed to visit once a month by special approval from the Superintendent. It will be the responsibility of the immediate family member to provide a letter from his/her Community Corrections Officer recommending visiting privileges along with the completed DOC 20-060 Visitor's Questionnaire.
 - 1. Offenders only owing Legal Financial Obligation are not subject to these guidelines.
- D. Ex-felons will not be granted permission to visit for 3 years after expiration of sentence, except immediate family members, who may be considered after one year. Ex-misdemeanants will not be granted permission to visit for 6 months after expiration of sentence, except immediate family members, who may be considered after 3 months.

VIII. Current and Former Employees

- A. Generally, Department employees, contract staff, and volunteers will not be approved to visit unless they have written approval from the Superintendent and the employee's Appointing Authority per DOC 850.030 Employee Relationships/Contacts With Offenders.
- B. Former Department employees, volunteers, or contract staff will not be approved to visit unless they have written approval from the Superintendent and there is clear demonstration that the visits would benefit the offender. This exception includes immediate family members. If possible, such visits should not occur at the facility where the former employee, volunteer, or contract staff worked.
 - 1. A former Department staff will not be permitted to visit if there is evidence that s/he was involved in any inappropriate behavior with the offender before leaving the Department.

IX. Denial of Placement on an Offender's Approved Visitor List

- A. Visiting privileges will not be denied on the basis of race, religion, sex, national origin, or physical disability.



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B. Persons denied placement on an offender's approved visitor list will be informed, in writing, of the reasons for denial.

X. Denial or Termination of Visits

A. Visiting will only be denied, terminated, or restricted for offenders as a sanction for visiting related infractions, or for behavior that presents a security or safety threat.

B. The Superintendent/designee may deny entrance to visitors or terminate a visit in progress if:

1. There is prior knowledge leading to evidence that a visitor is attempting to smuggle illegal or contraband items in or out of the facility. Local law enforcement officers will be contacted and allowed to handle visitor search procedures if there is sufficient information and time to coordinate efforts.
2. There is a disturbance or emergency situation within the facility.
3. There is clear and present or imminent danger to the health or safety of any visitor, offender, or staff.
4. There is reasonable suspicion to believe that criminal conduct will result if entrance is allowed.
5. The offender or visitor fails to abide by the facility rules, policy, or Visit Guidelines (Attachment 1).

C. The Superintendent may terminate the visiting privileges of an offender's visitor for a serious violation of the Visit Guidelines (Attachment 1) or serious abuse of visiting on the part of the visitor or offender.

XI. Suspension of Visiting Privileges

A. A visitor's visiting privileges may be suspended for a violation of the Visit Guidelines (Attachment 1) or abuse of visiting on the part of the visitor or offender.

B. An offender's visiting privileges with all visitors may be suspended only after a finding of guilt pursuant to a regular disciplinary hearing for violation of the Visit Guidelines (Attachment 1).

C. The Superintendent may prolong a suspension if there remains a:



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POLICY

TITLE

VISITS FOR PRISON OFFENDERS

1. Clear and present or imminent danger to the health or safety of any visitor, offender, or staff, or
2. Risk to facility security.

XII. No Contact Provisions

- A. The Superintendent may impose no contact visitation provisions for inappropriate or security threat related behavior displayed by the offender and/or visitor.

XIII. Appeals for Visiting Privileges

- A. A visitor may appeal visiting privilege restrictions, in writing, to the facility Superintendent. The letter should state the circumstances surrounding the suspension, denial, termination, or no contact provision, and state why visiting privileges should be restored.
- B. The Superintendent has final approval on visiting privilege appeals.

XIV. Removal of Names from the Approved Visitor List

- A. An offender who wishes to remove someone from his/her approved visitor list must submit a written request for removal to the Superintendent/designee.
- B. An individual who wishes to be removed from an offender's approved visitor list must submit a written request for removal to the Superintendent/designee.
- C. An individual removed from an approved visitor list must wait 90 days before applying to visit the same or another offender.

XV. Search of Visitors

- A. [4-4503] All visitors are subject to pat, electronic, and canine searches. Lockers used by visitors, as well as visitors' vehicles, purses, packages, briefcases, or similar containers which are brought onto the facility grounds may be searched per DOC 420.340 Searching and Detaining Facility Visitors.
- B. All visitors should read DOC 420.340 Searching and Detaining Facility Visitors and are required to sign DOC 21-575 Acknowledgment of Visitor Search Requirements prior to taking part in the first visit with an offender.
- C. Local law enforcement will be notified of criminal activity if a visitor is found in possession of contraband that is an illegal item and may be detained and/or searched per DOC 420.340 Searching and Detaining Facility Visitors.



STATE OF WASHINGTON
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NUMBER
DOC 450.300

POLICY

TITLE

VISITS FOR PRISON OFFENDERS

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

Visit Guidelines (Attachment 1)

DOC FORMS:

- DOC 20-060 Visitor's Questionnaire
- DOC 20-438 Approval for Visitation with Multiple Offenders
- DOC 21-575 Acknowledgment of Visitor Search Requirements
- DOC 21-760 Prohibited Contact Notice
- DOC 21-787 Special Visit Request

VISIT GUIDELINES

WELCOME STATEMENT

The Department of Corrections welcomes you to facility specific. We wish to provide a family friendly environment. To do this, there are some security measures we must take to ensure your visit is safe and pleasant. The number of visitors allowed at one time may vary from one facility to another. All facilities are chewing gum and tobacco free. Please read these guidelines carefully so you may have an enjoyable visit.

WHO CAN VISIT

Each offender may have up to facility specific approved visitors per visit. NOTE: The offender may not be available for a visit. Visitors may avoid making an unnecessary trip, or being turned away, by pre-arranging visits with the offender.

Visitor Reminder: If you wish to be removed from an approved visitor list, please submit a written request for removal to the Superintendent/designee.

Children under the age of 18 may visit with a parent/guardian or an approved escort only.

WHEN YOU CAN VISIT

Visiting Times

Where	Days	Check In Time	Check Out Time

Offenders may request arrangements for special situations such as friends or family traveling from extended distances.

Visitors who leave during any visit period may be allowed to return during the next authorized visit period.

HOW YOU GET THERE

Facility Information (provided by facility)

- Written directions from north, south, east, or west, and a map, as appropriate.
- A contact number if visitor gets lost.
- Written instruction from parking lot to visitor entrance for check-in.
- Physically Challenged – Any issues regarding special accommodations, parking, and entrance for check in.

VISIT GUIDELINES

WHAT TO DO WHEN YOU ARRIVE

Vehicles/Parking

The speed limit on facility grounds is 15 mph. Thank you for not speeding.

Vehicles should be secured.

Pets and persons not visiting may not wait in vehicles.

Visitor Check-In

Visitors are welcome to arrive facility specific minutes prior to visits. Please check in at the visitor entrance.

Please inform staff in advance if you intend to share difficult news during your visit. Staff will attempt to make a suitable seating arrangement for your visit.

Identification

All visitors 16 years of age and older will be asked to show current photo identification (e.g., driver's license, passport, military or government identification, tribal identification, alien registration, student identification). Expired or non-photo identification will not be accepted.

Searches

Visitors will be required to sign a search permission form before visiting. Pat, vehicle, personal property, and/or canine searches may be conducted.

You may bring the following items in a clear plastic coin purse or plastic bag:

- Money – At facilities where cash is required for vending machine purchases, each visitor will be allowed \$15.00 in change or bills in denominations of \$5.00 or less. At facilities with debit vending machines, each visitor will be allowed a vending machine debit card. Debit card limits are established by the facility based on vendor resources. For facility specific, the debit card limit is \$facility specific.
- Keys – Drivers may keep one manual car key on a single ring key chain. **Each facility will determine where keys may be secured.**
- Identification – All visitors will be allowed to have one form of identification with them in the visiting area.
- Medical – Visitors are allowed life sustaining medications or medical equipment that is needed during the visiting period, if the visitor provides proof of prescription of medically authorized need.
- Small comb or brush.

VISIT GUIDELINES

Items for Infants and Toddlers

Infant and toddler items must be stored in a clear plastic bag or container. The following items are allowed:

- Two clear plastic bottles containing water, juice, milk, or liquid formula.
- One plastic Tupperware type child's cup with lid.
- Two unopened plastic containers of baby food in their original packaging with one plastic baby spoon.
- Two bibs.
- Two pacifiers or teething objects.
- One non-quilted child's blanket.
- One change of baby clothing.
- One disposable diaper per hour of visit.
- Baby wipes that have been transferred to a zip lock plastic bag prior to visit.

HOW TO ENJOY YOUR VISIT

The following guidelines are in place to ensure a safe and pleasant visit.

Continuation of your visit and visiting privileges will depend on:

- Visitors arriving without having consumed alcohol and/or an illegal substance, or being in possession of contraband.
- Visitors and/or offender following the Visit Guidelines, policy, and procedures.
- Compliance with search procedures.
- No disturbances or emergency situations within the facility.
- No clear and/or immediate danger or suspicion of criminal conduct that threatens the health or safety of any visitor, offender, or staff.

Weapons of any kind are not permitted.

Families are encouraged to be considerate of other visitors. Please avoid loud, excessively emotional, or disruptive behavior.

Dress standards are necessary to ensure the safety and security of visitors and offenders, to promote a non-offensive, family oriented environment, and to provide efficient processing of visitors. The Visiting Sergeant/designee will make the final determination regarding the

VISIT GUIDELINES

appropriateness of any clothing, footwear, or accessories allowed. The following guidelines apply to visitors 8 years and older:

Clothing

Appropriate, modest clothing should be worn by all visitors. Buttons or closures should be fastened to the degree necessary to maintain modesty. All clothing must be clean and in good repair, free of holes, rips, or tears. Undergarments must be worn, to include briefs and brassieres for females, and briefs, boxers, or long underwear for males. Examples of inappropriate clothing include:

- Clothing that might expose undergarments, cleavage, stomach/midriff, bare back when arms are raised, or bare chest.
- Tight fitting clothing
- Low cut tops or bottoms
- Clothing that is sheer, see through, or mesh (other than hosiery)
- Fish net stockings
- Camisole type/halter or tank tops, not worn under other clothing
- Camouflage, bibbed attire, cargo or painter pants, or any clothing that might be considered difficult to search (e.g., excessive pockets, padding, or layering of one outer garment over another)
- Clothing referring to obscenity, alcohol, drugs, gang references, or sex in any form
- Wraparound clothing with full length openings

Dresses, skirts, shorts, capris, skorts, and slits in clothing must not fall more than 3 inches above the knee.

Visitors may be prohibited from bringing hooded or heavy, parka style coats into the visit room. Such items may need to be hung on coat racks in the lobby area.

Footwear

- Shoes, sandals, flip flops, and boots must be in good repair. Slippers and quilted or fur lined snow boots will not be allowed.

Accessories

- Jewelry that hides other items (e.g., broaches, locket, pins) or jewelry that looks like a key is not allowed.

VISIT GUIDELINES

- The following items are permitted:
 - Four pieces of jewelry in piercings (e.g., one nose, one lip, 2 ears, or the combination of 4 pieces of pierced jewelry).
 - One watch.
 - Wedding ring set and one ring.
 - Two necklaces.
 - Two bracelets.
- Two pairs of eyeglasses, to include one non-reflective pair of sunglasses for outside visits only.
- Belts may be worn, excluding money belts or belts with compartments.
- Religious and medically necessary head coverings may be allowed with written verification.

COURTESY DURING VISITS

The Department intends to maintain visiting programs which help offenders preserve positive ties with family and friends. Cooperation by all participants is encouraged. The following visit room guidelines will help to ensure that visits are a pleasant experience for all participants:

- A brief hug and kiss (i.e., 4-5 seconds in length) are permitted at the beginning and conclusion of visits.
- In addition to brief, appropriate contact at the beginning and conclusion of each visit, an offender may have physical contact with his/her child(ren) up to age 8 in a manner that respects the child's feelings and physical boundaries. Facility visiting staff will monitor the child(ren) for signs of disengagement (e.g., pulling away, crying, screaming, etc.) and will, if appropriate, instruct the offender to discontinue the physical contact or return the child to the guardian.
 - The child may sit on the offender's lap.
 - The offender may show affection toward the child (i.e., hugs or kisses).
- During the visit, the only physical contact allowed between offenders and adult visitors is holding hands with hands in plain view on or above the table top. As visiting areas are family friendly environments, caressing of any kind will not be allowed.
- Conversations should remain quiet, without harsh language or swearing, encouraging pleasant and caring family interaction.
- Visit areas are provided for all visitors. Please use furnishings for their intended use.
- Because time is limited, the focus and interaction must remain between the offender and his/her own visitors and family. Speaking to other visitors or offenders will not be permitted.

VISIT GUIDELINES

- During visitation, money or debit cards may be used for vending machine purchases by visitors. At minimum security facilities, both offenders and visitors may use money or debit cards for vending machine purchases. Visitors are reminded to take all unspent money and debit cards with them when they leave.
- Children must be under direct supervision and within sight of the visiting parent or guardian at all times, including children using the restroom. Offenders may supervise their visiting children while the adult visitor uses the restroom. Roughhousing and horseplay will be stopped immediately by the visiting parent.
- Verbal corrections and time-outs are the only allowable forms of discipline during visits.
- Showing affection, holding, and playing with visiting children promotes positive family interaction. Please remember to be considerate of other visitors and your public surroundings.
- Grooming of children's hair may be done during visits, unless visits occur in dining areas.
- When changing children's soiled garments, please use the provided changing areas.
- Visits may become emotional at times. If this happens, staff will check in with you and are available to assist as needed.
- Please put away all items used during visits (i.e., games, toys, books). Please throw trash and recyclables in provided containers at the end of your visit.

Suggestion/Comment forms are available in the visit room.

Attachment B

*Replaced in record by CP 1-14, Original Judgment and Sentence
in cause No. 08-1-02102-9*

Attachment B

Attachment C

*Replaced in record by CP 25-26, Order Amending and
Clarifying Judgment and Sentence in cause No. 08-1-02102-9
dated August 4, 2010*

Attachment C

Attachment D



PROHIBITED CONTACT REVIEW

Name GOSSETT, Mark Jonathan	DOC Number 317246	J & S Number 081021029
--------------------------------	----------------------	---------------------------

GOSSETT, Mark Jonathan should not be allowed contact with A [redacted] G [redacted] C [redacted] J [redacted] T [redacted]
G [redacted] and L [redacted] E G [redacted]

Offender Name
per DOC 450.050 Prohibited Contact for the reason(s) checked below:

- The offender's Judgement and Sentence (J&S) prohibits contact with the individual or class of individuals during or upon release.
- The individual, or parent/legal guardian of a minor being contacted, has requested in writing that the contact be stopped or restricted.
- There is an active Order of No Contact with the individual.
- A current Pre-Sentence Investigation (PSI) recommends no contact.
- The person was a participant in a crime of conviction with the offender.
- The nature of a specific treatment program requires prohibited contact with the individual or class of individuals.
- The individual or class of individuals has been victimized by the offender.
- An Order of No Contact has been rescinded or does not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives.

Comments: Per the Presentence Report, Offender Gossett blames the victim (which is also one of his children) and that he is not amenable to treatment. He has a 245 month to LIFE CCB sentence. His first CCB hearing will not heard until 9/8/27.

E. J. Ornd
Counselor/CCO

10-14-10
Date

CUS Comments: His Judgment and Sentence has been amended to allow supervised visits, however supervision by the facility visiting staff does not constitute as supervised visitation.

Approval Denial Guaranteed 70% CUS

10-14-10
Date

Mental Health/SOTP (if applicable) Comments: _____

Approval Denial _____
Mental Health

Date

CPM/CCS Comments: See Electronic Form Comments

Approval Denial Lisa Peter
CPM

10-14-10
Date

Approval Denial _____
CCS

Date



PROHIBITED CONTACT REVIEW

Name GOSSETT, Mark Jonathan	DOC Number 317246	J & S Number 081021029
--------------------------------	----------------------	---------------------------

GOSSETT, Mark Jonathan should not be allowed contact with A [redacted] G [redacted] C [redacted] J [redacted] T [redacted]
G [redacted] and L [redacted] E G [redacted]

Offender Name
per DOC 450.050 Prohibited Contact for the reason(s) checked below:

- The offender's Judgment and Sentence (J&S) prohibits contact with the individual or class of individuals during or upon release.
- The individual, or parent/legal guardian of a minor being contacted, has requested in writing that the contact be stopped or restricted.
- There is an active Order of No Contact with the individual.
- A current Pre-Sentence Investigation (PSI) recommends no contact.
- The person was a participant in a crime of conviction with the offender.
- The nature of a specific treatment program requires prohibited contact with the individual or class of individuals.
- The individual or class of individuals has been victimized by the offender.
- An Order of No Contact has been rescinded or does not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives.

Comments: Per the Presentence Report, Offender Gossett blames the victim (which is also one of his children) and that he is not amenable to treatment. He has a 245 month to LIFE CCB sentence. His first CCB hearing will not heard until 9/8/27.

Counselor/CCO Date

CUS Comments: His Judgment and Sentence has been amended to allow supervised visits, however supervision by the facility visiting staff does not constitute as supervised visitation.

Approval Denial _____
CUS Date

Mental Health/SOTP (if applicable) Comments: _____

Approval Denial _____
Mental Health Date

Victim of offender Gossett's current conviction is the minor aged adopted daughter of the offender. Previous criminal history also shows that offender Gossett was original charged with an Assault 3rd of a child which was later pled down to an Assault 4th DV. PSI notes that the victim of this was crime was Gossett's 10 year old foster son.

CPM/CCS Comments: Offender has displayed a history of victimizing both sexually and physically minor aged children, both male and female. Original J/S noted Defendant shall have no contact with any minor, including his own adopted or biological children. J/S modified months later to read that the offender may have contact with his children as supervised by the DOC personnel in the normal course of the visitation process followed by the DOC facility that the offender is located in and that the normal supervision of visitation by two or more C/O in an open room is sufficient. However, DOC Policy 450.300 VII. Who May Not Visit: A. 3. Persons restricted per the Judgment and Sentence. While supervised visits may be allowed per the J/S, supervision by facility visiting staff does not constitute supervised visitation.

Based on criminal history noting two separate convictions for crimes against children and the recent modification of a no contact provision I am approving a prohibited contact between this offender and minor aged children.

Approval

Denial

Liza Rohrer
CPM



10/14/10
Date

Approval

Denial

CCS

Date

Attachment E



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/WORK RELEASE
OFFENDER MANUAL

REVISION DATE
8/30/10

PAGE NUMBER
1 of 4

NUMBER
DOC 460.060

POLICY

TITLE
PROHIBITED CONTACT

REVIEW/REVISION HISTORY:

Effective: 6/30/96
Revised: 4/21/97
Revised: 12/1/99
Revised: 12/2/02
Revised: 4/27/07
Revised: 5/9/08
Revised: 4/30/09
Revised: 8/30/10

SUMMARY OF REVISION/REVIEW:

II.B. - Added that the offender may appeal a no contact provision at the facility which initiated the order or the current facility

APPROVED:

ELDON VAIL, Secretary
Department of Corrections

7/26/10
Date Signed



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/WORK RELEASE
OFFENDER MANUAL

REVISION DATE
8/30/10

PAGE NUMBER
2 of 4

NUMBER
DOC 450.050

POLICY

TITLE

PROHIBITED CONTACT

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; WAC 137-48

POLICY:

- I. Consistent with legitimate penological objectives and public safety, the Department will restrict incarcerated offender contact in any form (i.e., visits, correspondence, telephone) with specific individuals or classes of individuals.

DIRECTIVE:

I. Criteria

- A. An offender's contact with specific individuals or classes of individuals will be restricted or prohibited when:

1. His/her Judgment and Sentence prohibits contact with the individual or class of individuals during incarceration or upon release,
2. The individual, or parent/legal guardian of a minor being contacted, has requested in writing that the contact be stopped or restricted, and/or
3. There is an active No Contact Order with the individual.

- B. An offender's contact with specific individuals or classes of individuals may be denied or restricted for reasons including, but not limited to:

1. The person was a participant in a crime of conviction with the offender.
2. A current Pre-Sentence Investigation recommends no contact.
3. The nature of a specific treatment program requires prohibited contact with the individual or class of individuals.

4. The individual or class of individuals has been victimized by the offender.

- a. Offenders under 18 will not be placed in multiple occupancy cells, not including dormitories, where one of the occupants is over 18.

5. A No Contact Order has been rescinded or does not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives.



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DEPARTMENT OF CORRECTIONS

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NUMBER
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POLICY

TITLE

PROHIBITED CONTACT

C. An offender may be prohibited from contact with his/her own children only if the offender's Judgment and Sentence and/or a No Contact Order prohibits such contact, or if necessary to protect the children from any specific and documented threat of harm. Documentation includes, but is not limited to:

1. The written opinions of mental health professionals or Child Protective Services, and
2. Specific verified incidents of harm to the children resulting from contact with the offender while s/he was incarcerated in a Department facility.

II. Process

A. Recommendations for no contact that are not a condition of the Judgment and Sentence will be submitted to the Correctional Program Manager/Community Corrections Supervisor for approval.

1. The Counselor/Community Corrections Officer will initiate DOC 21-761 Prohibited Contact Review.
2. If the offender is receiving mental health treatment or participating in a sex offender treatment program, the provider will review DOC 21-761 Prohibited Contact Review.
3. If contact is prohibited, the Correctional Program Manager/Community Corrections Supervisor will ensure the DOC 21-761 Prohibited Contact Review is distributed to inform the offender and staff.
4. Appropriate staff will document prohibited contact information in the offender's electronic file using the no contact (NC) code.
5. In Prisons, staff responsible for documenting offender visiting information will input prohibited contact information in the Public Access System.

B. Unless the no contact provision was ordered by the court, the offender may appeal in writing to the Superintendent/Community Corrections Supervisor at the facility which initiated the order or the current facility, stating the circumstances surrounding the provision and why contact privileges should be restored.

C. If the offender is transferred to another facility, reinstatement of contact will not occur until the Superintendent/Community Corrections Supervisor of both facilities agree.

1. In the absence of concurrence, a referral may be made to the appropriate Deputy Director/Field Administrator.



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DEPARTMENT OF CORRECTIONS

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OFFENDER MANUAL

REVISION DATE
8/30/10

PAGE NUMBER
4 of 4

NUMBER
DOC 450.050

POLICY

TITLE

PROHIBITED CONTACT

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Mental Health Professional. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

DOC 21-761 Prohibited Contact Review

Attachment F



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
STAFFORD CREEK CORRECTIONS CENTER
 191 Constantine Way • MS: WA-39 • Aberdeen, Washington 98520 • (360) 537-1800
 FAX (360) 537-1807

RE: Prohibited Contact Notice

Dear Ms. Gossett

Our records show that you are a visitor or the parent/guardian of Mark Gossett.

DOC 450.050 Prohibited Contact limits contact by offenders with certain individuals or classes of individuals to further legitimate penological objectives and to ensure that public safety is maintained. The Judgment and Sentence and related file material have been reviewed. Based on this review, A G , C G and L
 G

permission to visit Mark Gossett #317246

has been denied/terminated for the reason(s) checked below:

- The Judgment and Sentence prohibits contact with an individual or class of individuals during or upon release from incarceration.
- The person, or parent/legal guardian of the person is a minor, has requested in writing that the contact be stopped or restricted.
- There is an active No Contact order with an individual.
- The person is/was a participant in a crime of conviction with the offender.
- A current Pre-Sentence Investigation (PSI) recommends no contact.
- The nature of a specific treatment program requires prohibiting contact with an individual or class of individuals.
- The individual or class of individuals has/have been victimized by the offender.
- A No Contact order has been rescinded or does not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives.

This notice includes a prohibition against visits, correspondence, telephone calls, and use of third party to communicate. This prohibited contact decision may be appealed to the Superintendent.

Lisa [Signature]
 Correctional Program Manager

10-14-10
 Date

cc: Offender, Central File, Visit Sergeant, Counselor, Mail Room

Attachment G

modified version



RECEIVED
JUN 23 2011
SCCC Records

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
STAFFORD CREEK CORRECTIONS CENTER
191 Constantine Way • MS: WA-39 • Aberdeen, Washington 98520 • (360) 537-1800
FAX (360) 537-1807

RE: **Prohibited Contact Notice**

Dear Ms. Gossett

Our records show that you are a visitor or the parent/guardian of Mark Gossett Offender Name

DOC 450.050 Prohibited Contact limits contact by offenders with certain individuals or classes of individuals to further legitimate penological objectives and to ensure that public safety is maintained. The Judgment and Sentence and related file material have been reviewed. Based on this review, A G Cody C and L
C Name of Visitor(s)

permission to visit Mark Gossett 317246 Offender Name/ DOC Number

has been denied/terminated for the reason(s) checked below:

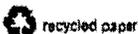
- The Judgment and Sentence prohibits contact with an individual or class of individuals during or upon release from incarceration.
- The person, or parent/legal guardian of the person is a minor, has requested in writing that the contact be stopped or restricted.
- There is an active No Contact order with an individual.
- The person is/was a participant in a crime of conviction with the offender.
- A current Pre-Sentence Investigation (PSI) recommends no contact.
- The nature of a specific treatment program requires prohibiting contact with an individual or class of individuals.
- The individual or class of individuals has/have been victimized by the offender.
- A No Contact order has been rescinded or does not exist, but facility management has reason to believe that allowing contact would be counter to sound correctional practices or legitimate penological objectives.

Lisa Raker
Correctional Program Manager

06/22/11
Date

cc: Offender, Central File, Visit Sergeant, Counselor, Mail Room

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14



"Working Together for SAFE Communities"
"Working Together for SAFE Communities"

DOC 41760 (Rev. 12/10/08)

DOC 450.300

Attachment G

Attachment H

REGULAR VISITING Appeal Tracking Sheet

Name/DOC#:

Gossett 317246

Log Number:

SEC10098

Routing	Appeal Approved	Appeal Denied
<input checked="" type="checkbox"/> Facility	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Family Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Deputy Director	<input type="checkbox"/>	<input type="checkbox"/>

Summary	
Facility	<p>Denied based on the crime of conviction – Rape of a Child 2 (2 counts) and Child Molestation 2 (2 counts) – he also has a previous misd-simple assault. The visitors are the children of the offender – the victim was the adopted child of the offender.</p>
Family Services	<p>I RECOMMEND UPHOLDING THE DENIAL OF VISITATION</p> <p>The offender PSI, the offender “denies the offense...blames his victim for falsely accusing him.” – he has no interest in SOTP. The assault victim was the offender’s foster son.</p> <p>The original J&S says “...defendant shall complete certified sexual deviancy treatment, defendant shall have no contact with any minor, including his own adopted or biological children.”</p> <p>The offender requests that the EFV denial be overturned since the J&S has been modified to allow visitation. The order amending & clarifying judgment & sentence is dated August 10, 2004. It says “Mark Gossett is allowed to have visitation with his children, as supervised by the Department of Corrections, during normal visitation in accordance with the rules and regulations of the Department...”</p> <p>The modified J&S does not mandate visitation. It “allows” visitation.</p> <p>This case has been vetted with the SOTP manager, Sally Neiland. She says:</p> <p>“I have reviewed the attachments as well as the J & S, Prohibitive Contact and PSI. This is a complicated case. I have a long list of concerns which include two items in the J & S. To date, Mr. Gossett has not fulfilled 1) Obtain a sex offender evaluation..... 12) Do not enter into a relationship with any person who has minors in their care or custody without approval of your assigned CCO or SOTP (this includes his wife). This alone backs up the current Prohibitive</p>

October 26, 2011

Attachment H

REGULAR VISITING Appeal Tracking Sheet

	<p>Contact.</p> <p>Of concern is that Mr. Gosset all file material I have had access to indicates that he continues to deny his sexual offending and refer to the victim as a "liar and a bad Christian." In addition, even though his ERD is very far out, he has not acknowledged his behavior nor has he made attempt to apply for SOTP.</p> <p>In addition to that Mr. Gossett not only has 2 ROC 2 convictions and 2 Child Molest 2 convictions as well as a DV 4 conviction. In addition file material indicates that his wife "beat the victim with a belt and a spoon." I do not believe that DOC visitation staff should hold the responsibility for supervision of these minor children given the circumstances, and the attention they must pay to a full visiting room. The liability for the children, the visiting staff and the DOC seems to outweigh the visit request.</p> <p>A suggestion would be to allow for written correspondence to be reviewed both outgoing and incoming so he can maintain safe and observable contact with the children.</p> <p>Please let me know if I can help further. At this point I believe we should uphold the Prohibitive Contact."</p>
Deputy Director	I concur with the decision to deny the offenders appeal to participate in the visiting program with his children at SCCC.

October 26, 2011

Attachment I



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 • Olympia, Washington 98504-1100

October 28, 2011

Mark J. Gossett, DOC 317246
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, Washington 98520

Dear Mr. Gossett:

Thank you for your letter requesting visiting privileges being authorized for your children.

In your letter, you point out that there was a modification to the original Judgment and Sentence that allows you to participate in visiting with your children. The modification does not mandate visitation. Due to your conviction history and nature of the crime, I am upholding the denial of visiting privileges with your children. If you choose to submit to a sexual deviancy evaluation and participate in Sex Offender Treatment Program during your incarceration, this issue may be reconsidered. Unless this provision is met, all of your appeal opportunities have been exhausted.

Respectfully,

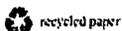
A handwritten signature in black ink, appearing to read "Dan Pacholke".

Dan Pacholke, Director
Prisons Division

DP:ew:SEC10098

cc Pat Glebe, Superintendent
Sally Neiland, Sex Offender Treatment Program Manager
Liza Rohrer, Visiting
Denise Brewer, Classification Counselor 2
Offender File

"Working Together for SAFE Communities"



Attachment I

Appendix 3

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

MARK JONATHAN GOSSETT,

Petitioner.

DECLARATION OF
BELINDA STEWART

I, BELINDA D. STEWART, make the following declaration:

1. I have knowledge of the facts herein, am over eighteen years of age, and am competent to testify to such facts.

2. I am currently employed as the Corrections Program Administrator for the Department of Corrections (Department or DOC). I have held this position since October, 2012. I have worked for the Department since October, 1992. Previously, I worked for the state of Oklahoma and collectively have over 35 years of state service employment.

3. As part of my job duties, I am responsible for the administration of the offender visiting, religion, volunteer, grievance, mail, legal access, recreation and urinalysis programs. In regard to my duties with offender visiting programs, I am responsible for establishing and maintaining programs, practices and policies which address offender visitation consistent with legitimate penological objectives. In order to accomplish this task, I regularly evaluate the Department's visitation

programs and practices. I also oversee a staff of six full-time Office Assistant 3 (OA3) positions and a Statewide Visit Specialist (CS4) position at DOC headquarters.

4. I have reviewed Department records involving the participation of inmate Mark Gossett, DOC #317246, in the DOC visitation program. I am also aware that Mr. Gossett is claiming in his Personal Restraint Petition that the Department is not permitting his adult children to visit him. From my review of DOC records, it appears that none of Mr. Gossett's adult children have applied for visitation in many years.

5. Mr. Gossett is a prodigious user of the DOC visitation program, having over 30 approved visitors on his approved visitor's list. Department records show only four individuals who have submitted applications as a son or a daughter for visitation.

6. Department records show that Mr. Gossett's son Andrew, who is now 23 years of age, last applied to visit Mr. Gossett in 2010. At that time Andrew was a minor and his application was denied. There is no record of him having applied as an adult.

7. Department records show that Mr. Gossett's daughter Lauren, who is now 19 years of age, last applied to visit Mr. Gossett in 2010. At that time Lauren was a minor and her application was denied. There is no record of her having applied as an adult.

8. Department records show that Mr. Gossett's daughter Samantha, who is now 30 years of age, last applied to visit Mr. Gossett in 2010. At that time, her application was initially approved for visitation. She has only come to visit Mr. Gossett once. She has not visited him since 2010. In 2013, facility staff removed Samantha from the approved visitation list when Mr. Gossett's Judgment and Sentence was amended. Her removal appears to have been in error.

9. Department records show that Mr. Gossett's son "C", who is now 16 years of age, last applied to visit Mr. Gossett in 2010. At that time, "C" was a minor and his application was denied. "C" is still a minor. Department records show that "C" has not submitted an application since 2010.

10. Department records do not show that Mr. Gossett's child Kaleb has ever submitted an application to visit Mr. Gossett.

11. Since any of Mr. Gossett's adult children have applied, there have been significant changes to the process for evaluating visitation applications, which have vastly improved the accuracy, consistency, and efficiency of decisions made when visitation applications are processed.

12. The Department receives over 30,000 visit applications per year. Visitation staff at facilities are tasked with a multitude of responsibilities. Historically, one of the more time consuming obligations

of visitation staff was to process visit applications within 21 days of receipt. While some facilities typically met the deadline, some facilities were consistently unable to meet this deadline. Many facilities utilized visitation staff to process visit applications. That meant that they were often in their office, processing visitation applications and were, thus, frequently unable to observe the visit rooms. This led to less than ideal staff presence in the visit rooms and an inefficient system that could result in inconsistent application of visitation policies from facility to facility.

13. In August of 2016, the Department launched a pilot program by creating a visit application processing unit DOC headquarters responsible for processing all visit applications for two facilities: Washington Corrections Center and Monroe Corrections Complex. The goals of the pilot program were to:

- Provide a more consistent and streamlined workflow for reviewing applications, leading to greater ability to meet the timeframes as stated in policy;
- Reinforce one process throughout DOC to all facilities, leading to less "rogue" interpretation of policy by individual visit staff and approving authorities;
- Ensure outcomes (approvals/denials) are provided to offenders and applicants in a timely manner, leading to less grievances, kites, appeals and other complaints;

- Allow visit staff at the facilities to be present in the visit room to provide greater presence, leading to decrease instances of violations of visit guidelines, policies and procedures to include more eyes on the room to assist in minimizing introduction of contraband;
- Promote staffing cost savings. Visit applications could be processed by office assistant 3's instead of correctional officer positions.
- Provide clear measureable data with regard to volume and processing time of applications;
- Clearly document internal and external drivers that cause delays; and
- Create the ability to measure how increased staff presence impacts introduction of contraband and policy violations during visiting hours at each facility.

14. The 2016 pilot program was successful and resulted in significant improvements to the process of reviewing visitation applications at the two facilities involved.

15. Today, the Department has made the pilot program permanent and applicable to all DOC facilities. Consequently, all DOC visitation applications are now processed by a single visit application processing unit located at Department headquarters. One of my duties is to oversee the operation of that unit.

16. From my review of Department records involving the participation of Mr. Gossett in the DOC visitation program, there appears

to be no need to prohibit contact today between Mr. Gossett and his adult children. Accordingly, if Mr. Gossett's adult children were to submit visitation applications today, they would be processed at Department headquarters by the visit application processing unit. Provided that his adult children meet the requirements all other applicants are required to pass for visitation such as a criminal background check, their visitation applications would be approved if they were to submit their applications today. The same would be true of Mr. Gossett's minor son "C" if he were to submit a visitation application when he reaches the age of 18.

17. Because of the nature of Mr. Gossett's crime, the provisions of his Judgment and Sentence, and his history of abusing both male and female minors, DOC would not approve "C" for visitation if he were to submit an application today. This is wholly consistent with current DOC Policy 450.300(II)(C)(5), Visits for Offenders which states:

The following individuals may not visit Prison offenders:

...

5. Individuals restricted per the offender's Judgment and Sentence, including conditions of community supervision that prohibit contact with an individual or category of individuals.
 - a. Although supervised visits may be allowed per the Judgment and Sentence, supervision by facility visit employees does not constitute

supervised visiting as required by court orders.

Exhibit A at 5. DOC Policy 450.300 was last revised on September 1, 2016.

Exhibit A is a true and correct copy of DOC Policy 450.300.

18. In this case, Mr. Gossett's original Judgment and Sentence specifically stated that he was prohibited from having contact with any minor. It was later modified and clarified to prohibit Mr. Gossett from having visitation alone with his children and providing "such visitation *shall be supervised* by Department of Correction's personnel in the normal course of the visitation process followed by the Department of Correction's facility the Defendant is in". (Emphasis supplied).

19. As explained above, DOC Policy 450.300 specifically states that "supervision by visit employees does not constitute supervised visiting as required by court orders". The reason for this is that the limited number of department visitation staff are tasked with many other duties including processing visitors in and out of the facility, screening offenders for contraband after they have completed their visits, and monitoring the behavior of up to 75 offenders or more and their visitors in the visitation room. Based on the limited staffing and inability to directly monitor offenders/visitors at all times, the Department does not provide supervised visits as envisioned by the modified Judgment and Sentence. Accordingly,

Mr. Gossett is prohibited from visiting his son "C" because "C" is still a minor.

20. Prohibiting inmates convicted of crimes against children from visiting with minor children---even their own children---is not at all unusual in Department facilities. It is, in fact, a typical part of the incarcerated experience of inmates convicted of such crimes. This fact is exemplified by current DOC Policy 450.050, which addresses the circumstances where, as here, an inmate may be prohibited from contacting his or her own children. Exhibit B is a true and correct copy of DOC Policy 450.050, which was last revised on November 21, 2015.

21. DOC Policy 450.050(I)(C) states:

An offender may be prohibited from contact with his/her own child(ren) only if the offender's Judgment and Sentence and/or a No Contact Order prohibits contact, or if necessary to protect the child(ren) from any specific and documented threat of harm. Documentation includes, but is not limited to:

1. A written opinion from a mental health professional or Child Protective Services, and
2. Specific verified incidents of harm to the child(ren) resulting from contact with the offender while s/he was incarcerated in a Department facility.

Exhibit B at 3.

22. While a documented history of harm to the children resulting from contact with the offender while she or he was incarcerated in a Department facility is one form of documentation that supports prohibited contact, it is not the only form of documentation that can be used for that purpose. In this case, Mr. Gossett's documented pre-incarceration abuse of both male and female minors and the provisions of his Judgment and Sentence support the Department's decision to prohibit contact between Mr. Gossett and "C" while "C" is still a minor. Prohibiting Mr. Gossett from visiting "C" until "C" becomes an adult is, therefore, both appropriate and consistent with Department policy.

EXECUTED this 9 day of February, 2018 at Tumwater,
Washington.

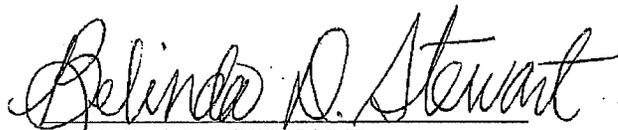

BELINDA D. STEWART
Corrections Program Administrator

Exhibit A



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY PRISON OFFENDER/SPANISH MANUALS		
REVISION DATE 9/1/16	PAGE NUMBER 1 of 14	NUMBER DOC 450.300
TITLE VISITS FOR PRISON OFFENDERS		

POLICY

REVIEW/REVISION HISTORY:

- Effective: 1/7/00
- Revised: 2/20/03
- Revised: 11/15/06
- Revised: 4/18/07 AB 07-012
- Revised: 2/20/09
- Revised: 2/1/10
- Revised: 2/4/11
- Revised: 6/1/13
- Revised: 2/2/15
- Revised: 11/21/15
- Revised: 9/1/16

SUMMARY OF REVISION/REVIEW:

Major changes including reorganization of the policy and moving to an electronic only visit application system.

APPROVED:

Signature on file

RICHARD "DICK" MORGAN, Secretary
 Department of Corrections

8/26/16

 Date Signed

Exhibit A



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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 9.94.010; WAC 137-28; ACA 4-4156; ACA 4-4498; ACA 4-4499-1; ACA 4-4500; ACA 4-4503; ACA 4-4504; DOC 100.560 Non-Discrimination and Accessibility for Visitors/Guests with Disabilities; DOC 150.150 Visits and Tours of Department Facilities and Offices; DOC 420.340 Searching and Detaining Facility Visitors; DOC 450.050 Prohibited Contact; DOC 590.100 Extended Family Visiting; DOC 460.000 Disciplinary Process for Prisons; DOC 460.050 Disciplinary Sanctions;

POLICY:

- I. The Department recognizes the vital role families play in the reentry process and will support offenders in maintaining ties with family, friends, and the community by engaging them and setting reasonable criteria for personal visits.
- II. Visiting privileges will not be denied on the basis of race, religion, sex, national origin, sexual orientation, gender identity, or physical disability.
- III. For the purposes of this policy, immediate family will be defined as spouse/state registered domestic partner, parent, stepparent, sibling, stepbrother, stepsister, half brother, half sister, child, stepchild, grandparent, grandchild, and as documented in the offender's central file, person(s) acting in place of a parent and/or foster children.

DIRECTIVE:

- I. General Guidelines
 - A. The Department will provide visiting opportunities and programs and a secure and welcoming visit space for offenders and their families to provide as normal a family experience as possible by:
 1. Providing sufficient and safe space for contact visiting and, if necessary, no contact visiting consistent with custody level. Visit areas will be designed by taking the following into consideration:
 - a. Designated visit areas should include a section that has a child-friendly environment with toys and games suitable for interaction by family members of all ages.
 - b. Reasonable accommodation will be provided for visitors with disabilities per DOC 100.560 Non-Discrimination and Accessibility for Visitors/Guests with Disabilities.



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- 1) Service dogs that meet the requirements of the Americans with Disabilities Act will be allowed in visiting areas with their owner. The owner must accompany and supervise the animal during the entire visit.
 - c. Appropriate seating for all ages should be provided.
 - d. [4-4156] Space is adequately designed to permit screening and searching of both offenders and visitors.
 - e. [4-4156] Space may be provided for the proper storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.
 2. Informing all visit employees of the importance of visiting to maintain ties with family and friends, and in some cases reunification of offenders with their families and significant others.
 3. Actively encouraging a collaborative working relationship with social service and other private community-based organizations providing transportation, housing, food, clothing, and other assistance to offenders and their families.
- B. Reasonable efforts will be made to ensure that the visiting facility is comfortable, pleasant, and permits informal communication and limited, appropriate physical contact. [4-4499-1]
- C. The Superintendent will establish a process to ensure:
1. All visitor information is entered in the Statewide Visit System including, at a minimum:
 - a. Visit application information
 - 1) Application status (i.e., pending, approved, denied, rejected) will be updated as soon as possible in the Statewide Visit System.
 - b. Record of each visit
 - c. Picture of visitor at the first visit, which will be updated when his/her appearance changes or every 2 years for minors
 2. The Statewide Visit Specialist is notified when visit room closures occur.



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D. Extended family visiting opportunities are available per DOC 590.100 Extended Family Visiting

E. Video visiting opportunities are available per Attachment 1.

II. Eligible Visitors

A. Visitors must be approved per the approval process identified in this policy and added to the offender's approved visitor list before being allowed to visit unless authorized by the Superintendent.

1. Professional visitors are identified as individuals working in a professional capacity (e.g., attorney, clergy, social worker not escorting a minor) and are not required to be on the offender's approved visitor list. Professional visitors will request visits per DOC 150.150 Visits and Tours of Department Facilities and Offices and may be required to provide credentials.

B. Approved minors (i.e., under 18 years of age and not legally emancipated) may participate when escorted by an individual on the offender's approved visitor list as follows:

1. An approved non-incarcerated parent/legal guardian,

2. A designated adult escort, who is approved by the Superintendent and listed on a notarized DOC 20-441 Parent/Guardian Consent for Minor Visit and/or Escort.

a. This form should be submitted before the date of the visit unless the Superintendent/designee approves submission at the time of the visit.

3. Another approved minor listed on the approved offender's visitor list when s/he is the parent of the minor and the visit is approved by the Superintendent/designee.

a. Unless the minor parent is legally emancipated, both the parent and child minor must be escorted by an approved adult on the offender's approved visit list.

4. An approved Department of Social and Health Services (DSHS) Social Worker/Visit Supervisor.



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- a. Requests by Social Workers/Visit Supervisors to escort an approved minor will be submitted to the Statewide Visit Specialist.
- C. The following individuals may not visit Prison offenders:
1. Minor aged victims of the offender, unless they have written approval from the Children's Administration and/or sentencing court, the Superintendent, and the appropriate Deputy Director/designee.
 2. Domestic violence victims of the offender, either in the offense for which the offender is currently incarcerated or any other adjudicated offense.
 3. Other adult victims of the offender, determined on a case-by-case basis.
 4. Individuals associated with the offender in the commission of the offense for which s/he is incarcerated. Exceptions may be granted by the Superintendent for immediate family members or if there is a clear demonstration the visits would benefit the offender.
 5. Individuals restricted per the offender's Judgment and Sentence, including conditions of community supervision that prohibit contact with an individual or category of individuals.
 - a. Although supervised visits may be allowed per the Judgment and Sentence, supervision by facility visit employees does not constitute supervised visiting as required by court orders.
 6. Individuals who have any conviction(s) for introduction of contraband into a jail or prison setting.
- D. Individuals with criminal records will not automatically be excluded from visiting.
1. The nature and extent of the total criminal record including recent criminal activity, unresolved court issues, and warrant status will be weighed carefully against the benefits of visiting.
 2. Failure to list previous criminal convictions on the visit application may result in denial of visiting privileges.
 3. The Superintendent/designee will retain final authority to review, assess, and approve/deny applications.
- E. Offenders on community supervision or individuals with pending charges will not be granted permission to visit.



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1. Exceptions may be made for immediate family members, who may be allowed to visit once a month by special approval from the Superintendent.
 - a. The immediate family member must attach a letter from his/her Community Corrections Officer recommending visiting privileges when completing the electronic visitor's application.
 2. Individuals who only owe Legal Financial Obligations are not subject to these requirements.
- F. Ex-felons will not be granted permission to visit for 2 years after expiration of sentence.
1. Immediate family members may be considered after one year.
 2. Immediate family members who were granted an exception during their period of supervision may be allowed to visit with Superintendent approval.
- G. Ex-misdemeanants will not be granted permission to visit for 6 months after expiration of sentence.
1. Immediate family members may be considered after 3 months.
- H. Current and former employees, contract staff, and volunteers may be approved for visits as follows:
1. Current Department employees, contract staff, and volunteers who wish to visit an offender require written approval from their Appointing Authority and the Superintendent using DOC 20-450 Approval for Visits by Current/Former Employee, Contract Staff, or Volunteer.
 2. Former Department employees, contract staff, or volunteers who wish to visit an offender require written approval from the Superintendent on DOC 20-450 Approval for Visits by Current/Former Employee, Contract Staff, or Volunteer.
 - a. Except as outlined in DOC 450.050 Prohibited Contact, the employee, contract staff, or volunteer will not be permitted to visit if there is evidence that s/he was involved in any inappropriate behavior with any offender before leaving the Department.
 3. If possible, visits should not occur at the facility where the employee, volunteer, or contract staff works or worked.



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III. Special Visits

- A. [4-4500] Special visits may be permitted for:
1. Visitors who travel a long distance (i.e., at least 300 miles one way) or from out of the country.
 2. Individuals who use special transportation services facilitated and contracted by the Department.
 3. Appointed members of local and/or statewide family councils who have missed visits due to participation in council meetings.
 4. Offenders who are in restrictive housing or hospitalized.
- B. [4-4500] Special visits will only be approved for individuals who are on the offender's approved visitor list unless approved by the Superintendent/designee.
- C. Special visits must be requested on DOC 21-787 Special Visit Request and should be submitted to the offender's Counselor as soon as possible before the requested visit date, but no less than 5 business days before the requested date.
1. All visitors who wish to participate in the special visit must be listed on the form.
 2. Employees will process requests before the requested visit date.
- D. The Superintendent/designee will coordinate adjustments to established times and days for individuals on the approved visitor list to accommodate special requests.
- E. Special visits will be subject to the Visitor's Guidelines (Attachment 2).

IV. Approval Process

- A. Each prospective visitor must apply for visiting privileges by completing an electronic visit application at <http://doc.wa.gov/docs/forms/visitor-application.htm>.
1. Parentage must be established for all minors over 2 months of age by attaching a copy of the minor's birth certificate to the visit application.
 - a. Infants under 2 months of age will be allowed to visit without a birth certificate. This 2 month period should be documented in the Statewide Visit System for tracking purposes.



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- 1) A visit application should be submitted as soon as the birth certificate is received.
 - b. The Superintendent/designee, in consultation with the Statewide Visit Specialist, may consider alternate forms of parental documentation in exceptional cases where a birth certificate is not available for a minor born outside of the United States (US).
 - 1) Documentation must be accompanied by a sworn affidavit from the parent stating the minor's birth date and place and that the minor is his/her child. Documentation may include:
 - (a) Orders entered by US Immigration and Customs Enforcement recognizing the minor is allowed in the US as a result of his/her relationship to the refugee parent,
 - (b) DSHS records showing family identity for the purposes of calculating support and entitlement payments, or
 - (c) A certified copy of an asylum or refugee application bearing the minor's name.
 - 2) The Assistant Secretary for Prisons/designee must approve any exceptions to these requirements.
 - c. Legal guardianship of all minors must be verified by providing a copy of the filed court order establishing legal guardianship.
 - 1) If there is no legal guardian or non-incarcerated parent, the Superintendent may accept a notarized Power of Attorney signed by the incarcerated parent and the individual granted temporary custody of the minor.
- B. Applications will be processed within 21 calendar days of receipt.
- C. National Crime Information Center (NCIC), Washington State Crime Information Center (WACIC), and District and Municipal Court Information Center (DISCIS) checks will be conducted, and the offender's electronic file will be reviewed to verify the individual's identity and ensure the accuracy of the visitor's application.
1. Subsequent background checks may be run when there is concern of new criminal activity or other concerns that would impact visitation.



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- D. When an offender transfers to another facility before the visit application has been approved or denied, the facility that originally received the application will complete the approval process.
- E. The approval process must be completed before a visitor is approved in the Statewide Visit System on the offender's visitor list.

V. Approved Visitor List

- A. There is no limit to the number of visitors an offender may have on his/her approved visitor list, except at Washington Corrections Center (WCC) Reception Diagnostic Center, which will have a limit of 5 individuals.
- B. Individuals may only be on one offender's approved visitor list unless they are immediate family members of more than one offender and approved by the Superintendent of each facility on DOC 20-438 Approval for Visits with Multiple Offenders.
 - 1. The facility receiving the subsequent request will gather the completed forms and submit them to the Statewide Visit Specialist, who will work with the Superintendents to process the request.
 - 2. If a child with incarcerated parents participates in visiting with both parents, the Superintendent may allow an exception for the adult guardian accompanying the child as an escort.
- C. When an offender is transferred to another facility, his/her approved visitor list will remain active and be available in the Statewide Visit System.
 - 1. Offenders will be responsible for notifying their visitors of transfers.
 - 2. The receiving facility may conduct a review of each individual listed for updated law enforcement and intelligence data.
 - a. If new information is discovered, the visit approval may be denied.
 - 3. When the receiving Superintendent believes visiting should be denied, the matter will be referred to the Assistant Secretary for Prisons for a final decision.
- D. Offenders will use the KIOSK to view their approved visitor list.
 - 1. For facilities without a KIOSK, the Superintendent will establish a process to notify offenders regarding their approved visitor list.



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- E. An offender's visitor list will be closed out and no longer valid when s/he is released from confinement, passes away, or is on escape status. If an offender is re-incarcerated, all visitors must go through the approval process to create a new visitor list.
- F. Individuals denied placement on an offender's approved visitor list will be informed, in writing, of the reasons for denial.

VI. Removal of Names from the Approved Visitor List

- A. An offender who wishes to remove a visitor from his/her approved visitor list or a visitor who wishes to be removed from an offender's visitor list must send a written request to the Superintendent/designee.
 - 1. To resume visits with a visitor the offender had removed, the offender must submit a written request, which will be scanned into his/her electronic imaging file.
 - 2. If the visitor requested removal from the list and wishes to be added back, s/he must wait 90 days before applying to visit the same or another offender.
 - a. The Superintendent may waive the waiting period if the visitor never visited the offender or has not participated in a visit in over 90 days.

VII. Visit Processes

- A. Visitors and offenders will be treated courteously. Rule enforcement will be polite and professional.
- B. Copies of the Visitor's Guidelines (Attachment 2) will be available to all offenders and visitors at the facility and at <http://www.doc.wa.gov>. Information will also be provided concerning transportation to the facility. [4-4504]
 - 1. Each facility will identify processes specific to their location in Attachment 2 to include:
 - a. Hours and days for personal visits, including appropriate arrival times.
 - b. [4-4498] The maximum number of visitors each offender is allowed during visiting hours and the length of visits, which may be limited



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only by facility schedule, space, and personnel constraints, or when there are substantial reasons to justify the limitations.

c. Check in process for visitors. [4-4503]

2. Requests for exceptions to the Visitor's Guidelines (Attachment 2) will be submitted to the appropriate Deputy Director for approval.

C. [4-4503] All visitors are subject to pat, electronic, and canine searches. Lockers used by visitors, as well as visitors' vehicles, purses, packages, briefcases, or similar containers which are brought onto the facility grounds may be searched per DOC 420.340 Searching and Detaining Facility Visitors.

1. All visitors should read DOC 420.340 Searching and Detaining Facility Visitors and are required to sign DOC 21-575 Acknowledgment of Visitor Search Requirements before the first visit with an offender.

2. A visitor found in possession of contraband may have their visit privileges suspended or terminated.

a. If the contraband is an illegal item, local law enforcement will be notified and the visitor may be detained and/or searched per DOC 420.340 Searching and Detaining Facility Visitors.

D. In addition to brief, appropriate contact at the beginning of each visit, an offender may have physical contact with his/her child(ren) 8 years of age and under.

1. The Superintendent may impose additional requirements that limit physical contact for an individual offender/visitor.

E. Visitors with minors are responsible for ensuring the minors they escort are accompanied and supervised during the entire visit.

F. Visitors will only bring limited items into the facility visit room and should dress appropriately per Attachment 2.

G. Offenders will wear state issued clothing (e.g., t-shirts, khakis, undergarments, with or without sweatshirt) for visits.

1. The only jewelry permitted is a wedding ring, if married, and approved religious medallion.

H. Watches and activity trackers (e.g., Fitbit) are not allowed in the visit areas.

VIII. Denial, Suspension, or Termination of Visits



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VISITS FOR PRISON OFFENDERS

- A. While the Department intends to actively engage families in support of those under its jurisdiction, visiting may be denied, suspended, terminated, or restricted as a sanction for a guilty finding of visit-related infractions, violent offenses, or drug related behavior that presents a security or safety threat.
1. Sanctions will be imposed per DOC 460.050 Disciplinary Sanctions and will be shared with affected family members. Infractions that may result in suspension, termination, restriction, or denial of visit privileges include:
- a. 501 - Committing homicide
 - b. 502 - Committing aggravated assault against another offender
 - c. 511 - Committing aggravated assault against a visitor or community member
 - d. 521 - Taking or holding any person hostage
 - e. 601 - Possessing, manufacturing, or introducing an explosive device or any ammunition, or any component thereof
 - f. 602 - Possessing, manufacturing, or introducing any firearm, weapon, sharpened instrument, knife, or poison, or any component thereof
 - g. 603 - Introducing or transferring any unauthorized drug or drug paraphernalia
 - h. 604 - Committing aggravated assault against a staff member
 - i. 611 - Committing sexual assault against a staff member
 - j. 633 - Assaulting another offender
 - k. 635 - Committing sexual assault against another offender, as defined in Department policy (i.e., aggravated sexual assault or offender-on-offender sexual assault)
 - l. 650 - Rioting, as defined in RCW 9.94.010
 - m. 651 - Inciting others to riot, as defined in RCW 9.94.010
 - n. 704 - Assaulting a staff member
 - o. 711 - Assaulting a visitor or community member
 - p. 752 - Possessing, or receiving a positive test for use of, an unauthorized drug, alcohol, or intoxicating substance
- B. An offender's visiting privileges with all visitors may be suspended after a guilty finding pursuant to a regular disciplinary hearing for violation of this policy
- C. The Superintendent or designee at the rank of Shift Commander or higher may deny entrance to visitors or terminate a visit in progress if:
1. There is prior knowledge leading to evidence that a visitor is attempting to smuggle contraband in or out of the facility. Local law enforcement will be contacted and allowed to handle visitor search procedures if there is sufficient information and time to coordinate efforts.

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2. There is a disturbance or emergency situation within the facility.
3. There is clear and present or imminent danger to the health or safety of anyone.
4. There is reasonable suspicion to believe that criminal conduct will result if entrance is allowed.
5. The visitor appears to be under the influence of alcohol or drugs.
6. The offender or visitor fails to abide by Department policies or the facility's rules or procedures.

D. The Superintendent may suspend or terminate the visiting privileges of a visitor for a serious/repeated violation of this policy or serious/repeated abuse of visit privileges on the part of the visitor or offender.

1. The Superintendent may prolong a suspension if there remains a clear and present or imminent danger to the health or safety of anyone or risk to facility security.

E. A letter will be sent to the offender and visitor within 15 days identifying the specific reason(s) for a denial, suspension, or termination (e.g., criminal history, no approved escort, investigation, current or past employee).

IX. No Contact Provisions

- A. The Superintendent will establish procedures for no contact visiting in cases of substantiated security risk, [4-4499-1]
- B. The Superintendent may impose no contact visit provisions for inappropriate or security threat related behavior displayed by the offender and/or visitor.

X. Appeals for Visiting Privileges

- A. A visitor may appeal visiting privilege restrictions, in writing, to the Superintendent. The appeal should state the circumstances surrounding the suspension, denial, termination, or no contact provision, and state why visiting privileges should be restored. The Superintendent will respond with a written decision.
- B. If the Superintendent upholds the decision on appeal, the visitor may appeal the Superintendent's decision to the Assistant Secretary for Prisons, who will have final approval on visiting privilege appeals.

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XI. Documentation

- A. All visit-related documentation will be scanned into the offender's electronic imaging file.
- B. The Statewide Visit Specialist will assist with document verification and processing, as necessary.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

- Video Visiting (Attachment 1)
- Visitor's Guidelines (Attachment 2)

DOC FORMS:

- DOC 20-438 Approval for Visits with Multiple Offenders
- DOC 20-441 Parental/Guardian Consent for Minor Visit and/or Escort
- DOC 20-450 Approval for Visits by Current/Former Employee, Contract Staff, or Volunteer
- DOC 21-575 Acknowledgment of Visitor Search Requirements
- DOC 21-787 Special Visit Request

Exhibit B



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REVIEW/REVISION HISTORY:

Effective: 6/30/96
 Revised: 4/21/97
 Revised: 12/1/99
 Revised: 12/2/02
 Revised: 4/27/07
 Revised: 5/9/08
 Revised: 4/30/09
 Revised: 8/30/10
 Revised: 4/1/12
 Revised: 6/15/15
 Revised: 11/21/15

SUMMARY OF REVISION/REVIEW:

I.B.6. & 7. - Added staff found to have engaged in PREA violations
 Added Section III. on contact restrictions for staff sexual misconduct/harassment

APPROVED:

Signature on file

DAN PACHOLKE, Secretary
 Department of Corrections

11/13/15

 Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; WAC 137-48; DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting

POLICY:

- I. Consistent with legitimate penological objectives and public safety, the Department will restrict incarcerated offender contact in any form (e.g., visits, correspondence, telephone) with specific individuals or classes of individuals.

DIRECTIVE:

I. Criteria

- A. An offender's contact with specific individuals or classes of individuals will be restricted or prohibited when:
 1. His/her Judgment and Sentence prohibits contact with the individual or class of individuals during incarceration or upon release.
 2. The individual, or parent/legal guardian if the individual is a minor, has requested in writing that contact be stopped or restricted.
 3. There is an active No Contact Order with the individual.
- B. An offender's contact with specific individuals or classes of individuals may be denied or restricted for reasons including, but not limited to:
 1. The individual participated in a crime of conviction with the offender.
 2. A current Pre-Sentence Investigation recommends no contact.
 3. The nature of a specific treatment program requires prohibited contact with the individual or class of individuals.
 4. The individual or class of individuals has been victimized by the offender.
 5. Facility management has reason to believe that allowing contact would conflict with sound correctional practices or legitimate penological objectives.
 6. The individual was found to have engaged in staff sexual misconduct against any offender as defined in DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting.



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7. The individual was found to have committed staff sexual harassment against any offender as defined in DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting.
- C. An offender may be prohibited from contact with his/her own child(ren) only if the offender's Judgment and Sentence and/or a No Contact Order prohibits contact, or if necessary to protect the child(ren) from any specific and documented threat of harm. Documentation included, but is not limited to:
1. A written opinion from a mental health professional or Child Protective Services, and
 2. Specific verified incidents of harm to the child(ren) resulting from contact with the offender while s/he was incarcerated in a Department facility.
- II. No Contact Process
- A. Recommendations for no contact that are not a condition of the Judgment and Sentence will be submitted to the Correctional Program Manager (CPM)/Community Corrections Supervisor (CCS) for approval.
1. The Counselor/Community Corrections Officer will initiate DOC 21-761 Prohibited Contact Review.
 2. If the offender is receiving mental health treatment or participating in a sex offender treatment program, the mental health professional will review DOC 21-761 Prohibited Contact Review and provide a written opinion to the CPM/CCS.
 3. If contact is prohibited, the CPM/CCS will ensure the DOC 21-761 Prohibited Contact Review is distributed to inform the offender and employees/contract staff.
 4. Appropriate records employees will document court ordered prohibited contact information on the Conditions screen in the offender's electronic file, using the No Contact (NC) code.
 5. In Prisons, employees/contract staff responsible for documenting offender visiting information will enter prohibited contact information in the Public Access System.
- B. Unless the no contact provision was ordered by the court, the offender may appeal the order in writing to the Superintendent/CCS at the facility which



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initiated the order or the current facility, stating the circumstances surrounding the provision and why contact privileges should be restored.

C. If the offender is transferred to another facility, reinstatement of contact will not occur until the Superintendent/CCS of both facilities agree.

1. If agreement is not reached, a referral may be made to the appropriate Deputy Director or the Work Release/Residential Program Administrator.

III. Restriction Process for Staff Sexual Misconduct/Harassment

A. Presumptive restrictions for contact between an individual found to have engaged in staff sexual misconduct and any offender, except an offender who is the staff's non-victim family member, are as follows:

1. Substantiated allegations of sexual intercourse, as defined in DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting, will result in:

- a. Permanent restriction on visitation, which may be appealed after 3 years.
- b. An 18 month restriction on telephone and mail communication, including eMessaging.

2. All other substantiated allegations of staff sexual misconduct will result in a one year restriction on telephone and mail communication, including eMessaging, and a 2 year restriction on visitation.

B. At the time the allegation is substantiated, the Appointing Authority will ensure notification is made to the mailroom, Visiting, and the Intelligence Officer to ensure the restrictions are put in place.

C. With Deputy Director or Work Release/Residential Administrator approval, the Appointing Authority may grant a request for an exception to the presumptive restrictions, but only when extraordinary circumstances support the request and granting the requested exception will not undermine the Department's zero tolerance of all forms of sexual misconduct.

1. Before exception or lifting of restriction will be considered, the offender must submit a signed DOC 21-067 Request for Visitation/Release, confirming s/he is freely participating in communication with the individual.

2. Appointing Authorities will consult with the Deputy Secretary for possible pursuit of a no contact order between the individual and the offender.



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D. Violation of restrictions may result in an extension of the restriction.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Mental Health Professional. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

DOC 21-761 Prohibited Contact Review

DOC 21-067 Request for Visitation/Release

CORRECTIONS DIVISION ATTORNEY GENERAL'S OFFICE

February 27, 2018 - 3:57 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
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Appellate Court Case Title: Personal Restraint Petition of Mark Gossett
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Supplemental Response of Department of Corrections

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