
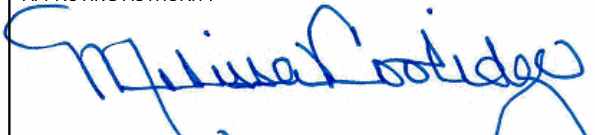


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|  <p>NEW YORK STATE Corrections and Community Supervision</p> <p>DIRECTIVE</p> | TITLE | | NO. 4036 |
| | Notification to Victim of Incarcerated Individual Release or Damages Award | | DATE 08/07/2023 |
| SUPERSEDES DIR #4036 Dtd. 05/16/22 | DISTRIBUTION A | PAGES PAGE 1 OF 3 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to) Criminal Procedure Law § 380.50; Executive Law §632-a; Federal Prison Litigation Reform Act of 1995; Penal Law §70.2, Article 125; Mental Hygiene Law; ACA Expected Practices 5-ACI-1B-24, 5-ACI-5F-06, 2-CO-4G-02, 4-APPFS-1A-04 | APPROVING AUTHORITY  | | |

I. POLICY: In accordance with the provisions of Section 380.50 of the Criminal Procedure Law, the Department shall notify a victim, family member, legal guardian, or legal representative of the legal guardian by their chosen method either certified mail, regular mail, or electronically through a third party automated notification system of an incarcerated individual's escape, abscondence, discharge, parole, conditional release, or release to post-release supervision when a request for such notification has been received via a District Attorney's Office.

Notwithstanding the foregoing, the Department of Corrections and Community Supervision's (DOCCS) Office of Victim Assistance will honor a request for notification of an incarcerated individual's release from any member of the community who expresses safety concerns.

In accordance with the provisions of the Federal Prisoners Litigation Reform Act of 1995, the Department shall make reasonable efforts to notify crime victims that monetary damages are about to be paid to an incarcerated individual pursuant to a civil action against a Federal, State, or local correctional facility or an official of such facility.

In accordance with the provisions of Section 632-a of the Executive Law, the Department shall notify the New York State Office of Victim Services whenever an incarcerated individual's account balance exceeds \$10,000. This notification is performed by the DOCCS Office of Victim Assistance. It is then the responsibility of the New York State Office of Victim Services to determine if the incarcerated individual has been convicted of a "specified crime" as defined in the statute. Further, it is the responsibility of the New York State Office of Victim Services to contact victims and inform them of their rights to bring forward a civil action.

II. DEFINITIONS

- A. "Victim" means the victim as described in the accusatory instrument, where the incarcerated individual has been convicted of a violent felony offense as defined in Section 70.02 of the Penal Law, or of a homicide offense as defined in Article 125 of the Penal Law or family member, legal guardian, or representative of the legal guardian of the victim.
- B. "Family member" means any person related to a victim within the third degree of consanguinity or affinity or any person residing in the same household with a victim.
- C. "Requester," as used in this directive, means the "victim" as defined above.

- D. "Incarcerated individual" means a person convicted of a violent felony offense as defined in Section 70.02 of the Penal Law or a felony as defined in Article 125 of the Penal Law and incarcerated in a New York State correctional facility.
- E. "Victim demand" means a form prescribed by the DOCCS Commissioner and distributed by the prosecutor and available on the Department's Website. Such form may be completed by a victim and should be submitted per the instructions on the form. It shall be the duty of the prosecutor to mail promptly such form to the DOCCS Office of Victim Assistance.

III. PROCEDURE - INCARCERATED INDIVIDUAL ESCAPE, ABSCONDENCE, TEMPORARY RELEASE, DISCHARGE, OR PAROLE

- A. Receipt of Request: The DOCCS Office of Victim Assistance, Central Office, shall receive the "Request for Victim Notification," which can be downloaded or submitted electronically from the Department's website: www.doccs.ny.gov/victims.
- B. Confidentiality: The "Request for Victim Notification" form is confidential. Reproduction of this form may only occur to ensure compliance with Mental Hygiene Law 10.10 (g). If the computer record (F451 program screen #81) is reproduced for or by Department staff, the field containing victim notification data should be "whited out." Incarcerated individuals are not to see these requests. Disclosure is not required by the Freedom of Information Law as it would constitute an unwarranted invasion of personal privacy.
- C. Notice of Discharge/Temporary Release/Parole: The DOCCS Office of Victim Assistance, upon receipt of automated release data on discharge, temporary release, release to Community Supervision, conditional release, or placement into post-release supervision, shall notify the requester, by certified mail, regular mail, or electronic notification (third party), of such discharge/temporary release/release at the time it occurs. In the case of temporary release, the notice to the victim shall be sent at the initial release. It is not to be sent on a repeated basis if the temporary release is part of an ongoing program such as work release or day reporting. If the temporary release program is not ongoing (such as Temporary Release Furlough) the notification must be sent each time.
- D. Notice of Removal from Ongoing Temporary Release Program: If an incarcerated individual is removed from work release or another ongoing temporary release program, the DOCCS Office of Victim Assistance shall notify the requester by certified mail, regular mail, or electronic notification (third party).
- E. Notice of Escape or Absconding: The DOCCS Office of Victim Assistance, upon notice of an incarcerated individual escape or abscondence, shall notify the requester of such event as expeditiously as possible by telephone, certified mail, regular mail, or electronic notification (third party).
- F. Notice of Recapture: The DOCCS Office of Victim Assistance, upon notice of return after recapture, shall notify the requester of the incarcerated individual's recapture as expeditiously as possible by telephone, certified mail, regular mail, or electronic notification (third party).

If notice is given by telephone, it shall be confirmed by certified mail, regular mail, or electronic notification (third party) within 48 hours after such regaining of custody.

- G. Notice of Returned Violator (No New Term) From Parole Supervision: The DOCCS Office of Victim Assistance, upon notice of a returned parole violator (no new term) or upon notice of a returned Maximum Expiration with Parole Supervision (MEPRS) violator (no new term), shall reactivate any requests for notification of the victim filed in the incarcerated individual's inactive record.

IV. PROCEDURE - INCARCERATED INDIVIDUAL COMPENSATORY DAMAGES AWARD:

The DOCCS Office of Victim Assistance shall be responsible for making reasonable efforts to notify crime victims when incarcerated individuals under Departmental custody are awarded monetary damages.

- A. The Office of Counsel will notify the DOCCS Office of Victim Assistance of the imminent payment of a Federal civil rights compensatory damages award. The notice that the Office of Counsel will provide will also list the name and civ. (Federal identification) number of the lawsuit. A copy of this notice will also be sent to the Superintendent of the facility in which the incarcerated individual is housed.
- B. Upon receipt of this notice, the DOCCS Office of Victim Assistance shall notify the New York State Office of Victim Services of the pending compensatory damages award so that the New York State Office of Victim Services can notify the victim(s) and assist the victim(s) with any civil action the victim(s) may wish to utilize to recover the funds.
- C. Additionally, the DOCCS Office of Victim Assistance shall review all of the incarcerated individual's commitment paper(s) for current and former offenses to determine if a restitution order is in effect. Inquiries will also be made to Probation Departments and/or Safe Horizon to verify if the incarcerated individual has any outstanding restitution obligation(s). If a restitution order is in effect, the Office of Counsel shall be notified in accordance with Section 808 of the Federal Prison Litigation Reform Act of 1995. The DOCCS Office of Victim Assistance will also notify Central Office Incarcerated Accounts of the pending award to ensure compliance with Section 808 of the Federal Prison Litigation Reform Act of 1995.