

Vermont Department of Corrections Implementation of the Requirements of Act 1 (S-13)

In Accordance with Act 1, Section 52

Submitted to: **Senate Committee on Judiciary**
 Senate Committee on Institutions
 Senate Committee on Health and Welfare

House Committee on Judiciary
 House Committee on Human Services
 House Committee on Corrections and Institutions

Submitted by: **Andrew Pallito**
 Commissioner, Department of Corrections

Vermont Department of Corrections
November 15th, 2009
In compliance with
Act 1, Sec. 52
70th Biennial Session
of the General Assembly
of the State of Vermont



To: Members of the Senate and House committees on Judiciary, the Senate committee on Health and Welfare, the House committee on Human Services, and the House committee on Corrections and Institutions

From: Andrew Pallito, Commissioner

Date: November 15, 2009

Re: Vermont Department of Corrections Implementation of the Requirements of Act 1 (S-13), Sec. 52

The 2009 Vermont legislature asked the Department of Corrections to report on its implementation of the provisions of Act 1 (S-13), section 52 relating to its requirement to address the issues of child sexual abuse prevention through the development of protocols for increased cooperation, coordination, and notification procedures between the Department for Children and Families (DCF) and the Department of Corrections (DOC) when considering offender release and placement in a home where children reside.

The legislature also required that the Department report on its implementation of necessary procedures that would relate to the review of any decision to place an offender in a residence with a child, in order to ensure the continued safety of a child.

Further, the Act requires that the Department present its criteria and centralized review processes of all sex offender release recommendations, to include recommendations for release from confinement or supervision. That case staffing review process is articulated in the body of this report.

The final responsibility of this Act was for the Department to present its plan to improve training opportunities and supervision of all Department staff who work with sex offenders. Specifically, the intent of the legislature is that staff receives thorough orientation, continuing education for long term employees, and oversight in the form of mentoring for new employees.

In response to these requests, the Department has accomplished a number of significant objectives in order to meet the legislative intent and mandates of Act 1. It is our firm resolves to ensure that we take every necessary step to enhance our own child safety initiatives with thoughtful and intentional collaboration with the Department for Children and Families. We believe that the following protocols and practices will provide DOC staff with an increased awareness of the magnitude of our responsibility toward prevention of child harm and further instill a greater sense of the need to approach every case with optimum thoughtfulness and prudent judgment.



Andrew Pallito
Commissioner,
Vermont Department of Corrections

Vermont Department of Corrections Report on the Implementation of Act 1 (S-13)

(1) Protocols

(A) The notification of the department for children and families by the Department of Corrections if placement in a home with children is being considered;

There has been exceptional cooperation between the Department of Corrections and the Department for Children and Families in order to improve our intentionality and effectiveness concerning the protection of children. This has been ongoing, and more recently, work began with a clear understanding that there would need to be a great deal of collaboration and networking between the two departments at all levels in order to ensure that every possible step was taken, through very specific and comprehensive approaches, in order to strengthen our mutual mandate to protect children.

A Memorandum of Understanding was signed by both Commissioners in the fall of 2008, which described what the departments would do and how they would work together to protect children. The MOU was promulgated to field staff of both departments via interactive TV toward the end of 2008. Commissioner Pallito and Commissioner Dale presented information jointly to staff of both departments to show a commitment to our cooperation.

Next, there was a series of mandatory trainings throughout the state. DOC and DCF jointly designed and delivered these trainings. The trainings occurred in all local field sites across the state, and staff from both DCF and DOC attended the training. This training was part informational regarding the MOU and new policies that were developed, but more importantly, it was a “meet and greet” networking session for staff. A primary goal was to get staff from both departments comfortable in dealing with each other; throughout the training there was a great deal of emphasis placed on staff from both departments needing to contact each other and work together. These trainings planted the seeds for cooperation between the two departments that are necessary for the implementation of the process around improving child protection measures.

Currently the DOC has two (2) mechanisms in place for notification of DCF if an offender’s placement in a home with a child is being considered. Those mechanisms are an Interim Procedure, *DOC/DCF Communication for Child Protection (Attachment 1)* which went into effect June 5th 2009, and the Memorandum of Understanding (MOU), *Department of Corrections and Department of Children and Families - Child Protection Measures (Attachment 2)*, which was expanded in November, 2009 to address requirements of Act 1. The Interim Procedure is based on the MOU, and is how the DOC has implemented the MOU to date. Below is the section from the Interim Procedure which deals with the Department’s responsibility in notifying DCF.

- a. *If DOC has control over an offender’s residence (furlough, or probation and parole with residence restrictions), and it is determined that the offender continues to pose a risk to children, DOC will prohibit an offender who poses a risk of sexual abuse or physical injury to children from residing in a home where children live.*
- b. *Prior to approving a residence for an offender, the assigned DOC Probation Officer will check with DCF to see if any child(ren) residing in the proposed home is/are the subject of an open DCF case. In such cases, the assigned Probation Officer shall collaborate with DCF around decision-making on the offender’s placement in the home.*

- c. *When DOC does not have control over the offender's residence ("max-outs" with no further supervision, or probation or parole with no residence condition), the Probation Officer, Facility Caseworker, or Supervisor will make a child abuse report to the Child Protection Line (1-800-649-5285 at DCF) when DOC has reason to believe that an offender presents a risk of harm to any child(ren) in a current or proposed residence; for example, the offender has a current or past offense of 1) sexual abuse of a child, or the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense; or 2) an offense of intra-familial violence with a child residing in the home.*

(B) How the department for children and families and the department of corrections will work together in a coordinated fashion to determine whether such a placement is appropriate;

In both the MOU and the Interim Procedure DOC staff is required to participate in DCF case staffing. DOC will provide all necessary information that DCF may require to assist in determining if such a placement is appropriate. DCF will make the determination if the offender's placement puts child (ren) in the residence at risk. Additionally, all probation and parole field staff, the Southern State Correctional facility sex offender treatment and casework staff, and VTPSA staff have been trained by DCF staff and have obtained access to Certified Child Care Providers Site Locations and Offender Placement.

DCF has trained DOC staff and provided targeted staff access to their internal Bright Futures Information System, which allows for more information to make educated offender placement decisions. This site will allow probation and parole field staff charged with placing sexual offenders into community settings information around certified child care provider location information in order to further ensure appropriate placements for exiting offenders. This will help ensure the ongoing safety of Vermont's children and suitable living environments for exiting offenders. Note that at the present time this site has some significant limitations as it only offers information about licensed and registered child care providers and would not offer information about over 900 legally exempt providers across the state.

In addition to these procedures, the Department of Corrections' probation and parole office sites are forming specialized treatment teams that will include representation from local staff from the Department for Children and Families. In many communities and local field offices these teams are already in place, and in some communities such as Bennington, these teams have been in existence and functioning in a cooperative manner for a number of years. We are enclosing a couple of examples of these team structures for your review. The two included are from the Burlington and Bennington probation offices but are representative of the existing team status at other field sites. These efforts are representative of a very systematic multi-disciplinary approach to sex offender treatment and supervision.

1) The following structure is either now in place or being implemented at the Burlington office of Probation and Parole:

- Specially trained and designated POs, with a supervisor (Sex Offender Team) to supervise sex offenders in Chittenden and in the northern portion of Addison County;
- Specially trained and designated POs and a supervisor (Sex Offender Team) to conduct sex offender PSIs;
- The Sex Offender Team with a member from the Burlington Housing Authority meets weekly to discuss placement and housing needs of offenders returning to the community

- from incarceration. Also, staffing of particularly difficult cases, training, and general peer review of PSIs, and more routine cases.
- The Sex Offender Team with the support of the District Manager, who has authorized weekend field checks by team members to ensure compliance with Registry requirements (as per T13, S 5415), as well as victim and general community safety, via compliance with conditions of probation, parole, and/or furlough;
 - Multidisciplinary teams (2) - one consisting of the Sex Offender Team and treatment provider, meeting on a monthly basis to review progress of offenders in treatment, and another one consisting of the Sex Offender Team, treatment provider, polygraph examiner, the head of VTPSA and the clinical director of VTPSA, meeting every six months to review the performance of offenders who have just completed a polygraph;
 - The Sex Offender Team, in coordination with the State's Attorney's office, has developed specialized sex offender conditions of probation, which focus on treatment of the offender, victim safety, and community safety.

2) The Bennington office of probation and parole has had specialized probation officers supervising sex offenders for over 15 years. Their structure is as follows:

The field office Sex Offender Program Team meets weekly. The team consists of probation officers, the program supervisor, the treatment team facilitator, and Victim Services. The Sex Offender probation officers are members and participate in the Bennington County Multi-Disciplinary team once a month. The team consists of DOC, DCF, VSP, Bennington PD, the Special Victims Unit, Bennington County school counselors, the area therapist who treats victims of sexual abuse, and State's Attorney's office representatives which includes the Victims' Advocates and Sex Offender treatment providers. All total, there are about 30 members of this team. They have recently been given a National Accreditation which will allow for them to apply for grants. This team has been in existence for 10-plus years. When the legislative representatives conducted their local town meetings to discuss new legislation around sex abuse, it appears that this team may have served as a model to be emulated throughout the state.

(C) The procedure to be followed if the Department for Children and Families determines that risk of harm exists to a child based on the placement of the offender in the home and the proposed residence is not approved;

The DOC will not approve a residence for an offender where the placement of the offender in a residence presents a risk of harm to a child. If the DOC does not have legal authority to control the residence of an offender, we will notify DCF. DCF will open a Risk of Harm Sexual Abuse assessment or investigation, and the protectiveness of the caretaker and the risk of the offender are considered. If it is determined that the offender poses a risk to the child (ren), DCF will discuss the situation with appropriate people; if it is determined that a child is at risk, they could initiate court action to protect the child (ren). (Refer to DOC/DCF Memorandum of Understanding *Child Protection Measures* and the DOC Interim Procedure *DOC/DCF Communication for Child Protection* in Attachments.)

(D) The procedure by which the decision to place an offender in a home with a child will be reviewed by the departments to ensure that a risk of harm to a child does not emerge;

All DOC probation and parole field staff that has responsibility for offender supervision has been instructed via the DCF/DOC child protection MOU trainings which occurred during the summer. Staffs were instructed on their mandate to make a report of child abuse or neglect to the Child Protection Line at DCF if that staff person has reason to believe that abuse or neglect has occurred. Staff was instructed that, when in doubt, they should contact DCF.

There has also been direction to allow for a greater sharing of information between the two departments. DCF now has access to the DOC database, to include case notes on offenders. DCF Caseworkers, especially investigators, and the Centralized Intake Unit and Emergency Services Program, access them regularly. Likewise, there are about 30 DOC Managers and Supervisors that have access to DCF's Child Protection Registry. This number is limited due to the confidential and sensitive nature of the information available. Also, as requested by DCF, DOC staff will attend case staffing reviews held by DCF to ensure communication and cooperation is ongoing in order to prevent risk of harm from emerging, in compliance with section 18.

(2) Criteria and centralized review of release recommendations made by the department with respect to sex offenders. Decisions to release or recommend release of a sex offender from confinement or discharge from supervision should be done in consultation with a treatment team of individuals with expertise in the field of managing sex offenders, and such decisions and the rationale should be documented in the case record. A decision to release an offender despite treatment team advice to the contrary should be reviewed by the commissioner or a designee. The department should operate under the assumption that sex offenders should be supervised in the community for as long as possible unless overwhelming information indicates otherwise.

Members of the current Central Sex Offender Review Committee met recently to contemplate changes to the present sex offender review categories and processes. The Committee has been in existence since July, 2008 as a result of the July 21, 2008 memorandum from former Commissioner of Corrections Rob Hofmann, specifically entitled **Interim Revision Memo** (Attachment). (This Memo changed eight directives related to classification, release planning, parole recommendations, and program completion as they pertain to sex offenders.)

The Review Committee has recommended changes in process and recommends that a new procedural memo under the Commissioner's signature be published regarding sex offender reviews, covering the following. All sex offender cases that presently require review related to release from incarceration on initial conditional re-entry, return following furlough violation, status change due to a new violation of probation, and/or violation of parole, and positive parole recommendations will be divided into two sex offender risk categories - lower risk (consisting of those offenders who score low to moderate low) and higher risk (consisting of those offenders who score moderate high to high). These categories will be determined by using the specific clinical sex offender risk assessments, the RRASOR, the Static-99, and the VASOR.

The Central review team recommends that cases that are determined to be lower risk shall be reviewed by local teams and those of higher risk will be reviewed by Central teams. The Committee recommends that cases shall be reviewed based on risk level and severity of crime as follows:

1. Criteria for Central team review

- a. Scores moderate-high or high on sex offender risk assessments
- b. Has a prior sex offense conviction
- c. Has a conviction for kidnapping or used a deadly weapon or caused death or serious bodily injury to a victim

2. Criteria for Local review teams

- a. Scores low to moderate-low on sex offender risk assessments
- b. Does not have a prior sex offense conviction
- c. Does not have a conviction for kidnapping or has not used a deadly weapon or caused death or serious bodily injury to a victim

The Local review teams will review and decide outcomes on all cases involving the lower risk offenders. The local team will consist of the treatment program supervisor, team members, and the facility casework and treatment providers.

The Central review team will review and decide on outcomes for all higher risk cases. The team will include the Victim Services Director, the Classification Director, the Field Services Executive Director, the Program Services Director, the Director of VTPSA, and the Community and Restorative Justice Executive.

All furlough return cases will initially be reviewed by the Classification Director and the Field Probation and Parole office Supervisor or Manager to determine the future case status of the furloughed offender. Once this review process is completed and the findings indicate that a furlough violation has occurred, the case will be reviewed to determine sex offender risk level and referred to the appropriate review team for case staffing and decision-making.

In order to staff sex offender cases, co-case managers will send requests and all supporting information (assessments, affidavit, criminal record check, presentence investigation, treatment summary, institutional and community supervision history, victim information, and proposed release plan at a minimum) to the Director of Classification for file management and case review scheduling. In addition to case file notes, a record of all sex offender reviews and their outcomes will be centrally maintained.

The Central team further recommends that we continue the present policy concerning requests for petition for discharge from probation. We recommend that the Department of Corrections maintain the practice that we will not make a request for discharge from probation, nor support any release from probation supervision for persons who are on probation and who have been convicted of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any element of a sexual offense. We will, however, upon request by the court provide documentation relevant to an offender's crimes, adherence to supervision standards and program requirements.

The DOC directors are also recommending at this time that we continue our present policy in regard to requests for termination of parole prior to expiration. The Department will not make a request for early termination of parole nor support any release from parole supervision for persons who have been convicted of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. We will provide documentation to the parole board relating to offender, criminal history, and adherence to supervision standards and program participation as required by Vermont statute.

Additionally, the Department has initiated implementation of the statutory requirements of Act 1 section 44 relating to high risk sex offenders. The published memorandum dated November 13, 2009 from Commissioner Pallito is contained herein below:

To: All Staff
From: Andrew Pallito, Commissioner
Date: November 13, 2009
Re: Designated High Risk Sex Offenders

The State of Vermont enacted a new law as part of the 2008/2009 legislative session titled An Act Relating to Improving Vermont's Sexual Abuse Response System commonly known as S13. The section of this law affecting incarcerated inmates designated high risk went into affect on July 1, 2009. Section 204b of this law is directed specifically to offenders who have received the designation of High Risk Sex Offender. This section states the following.

A person who is sentenced to an incarcerative sentence for a violation of any of the offenses listed in subsection 204a (a) of this title **and** who is designated by the department of corrections as high-risk pursuant to 13 V.S.A. § 5411b while serving his or her sentence shall not be eligible for parole, furlough, or any other type of early release until the expiration of 70 percent of his or her maximum sentence.

The offenses that are affected by this law are the following:

- Lewd and Lascivious conduct in violation of section 2601 of Title 13
- Lewd and Lascivious conduct with a child in violation of section 2602 of Title 13
- Sexual Assault in violation of section 3252 of Title 13
- Aggravated Sexual Assault in violation of section 3253 of title 13
- Aggravated Sexual Assault of a child in violation of section 3253a to Title 13
- Kidnapping with intent to commit sexual assault in violation of subdivision 2405(a)(1)(D) of Title 13
- An offense involving sexual exploitation of children in violation of chapter 64 of Title 13

The High Risk Sex Offender Review committee will provide a list of incarcerated inmates who have been classified as high risk to the Living Unit Supervisors of each facility. The Living Unit Supervisors will review the names of inmates incarcerated in their facility against the criminal offenses listed above to identify inmates affected by this law. After identification the Living Unit Supervisors and the caseworkers will plan the best strategy to notify each inmate personally with as much information as they have available.

(3) A plan to improve training and oversight of department employees who work with sex offenders. Training should include orientation and mentoring for new employees, as well as continuing education for long-term employees.

The DOC is currently providing a series of sex offender training courses as an initiative to meet our requirements of Act 1 through the Vermont Treatment Program for Sexual Aggressors that are specific to staff who assess risk and supervise sex offenders. These trainings are highly acknowledged as being the most comprehensive and relevant for staffs who work with sex offenders. The courses are:

- Sex Offender Risk Assessments
- Sex Offender Profiles
- Sex Offender Pre-Sentence Investigations
- Supervision of Sex Offenders in the Community
- Three of the aforementioned trainings are taught by Georgia Cumming, VTPSA Program Director. The Sex Offender Risk Assessment training is taught by Bob McGrath, VTPSA contractual consultant. A total of thirty-two DOC probation and parole and facility staff members recently completed for the first time three of the courses this fall, and the fourth course is being offered on November 18, 2009. These staff members were specifically selected for this training because their supervision caseloads consist primarily or solely of sex offenders, about whom they make decisions covering case planning, including release planning and join the many staff that have previously completed these trainings.

Additionally, a Department Caseworker and Probation Officer Training and Curriculum Design Team have provided Department directors with the following outline for a training curriculum. The team is scheduled to complete their recommendations by February, 2010 on a comprehensive design that will meet the standards of best correctional practice for correctional officers, caseworkers and probation officers who have responsibility for management of criminal offenders.

Specializations will be addressed also, as we determine the necessary training modules that address the mandates of Act 1. In particular, we want to design the training and certifications to represent the themes of the 2009 legislature for identification of sex offender risk, case management and supervision of offenders within the community, professional report writing (to include PSI preparation and all necessary progress reports for the courts), electronic monitoring of telephones and computers, mentoring of new employees, and collaborative case management and information-sharing with agency and criminal justice partners. Our new centralized Training Academy in Waterbury will greatly improve our ability to utilize long distance training and learning opportunities and improve service delivery by making Department human resource trainers available in one site. I am providing examples for your review of the training design work that has been identified as being critical for all staffs who manage offenders in general and in particular for those staff who supervise sex offenders.

TRAINING PLAN

Develop Local Site Training Corps – P&P Supervisors/Training Officers

- Two Week Onsite Curriculum / Checklist overseen by Supervisors
 - First two weeks in position

Develop On-Line Training Aides

On-line Manual:

- Basics of Classification
- Case Notes/Case Planning
- Conducting Interviews
- Confidentiality
- Court Process
- Supervision Standards
- Intermediate Sanctions
- Interstate Compact
- Intro to Community Collaboration
- ORP – Offender Responsibility Planning
- Parole Process
- PREA (Prison Rape Elimination Act)
- Report Writing
- Testimony
- Types of Assessments
- VANS (Automated Victim Notification)
- Violations of Probation and Parole

Development of Core Competency Training for Community Correctional Officers, Probation Officers, and Caseworkers

- Arrest Certification
- LSI – R Certification
- PSI Certification
- Case Management / Community Supervision
- Field Safety
- Gender Responsively
- Creative Sanctions
- Cognitive-Self-Change (Program for Violent Offenders)
- Relapse Prevention
- Testimony
- Due Process/Search and Seizure
- Victim Relations
- Sex Offender Profiles and Supervision

Specialized Training for Supervisors, Caseworkers, Probation Officers, and Community Correctional Officers

- IDAP
- ISAP
- INDAP
- Violent Offenders
- Sexual Offenders
- Youthful Offenders
- Group Facilitation
- Interdepartmental training with agency partners (DCF)

Continued Learning Requirements

- Habits of Mind
- Leadership Development
- Bridges Out of Poverty
- Vermont Institute of Corrections
- Supportive Supervision
- Community Supervision of Sex Offenders

We hope that these courses will be supplemented with agency cross training, specifically with DCF and local criminal justice partners. In addition, staff will be encouraged to access training at the Cyprian Learning Center, advanced degree study, specialized course work in the fields of corrections and criminal justice through national agencies, to include the National Institute of Corrections.

We are very proud of our reputation as a leader in sex offender treatment. It is now our intent and purpose to continue pursuit of excellence in the areas that have been determined by the 2009 legislature. We will strive to become a significant contributor to the vision and commitment that was made by Vermont lawmakers and the public to do everything possible to protect our children and adults within Vermont Communities. It is our obligation to have the necessary policies to support our responsibilities, to have the most properly trained staff to enact those policies and procedures and the most competent staff to provide case management and supervision to offenders within our control and authority. We will do our very best to accomplish these tasks through conscientious leadership and supervision at all levels of our organization.

We commit to being collaborative in the area of information sharing with and training for our other agency and criminal justice partners. We believe that as we meet our mandates to increase DNA testing, accumulate data from closed juvenile records and incorporate these into our presentence reports, complete presentence investigations on all sex offenders before sentencing as directed by the courts, reform and institute enhanced methods and strategies for sex offender supervision in the communities, and exchange information with and participate in DCF case staffings, that we will serve our communities and meet our responsibilities in a manner that will achieve the goals and objectives of the legislation passed by the 2009 legislature. I look forward to your responses and further ideas as we go forward this year to participate as a valued partner in the “comprehensive statewide approach to the prevention of child abuse.”

Summary Reference Act 1 Sec 52.

1 (A) The notification of the department for children and families by the department of corrections if placement in a home with children is being considered.

- **Memorandum Of Understanding-Department of Corrections and Department of Children and Families-Child Protection Measures**
- **Interim Procedure-DOC/DCF Communication for Child Protection**
- **Joint training between DOC and DCF**

(B) How the department for children and families and the department of corrections will work together in a coordinated fashion to determine whether such a placement is appropriate.

- **Memorandum Of Understanding-Department of Corrections and Department of Children and Families-Child Protection Measures**
- **Interim Procedure-DOC/DCF Communication for Child Protection**
- **DCF trained DOC staff and provided staff access to Bright Futures Information System.**
- **DOC Forming specialized sex offender treatment teams to include staff from DCF, local police special victims unit, Victim Services, State's Attorney's and treatment providers**

(C) The procedure to be followed if the Department for Children and Families determines that risk of harm exists to a child based on the placement of the offender in the home and the proposed residence is not approved.

- **Memorandum Of Understanding-Department of Corrections and Department of Children and Families-Child Protection Measures**
- **Interim Procedure-DOC/DCF Communication for Child Protection**
- **Joint training between DOC and DCF**

(D) The procedure by which the decision to place an offender in a home with a child will be reviewed by the departments to ensure that a risk of harm to a child does not emerge.

- **DOC staff have been trained and instructed how to respond as a mandated reporter**
- **Memorandum Of Understanding-Department of Corrections and Department of Children and Families-Child Protection Measures**
- **Interim Procedure-DOC/DCF Communication for Child Protection**
- **Joint training between DOC and DCF**
- **Greater sharing of information between DOC and DCF-shared access to each others database and information**
- **Increase participation in case staffing between the DOC and DCF**

(2) Criteria and centralized review of release recommendations made by the department with respect to sex offenders. Decisions to release or recommend release of a sex offender from confinement or discharge from supervision should be done in consultation with a treatment team of individuals with expertise in the field of managing sex offenders, and such decisions and the rationale should be documented in the case record. A decision to release an offender despite treatment team advice to the contrary should be reviewed by

the commissioner or a designee. The department should operate under the assumption that sex offenders should be supervised in the community for as long as possible unless overwhelming information indicates otherwise.

- **Interim Revision Memo**
- **Central Sex Offender Review Committee reviews all movement and release decisions on sex offenders**
- **Created Sex Offender Staffing process for the reviews**
- **Central Sex Offender Review Committee recommends Central reviews for High Risk Sex Offenders, and allow Local review for Low Risk Sex Offenders**
- **Continue policy around not recommending discharging sex offenders on probation and early release from parole**
- **Memorandum from Commissioner Pallito around the statutory requirements of Act 1 relating to high risk sex offenders**

(3) A plan to improve training and oversight of department employees who work with sex offenders. Training should include orientation and mentoring for new employees, as well as continuing education for long-term employees.

- **Provides a series of sex offender trainings to staff**
- **Development of a Department Caseworker and Probation Officer Training Academy**
- **Development of local site training**
- **Development of On-Line Training Aids**

ATTACHMENTS

1. DOC Interim Procedure DOC/DCF Communication for Child Protection – June 5, 2009
2. Memorandum of Understanding between the Department of Corrections and the Department for Children and Families – November, 2009
3. DOC Commissioner's Interim Revision Memo on Sex Offenders, changing eight current directives – July 21, 2008

MEMORANDUM OF UNDERSTANDING
Department of Corrections and
Department for Children and Families
CHILD PROTECTION MEASURES

OBJECTIVE:

To protect children from violent offenders by improving communication between staff of the Department of Corrections (DOC) and the Department for Children and Families (DCF).

Part 1: Child Safety

DOC WILL:

- When DOC has control (furlough, or probation and parole with residence restrictions) over the offender's residence, DOC will prohibit an offender who poses a risk of sexual abuse or physical injury to children from residing in a home where children live.
- When DOC does not have control over the offender's residence, DOC will make a child abuse report to DCF when DOC has reason to believe that an offender presents a risk of harm to children in a current or proposed residence.
- Review DCF client index, with a follow up inquiry to the local DCF office, on all matches for any offender under supervision for an offense of family violence or sexual offenses. Coordinate planning and actions to promote child protection.
- Provide the DCF Emergency Services Program and the DCF child protection hotline a current list of local DOC District Managers and Facility Superintendents.
- Contact the DCF Emergency Services Program or the local district office to secure information about the custody status and responsible district office for a juvenile that has been taken into DOC custody.
- Contact DCF when DOC field staff arrest or return an offender to jail, or facility staff admit an offender who reports that there is no appropriate adult to provide immediate care for the offender's minor child(ren).
- Create multidisciplinary case management teams for the purpose of collaborating and prioritizing community safety and the protection of former victims. These teams will include a representative from DCF.
- Provide DCF with copies of Pre-Sentence Investigation Reports on cases where the offense is against children or if the offender is on the DCF client index.
- Contact DCF on all offenders where elements of a sexual offense are present, for the purposes of preparing the Pre-Sentence Investigation Report.

DCF WILL:

- Upon request, share information with DOC about current or past clients of the Family Services Division for child protection purposes according to Family Services Division policy.
- Create and maintain a client index. The client index is an agreed upon subset of the DCF master index and will include the name and, when available, date of birth of those in the master index.

- Pursuant to Family Services policies, accept and investigate reports from DOC staff of suspected or potential child abuse.
- Check the DOC offender locator for all new DCF cases, and if there is a match, contact DOC staff to coordinate planning and actions to promote child protection.
- Consult with DOC before using any DOC case notes in a fact finding or judicial process. If local staff from both Departments cannot agree on the appropriate use of a case note, the decision will be made at the central office level in consultation with the Attorney General's office.
- Invite DOC staff to attend case plan reviews (and treatment team meetings, as appropriate) for children when DOC is supervising a family member.
- Ensure DOC representation at DCF Child Protection Team meetings.
- Provide ongoing training to DOC staff about child abuse and neglect issues.
- When copies of Pre-Sentence Investigation Reports are provided by the DOC, keep those documents confidential and do not subject them to public inspection.
- Provide DOC information regarding an offender's records maintained by DCF in the child protection registry if the offender was previously substantiated for child abuse or neglect, for DOC use in writing Pre-Sentence Investigation Reports.
- In the cases involving sex offenses, provide DOC with information pertaining to the juvenile court and law enforcement records for Presentence Reports. A complete juvenile record will be released pursuant to a court order or a validly executed release of information.

Part 2: Safeguarding Information
DOC AND DCF WILL:

- Ensure that their staff members know that information exchanged between the departments in any form is to be used only as needed to carry out professional responsibilities.
- Require staff to sign an acknowledgement of confidentiality requirements before being given access to the other department's databases.
- Inform the other department when it appears that an employee has misused case information and may be disciplined;
- Appropriately manage access of staff to automated information.
- Ensure that the other department is informed of any changes in policy requirements related to access to case information.
- Develop local protocols to promote regular and efficient communication and collaboration between the respective district offices.



 Andrew Pallito, Commissioner
 Department of Corrections
 11/9/09

 Date



 Stephen R. Dale, Commissioner
 Department for Children and Families
 11/9/09

 Date

State of Vermont Agency of Human Services Department of Corrections	Title: DOC/DCF Communication for Child Protection	Page 1 of 7
Chapter Information Management Systems	INTERIM PROCEDURE	Supersedes: #08.01 dated 8/10/2001 and #303 dated 02/05/1976
Attachments, Forms & Companion Documents: 1. Memorandum of Understanding – Department of Corrections and Department for Children & Families Child Protection Measures signed September 15, 2008		
Local Procedure(s) Required? Yes; refer to <i>Attachment 1</i> . Applicability: All staff (including volunteers and contractors) Security Level: "B"- Anyone may have access to this document.		
Approved: <div style="display: flex; justify-content: space-between;"> <div data-bbox="166 699 632 802">  <u>Andrew A. Pallito, Commissioner</u> </div> <div data-bbox="715 730 888 802"> <u>June 1, 2009</u> Date Signed </div> <div data-bbox="1149 730 1348 802"> <u>June 5, 2009</u> Date Effective </div> </div>		

PURPOSE

The purpose of this Interim Procedure is to provide guidance to Agency of Human Services staff in the Department of Corrections (DOC) and Department for Children and Families (DCF) regarding access to case information; it also delineates situations in which the Department of Corrections will request information and share case specific information with the Department for Children and Families' Family Services Division.

POLICY

It is the policy of the Vermont Department of Corrections to assist in the protection of children from abuse and neglect through ongoing communication with the Department for Children and Families' Family Services Division.

AUTHORITY

28 V.S.A § 601(10). Agency of Human Service Policy #1.05 *Policy on Sharing of Client Information*.

REFERENCE

Department of Corrections Policies #03 *Department Philosophy* and #254 *Access to Offender Information; Administrative Directive #254.04 Case Documentation – Electronic. Memorandum of Understanding between the Department of Corrections and Department for Children and Families, Child Protection Measures*, signed 9/15/08.

DEFINITIONS

Case Information: Documents, electronic files, forms, notes, reports, assessments, plans or data in any form whether reduced to print, microfiche, photograph, video or audio/visual tape recordings, that pertain to a specific person currently or formerly under the supervision of the Department, or currently or formerly confined in a Department correctional facility. Case information does not

include such confidential information as medical or mental health records, education records, or treatment records.

Department for Children and Families (DCF) Child Protection Registry: A list of individuals who have a substantiated report for child abuse from January 1, 1992 to the present.

DCF Emergency Services Program: A program that deals with all after-hours emergencies when district offices are not open during regular business hours. This program can be accessed by calling the Child Protection Line at 1-800-649-5285.

DCF Master Index: A database that tracks the general activity of **all** cases in which DCF has been involved. It includes both substantiated and unsubstantiated child maltreatment allegations, as well as the type of case (delinquency, unmanageable, open child protection cases, custody cases, etc. - prior to and since January 1, 1992). It is an instrument which enables DCF to get a fuller picture of the people they are dealing with.

Family Services Division: A division of DCF whose primary duty is the protection of children and working with families to keep children safe.

Forseeable Risk of Harm: A case-by-case determination by Department employees in consultation with treatment providers and others involved in the offender's case planning that is based upon: 1) an offender's prior criminal background, personal history, and current conduct; 2) the type of crime for which the offender was most recently convicted; and 3) the surrounding circumstances in which the offender is being supervised, including the relationship of the offender to a third party(ies).

Max-out: The serving of an incarcerative sentence to the maximum allowable time after the deduction of awarded reduction of term for good behavior and earned reduction of term.

Substantiated Report: The Commissioner of DCF or the Commissioner's designee has determined, after investigation, that a report is based on accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected.

PROCEDURAL GUIDELINES

1. The Department for Children and Families (DCF)/Department of Corrections (DOC) access to offender case information is governed by the provisions of DOC *Policy #254, Administrative Directive #254.01*, and the provisions of *Attachment 1* of this directive, and *Memorandum of Understanding between the Department of Corrections - Department for Children and Families, Child Protection Measures*.
2. In accordance with the Memorandum of Understanding between the Department of Corrections and the Department for Children and Families, **DOC has the following responsibilities:**
 - a. If DOC has control over an offender's residence (furlough, or probation and parole with residence restrictions), and it is determined that the offender continues to pose a risk to children, DOC will prohibit an offender who poses a risk of sexual abuse or physical injury to children from residing in a home where children live.

- b. Prior to approving a residence for an offender, the assigned DOC Probation Officer will check with DCF to see if any child(ren) residing in the proposed home is/are the subject of an open DCF case. In such cases, the assigned Probation Officer shall collaborate with DCF around decision-making on the offender's placement in the home.
- c. When DOC does not have control over the offender's residence ("max-outs" with no further supervision, or probation or parole with no residence condition), the Probation Officer, Facility Caseworker, or Supervisor will make a child abuse report to the Child Protection Line 1-800-649-5285 at DCF when DOC has reason to believe that an offender presents a risk of harm to any child(ren) in a current or proposed residence; for example, the offender has a current or past offense of 1) sexual abuse of a child, or the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense; or 2) an offense of intra-familial violence with a child residing in the home.
- d. For all offenders under supervision for an offense of family violence or for a sexual offense (or the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense), DOC Probation Officers will review the DCF Child Protection Registry for substantiations of child abuse, with a follow up inquiry to the local DCF office on all offender matches. Staff from both departments shall coordinate planning and actions to promote child protection.
- e. Corrections' facility staff, Community Correctional Officers (CCOs), or Probation Officers will contact the DCF Emergency Services Program (ESP) or the local district office to secure information about the custody status and responsible district office for a juvenile that has been taken into DOC custody. During non-business hours, DOC staff will contact the DCF Emergency Services Program staff.
- f. Facility staff will ask any lodged or incapacitated person if they are responsible for a minor child(ren), and whether there is an appropriate adult to provide immediate care for the offender's minor child. If there is no appropriate adult, they will contact DCF.
- g. Field Staff will contact DCF when DOC field staff arrest or return an offender to jail who reports that there is no appropriate adult to provide immediate care for the offender's minor child(ren).
- h. DOC central office will provide the DCF Emergency Services Program with a current list of local DOC District Managers/Supervisors and Facility Superintendents, with their contact information.
- i. All DOC staff must make a report of child abuse or neglect to the Child Protection Line (1-800-649-5285) at DCF if that staff person has reason to believe that abuse or neglect has occurred.
- j. When invited, DOC staff shall participate in DCF case reviews on offenders under supervision for offenses of family violence or sexual offenses (or the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense).

3. In accordance with the Memorandum of Understanding between the Department of Corrections and the Department for Children and Families, **DCF has the following responsibilities:**

- a. Upon request, they will share information with DOC about current or past clients of the DCF Family Services Division for child protection purposes.
- b. Upon request, they will share information about perpetrators from the Child Protection Registry regarding substantiations of child abuse.
- c. Pursuant to DCF Family Services policies, they will accept and investigate reports from DOC staff of suspected or potential child abuse.
- d. They will check the DOC *database offender locator* for all new DCF cases, and if there is a match, contact DOC staff to coordinate planning and actions to promote child protection.
- e. They will consult with DOC, by phone or email, before using any DOC case notes in a fact-finding or judicial process. DCF staff may not print out case notes from the DOC data base. If local staff from both Departments cannot agree on the appropriate use of a case note, the decision will be made at the central office level.
- f. They will invite DOC staff to attend case plan reviews (and treatment team meetings, as appropriate) for children when DOC is supervising a family member.
- g. They will provide ongoing training to DOC staff about child abuse and neglect issues.

4. DOC Electronic Access to DCF Case Information

- a. DOC access to DCF case information is limited to those staff designated by the DOC. They will have login access to the Child Protection Registry, after signing a "user agreement." This may be done electronically.
- b. Local Managers will ensure that all casework staff, probation officers, and supervisors receive appropriate training on use and access of DCF case information.
- c. DOC employee use and access to the DCF database is limited to purposes directly related to the protection of children. Other use is prohibited and may result in adverse personnel action. DOC staff will ensure the maintenance of confidentiality of DCF information.

5. DCF Electronic Access to DOC Case Information

- a. DCF employee access to the DOC *database offender locator* is limited to staff who have received appropriate training and signed a "user agreement." This may be done electronically.
- b. Case information access is only authorized when it is directly related to serving DCF clients, including the screening of potential caregivers of children.
- c. Other use is prohibited and may result in adverse personnel action.
- d. DOC maintains a list of all persons who have accessed the offender data base.

6. Local DOC District Managers will:

- a. Ensure that staff know that information exchanged between the Departments in any form is to be used only as needed to carry out professional responsibilities;

- b. Require staff to sign a “user agreement” before being given access to the other Department’s databases;
- c. Inform DCF when it appears that an employee has misused case information and may be disciplined;
- d. Appropriately manage access of staff to automated information, and encourage direct communication between Department staff;
- e. Ensure that DCF is informed of any changes in policy requirements related to access to case information;
- f. Develop local protocols to promote regular and efficient communication and collaboration between the respective district offices.

TRAINING

District Managers, Supervisors, and Facility Superintendents shall ensure that all appropriate staff are trained in this interim procedure, have signed the appropriate user agreement, and comply with this interim procedure. The goal is to ensure ongoing communication and collaboration between DOC and DCF staff toward the protection of children.

QUALITY ASSURANCE

Information Technology (IT) staff will develop a log of all DOC individuals who access the DCF database.



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Agency of Human Services

MEMORANDUM OF UNDERSTANDING

Department of Corrections and Department for Children and Families

CHILD PROTECTION MEASURES

OBJECTIVE:

To protect children from violent offenders by improving communication between staff of the Department of Corrections (DOC) and the Department for Children and Families (DCF).

Part 1: Child Safety

DOC WILL:

- When DOC has control (furlough, or probation and parole with residence restrictions) over the offender's residence, prohibit an offender who poses a risk of sexual abuse or significant physical injury to children from residing in a home where children live.
- When DOC does not have control over the offender's residence, DOC will make a child abuse report to DCF when DOC has reason to believe that an offender presents a risk of harm to children in a current or proposed residence.
- Review DCF client index, with a follow up inquiry to the local DCF office, on all matches for any offender under supervision for an offense of family violence or sexual offenses. Coordinate planning and actions to promote child protection.
- Provide the DCF Emergency Services Program a current list of local DOC District Managers and facility superintendents.
- Contact the DCF Emergency Services Program or the local district office, to secure information about the custody status and responsible district office for a juvenile that has been taken into DOC custody.
- Contact DCF when field staff arrest or return an offender to jail, or facility staff admit an offender, who reports that there is no appropriate adult to provide immediate care for the offender's minor child(ren).

DCF WILL:

- Upon request, share information with DOC about current or past clients of the Family Services Division for child protection purposes.
- Pursuant to Family Services policies, accept and investigate reports from DOC employees, of suspected or potential child abuse.
- Check the DOC offender locator for all new DCF cases, and if there is a match, contact DOC staff to coordinate planning and actions to promote child protection.
- Consult with DOC before using any DOC case notes in a fact finding or judicial process. If DOC does not agree to use of the case notes, they will be used only if subpoenaed. If local staff from both Departments cannot agree on the appropriate use of a casenote, the decision will be made at the central office level.
- Invite DOC staff to attend case plan reviews (and treatment team meetings, as appropriate) for children when DOC is supervising a family member.
- Provide ongoing training to DOC staff about child abuse and neglect issues.

Part 2: Safeguarding Information

DCF and DOC will:

- Ensure that staff know that information exchanged between the Departments in any form is to be used only as needed to carry out professional responsibilities.
- Require staff to sign an acknowledgement of confidentiality requirements before being given access to the other Department's databases.
- Inform the other Department when it appears that an employee has misused case information and may be disciplined;
- Appropriately manage access of staff to automated information.
- Ensure that the other Department is informed of any changes in policy requirements related to access to case information.
- Develop local protocols to promote regular and efficient communication and collaboration between the respective district offices.



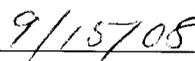
Robert D. Hofmann, Commissioner
Department of Corrections



Date



Stephen R. Dale, Commissioner
Department for Children and Families



Date

Interim Revision Memo

To: All Staff
From: Robert D. Hofmann, Commissioner
Date: July 21, 2008

Effective immediately, following are changes to current administrative directives.

Directive 371.15 - Conditional Re-entry: This directive is no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Direction 371.26 - Reintegration Furlough: This directive is no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry or reintegration status, and shall not receive a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 371.05 - Offender Responsibility Planning: Attachment 2, ORP Case Plan Instructions for Staff: Offender summary section, third bullet regarding projected movement date, and Department of Corrections Expectations section, are no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 371.08 - Classification of Offenders Convicted of Listed Offenses: Section 2.1, Section 4.3, and Section 4.6 of this directive are no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 371.12 - Program Participation Requirements for Offenders Convicted of Listed Offenses: Section 4.3, level summary table, of this directive is no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 371.24 - Classification of Offenders Convicted of Non-Listed Offenses: Section 2.1 and Section 4.2 of this directive are no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 371.25 - Parole Reviews and Recommendations: Section 4.5 and Appendix I of this directive are no longer applicable to offenders serving a sentence in a correctional facility for a conviction of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. At this time these offenders are not eligible for release to the community on conditional re-entry status or for a positive recommendation from the Department to parole status without a central office case-staffing. A central case-staffing request and all supporting documentation must be sent to the Assistant Director of Classification Management at least 90 days prior to the anticipated release date.

Directive 425.02 - Program Completion: This directive is no longer applicable to offenders convicted of any sex offense, or if the affidavit of the underlying offense provided by the court after adjudication contains information that describes any elements of a sexual offense. Department staff will not recommend or support a discharge from probation for the above referenced offenders.