

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JENNIFER TYREE, <i>et al.</i> ,)	
)	
Plaintiffs,)	No. 18 CV 1991
)	
v.)	
)	
ROB JEFFREYS,)	Judge Feinerman
)	
Defendant.)	

**MOTION FOR A RULE TO SHOW CAUSE WHY DEFENDANT
SHOULD NOT BE HELD IN CONTEMPT OF COURT**

Plaintiffs, through counsel, respectfully request that this Court order Defendant Rob Jeffreys, Director of the Illinois Department of Corrections, to show cause why he should not be held in contempt of court for violating this Court's June 13, 2018 Order on Plaintiffs' motion for a preliminary injunction. In support thereof, Plaintiffs state as follows:

INTRODUCTION

Plaintiffs, individually and on behalf of a proposed class of similarly situated parents, have challenged the constitutionality of the Department of Corrections' policies restricting contact between parents who are on parole for sex offenses and their minor children. On June 13, 2018, this Court entered a preliminary injunction in which it ordered that if the Department of Corrections seeks to restrict contact between a parent and his or her minor child(ren), it must observe certain procedures. Namely, the Court ordered as follows:

- A person convicted of a sex offense who is released on mandatory supervised release (“parolee”) shall be given the opportunity for an appointment with a therapist within 14 days of release.
- Within 21 days of the initial appointment, the therapist and the parolee’s parole agent will determine whether there is “reasonable cause to believe that the parolee’s child(ren) would be endangered by parent-child contact with the parolee.”
- If parent-child contact is restricted or prohibited, the parole agent and therapist must give the reasons for the restriction or prohibition briefly in writing.
- The parolee may seek review of any restriction or prohibition from the Deputy Chief of Parole, and the Deputy Chief will respond in writing within 21 days.

ECF No. 33 at 1–2 (hereinafter “the Order”).

The Department of Corrections has failed to faithfully implement the Order. In particular, it has given therapists and parole agents discretion to prohibit or restrict parent-child contact for long periods of time for reasons that have little to do with whether there is “reasonable cause to believe that a child will be endangered” by contact with his or her parent. As a result, individuals on MSR are being prohibited from having contact with their children for months and parent-child bonds are being badly damaged.

As set forth below, Brandon Velna, a father of three children, has been completely prohibited from having any contact with his children for seven months, including a simple phone call to say “happy birthday.” This is so despite his consistent compliance with therapy, his taking and passing a polygraph examination, and the children’s mother’s willingness to supervise contact between

the children and their father. Plaintiffs request that this Court grant two forms of relief:

- (1) enter a preliminary injunction for Brandon Velna directing Defendant to immediately prepare a safety plan and restore his contact with his children; and
- (2) enter a rule to show cause as to why Defendant Rob Jeffreys should not be held in contempt of court for failure to follow this Court's Order.

ARGUMENT

The injunction Order was unequivocal. The Order called for a prompt determination of whether there is “reasonable cause to believe the child would be endangered” by contact with his parent. Parents were only to be denied contact with their children upon such a determination. The Department has failed to implement this standard. Rather, it has given therapists and parole agents free rein to prohibit parent-child contact for any reason they see fit, including that the parolee hasn't taken a polygraph exam or that the therapist doesn't feel he or she knows the parolee well enough to feel comfortable making a recommendation about parent-child contact.¹ Thus, functionally little has changed from when Plaintiffs brought this case a year and a half ago. Parolees are estranged from their children for lengthy periods of time without any showing that they pose a danger to their child.

I. Facts Relevant to Brandon Velna

Brandon Velna has been on MSR for seven months (since August 5, 2019). Ex. 1, Declaration of Velna. He has been denied all contact with his three children (ages

¹ One therapist testified in her deposition that she would not feel comfortable making a recommendation about whether a parolee can see his or her child until she has known the individual for “at least a year.” See Ex. 6, Dr. Harris Deposition Excerpt at 48-49.

14, 10, and 8) for the entire time. *Id.* at ¶2. While Velna was imprisoned, he remained in close and consistent contact with his children via phone calls, letters, and visits. *Id.* at ¶3. The mother of Velna’s children has custody of the children and wants Velna to be in touch with them. *Id.* at ¶4.

Velna has made every effort to comply with his parole agents’ and therapist’s orders and follow the procedures set forth in the Court’s Order. *Id.* at ¶5. Because of personnel turnover, he has had four different parole agents since his release. *Id.* at ¶6. He asked his first parole agent for contact with his children immediately upon their first meeting in August 2019. *Id.* He was not given the opportunity to enroll in therapy until November 2019. *Id.* Since November, he has consistently attended and participated in therapy. *Id.* at ¶7. He took and passed a polygraph test at his therapist’s instruction. *Id.* He is still being denied all contact with his children. The reason he has been given for the continued denial of his contact with his children is “insufficient therapy sessions.” *Id.* at ¶9; *see also*, Ex. 2, Denial Forms.

Counsel for Plaintiffs brought this matter to the attention of Defendant’s counsel four months ago. *See* Ex. 4, September 25, 2019, correspondence. Nothing has changed. Velna has been estranged from his children for seven months with no end in sight.

II. Legal Standards

A contempt petition may be granted when the movant shows by clear and convincing evidence that the respondent has violated an “express and unequivocal command of a court order.” *Lightspeed Media Corp. v. Smith*, 761 F.3d 699, 711 (7th

Cir. 2014). It is not necessary to a finding of contempt that a violation was “willful.” Rather, it is sufficient that the party “failed to take steps reasonably and diligently to comply with the order.” *Id.*; see also, *Goluba v. School Dist. of Ripon*, 45 F.3d 1035, 1037 (7th Cir.1995) (“[T]he district court does not ordinarily have to find that the violation was ‘willful’ and may find a party in civil contempt if that party has not been reasonably diligent and energetic in attempting to accomplish what was ordered.”)

III. The Department Has Failed To Comply with the Court’s Order

There is nothing ambiguous about the standard set forth in the Court’s Order. The Order unequivocally states that parent-child contact should not be denied absent a determination that there is “reasonable cause to believe that the parolee’s child(ren) would be endangered by parent-child contact with the parolee.” Order at 1. Yet the Department has failed to implement that standard. To the contrary, it has affirmatively undermined that standard and empowered therapists to withhold their approval for parent-child contact for reasons that have nothing to do with risk.

In late 2019, the Department of Corrections created and distributed a new set of forms to be used in connection with requests for parent-child contact. Ex. 3. These forms set forth a checklist of reasons why a request for contact with a child is being denied. Among the reasons that the Department has included as legitimate are “insufficient therapy sessions to make assessment” and “therapist requested polygraph, but results are not available.” Ex. 3 at 1.

By creating these forms, the Department has given therapists and parole agents broad discretion to prohibit all parent-child contact (including forms of contact that pose minimal risk such as phone calls) for long periods of time in the absence of any reason to believe that there is a danger posed to the child. The Department's 30(b)(6) witness, Deputy Chief of Parole Dion Dixon, testified as follows:

Q. Does a therapist have the discretion to withhold approval for parent/child contact because he or she feels that he doesn't yet know the parolee well enough to make a recommendation?

A. Yeah. The therapist has the ability to state an objection over allowing contact.

Q. Is there any limitation on how long the therapist can take to make a recommendation?

A. No. There's nothing in writing that says that there's any kind of limitation.

Q. We took the deposition of Dr. Eleanor Harris who's a therapist who runs a group at [E]mages on the south side of Chicago. ... She testified that she would want to know a parolee for a year before she'd feel comfortable making a recommendation about whether they could have contact with children. Could the Department of Corrections keep checking the box that says 'insufficient therapy sessions to make assessment' for a year if Dr. Harris was not comfortable making a recommendation until a year went by?

A. It'd be highly unlikely, but yes.

Ex. 5, Dep of Dixon at 78-79.

The predictable result of this broad discretion is that therapists have adopted an extremely cautious "wait and see" approach, which results in months-long rifts in parent-child relationships. It's understandable that therapists want to exercise caution; but the problem is that the Department has countenanced their doing so in

a way that does not afford due respect to constitutionally protected parent-child bonds.

CONCLUSION

There is substantial evidence that the Department of Corrections is in violation of this Court's order on the motion for a preliminary injunction. Accordingly, Plaintiffs request that this Honorable Court enter a preliminary injunction for Brandon Velna directing Defendant to immediately prepare a safety plan and restore his contact with his children; and enter a rule to show cause as to why Defendant should not be held in contempt of court for failure to follow this Court's Order.

Respectfully submitted,

/s/ Adele D. Nicholas
/s/ Mark G. Weinberg
Counsel for Plaintiffs

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Declaration of Brandon Velna

1. I have been on MSR for seven months (since August 5, 2019).
2. I am the father of three children (ages 14, 10, and 8). Since my release, I have not been permitted to have any contact with my children, including phone calls, letters or visits. Two of my children have had birthdays since my release. I was not even permitted to call them to say “happy birthday” with the supervision of my therapist.
3. While I was imprisoned, I remained in close and consistent contact with my children via phone calls, letters, and visits.
4. The mother of my children has custody of the children and wants me to be in touch with them.
5. Since my release, I have made every effort to comply with my parole agents’ and therapists’ instructions about what I have to do to have my contact with my children restored.
6. I have had four different parole agents since my release. I asked my first parole agent for contact with my children at our first meeting in August 2019. I was not given the opportunity to enroll in therapy until November 2019.
7. Since November, I have consistently attended and participated in therapy. I took and passed a polygraph test at my therapists’ instruction.
8. I am still being denied all contact with my children and have not been given any indication of when or whether things will change.

9. The reason I have been given for the continued denial of contact with my children is “insufficient therapy sessions” and lack of a safety plan.

Pursuant to 28 U.S.C § 1746, I certify under penalty of perjury that the foregoing statements are true and correct.


Brandon Velazquez

3-3-20

ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)

2
District

Velna, Brandon
Offender Name

123900
IDOC #

The following review is in response to your request to have contact with your biological/adoptive minor child(ren).

Request for Contact:

- Approved (Must attach a copy of the approved safety plan)
- Denied (An automatic review will be conducted every 28 days)

Reason for Denial:

- Child(ren) was / were the victim(s)
- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
- Insufficient therapy sessions to make assessment
- Therapist requested polygraph but results are not available
- Offender failed to sign consent allowing communication with child(ren)'s legal guardian
- Offender failed to provide birth certificate indicating legal parentage and/or results of DNA Testing. (DNA testing **must** be completed by an approved testing agency such as Illinois Department of Healthcare & Family Services or any court-appointed provider.)
- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

BV
MH

Recommendation(s): Polygraph is needed as well as recommendation of treatment provider

M. Morris
Prepared by

CSPA
Title

2/9/2020
Date

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

[Signature]
Offender Signature

2-9-20
Date

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)

2

District

Velna, Brandon
Offender Name

123900
IDOC #

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Request for Contact:

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Reason for Denial:

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- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
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- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

Recommendation(s): Review again ^m in 28 days.

M. Morris I35
Prepared by

CSDA
Title

1/12/2020
Date

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

[Signature]
Offender Signature

1-12-20
Date

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

Distribution: Parole Agent
Master File
Sex Offender Services
Offender

Printed on Recycled Paper

DOC 0543 (Eff. 01/2019)

ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)

2
District

Velna, Brandon
Offender Name

123900
IDOC #

The following review is in response to your request to have contact with your biological/adoptive minor child(ren).

Request for Contact:

Approved (Must attach a copy of the approved safety plan)

Denied (An automatic review will be conducted every 28 days)

Reason for Denial:

- Child(ren) was / were the victim(s)
- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
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- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

Recommendation(s): _____

Prepared by

M. Morris

Title

Corp Sr. Precept

Date

12/11/19

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

Offender Signature

[Signature]

Date

12-11-19

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

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Master File
Sex Offender Services
Offender

Printed on Recycled Paper

DOC 0543 (Eff. 01/2019)

ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)

2

District

Y23900

Velna, Brandon

IDOC #

Offender Name

The following review is in response to your request to have contact with your biological/adoptive minor child(ren).

Request for Contact:

- Approved (Must attach a copy of the approved safety plan)
- Denied (An automatic review will be conducted every 28 days)

Reason for Denial:

- Child(ren) was / were the victim(s)
- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
- Insufficient therapy sessions to make assessment
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- Offender failed to provide birth certificate indicating legal parentage and/or results of DNA Testing. (DNA testing must be completed by an approved testing agency such as Illinois Department of Healthcare & Family Services or any court-appointed provider.)
- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

Recommendation(s): _____

M. Morris

Corr. Sr. Parole Agt.

10/25/2019

Date

Prepared by

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

Offender Signature

Date

10-31-19

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

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ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)
SOSU District 2

District

Y23900

Brandon Velna

IDOC #

Offender Name

The following review is in response to your request to have contact with your biological/adoptive minor child(ren).

Request for Contact:

- Approved (Must attach a copy of the approved safety plan)
- Denied (An automatic review will be conducted every 28 days)

Reason for Denial:

- Child(ren) was / were the victim(s)
- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
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- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

Recommendation(s): Proof of parentage for requested child(ren) contact and initiate sex offender counseling per referrals provided.

Agt Ortiz

CSPA

09/26/2019

Prepared by

Title

Date

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

9-26-19

Date

Offender Signature

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

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ILLINOIS DEPARTMENT OF CORRECTIONS
SEX OFFENDER SUPERVISION UNIT

Parolee/Releasee Determination of Request for Contact with Child(ren)

District

Offender Name

IDOC #

The following review is in response to your request to have contact with your biological/adoptive minor child(ren).

Request for Contact:

- Approved (Must attach a copy of the approved safety plan)
- Denied (An automatic review will be conducted every 28 days)

Reason for Denial:

- Child(ren) was / were the victim(s)
- Child(ren)'s legal guardian provided documentation or presented valid concerns that contact is not in the child(ren)'s best interest
- Recommendation from child(ren)'s mental health professional indicated contact is not in the child(ren)'s best interest
- Insufficient therapy sessions to make assessment
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- Need for Psychiatric Assessment/Services
- Elevated risk factors/overall risk for sexual re-offense
- Open abuse / neglect case with DCFS
- Safety plan incomplete or not completed
- Other: _____

Recommendation(s): _____

Prepared by

Title

Date

I, the above named offender, have received a copy of this form and have been notified of the appeal process. My signature does not indicate that I agree or disagree with the recommendations.

Offender Signature

Date

***Notice to Offender:** If your request for contact has been denied, you may appeal the decision by completing the Parolee/Releasee Appeal of Determination for Contact with Child(ren), DOC 0544, and returning it to your Parole Agent. Reviews will be conducted by the Deputy Chief of Parole, or his or her designee. At no time will reviews be conducted by the Parole Agent directly supervising the parolee or that Parole Agent's supervisor. You will receive a response to your appeal, in writing, within 21 days.

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Master File
Sex Offender Services
Offender

Printed on Recycled Paper

DOC 0543 (Eff. 01/2019)

IDOC 001612



Adele Nicholas <adele@civilrightschicago.com>

Frazier Injunction Problem -- Brandon Velna Y23900

1 message

Adele Nicholas <adele@civilrightschicago.com>

Wed, Sep 25, 2019 at 11:07 AM

To: "Newman, Sarah" <SNewman@atg.state.il.us>, Mark Weinberg <mweinberg@sbcglobal.net>

Hi Sarah,

I just got off the phone with Brandon Velna. He's on MSR for a sex offense in Elgin. He has three minor children. He has been out since August 5 and has not even been allowed a single phone call with his kids. He is now being told it will be at least November before he can have any contact because he has to go to therapy classes and take a lie-detector test before they can even talk on the phone.

Brandon stressed that he doesn't believe it's the current parole agent's fault (Ortiz) because he is new. Apparently, Brandon has had three parole agents in the two months he's been out (the first two retired). Brandon says the "first thing" he discussed with each of the parole agents was visitation with his kids. They each have told him some variation of the same thing -- all contact is completely prohibited until further notice because therapy classes and a polygraph are required first.

It's not acceptable to estrange a parent from his children for four months because of personnel turnover. He would really like to just be able to talk to the kids on the phone sooner than later. Can you please get in touch with the relevant people to move this along?

thanks,
Adele

--

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f. 312-528-7670
www.adelenicholaslaw.com

Page 78

1 number, this is where you leave your messages for
 2 whoever you need to leave a message for.
 3 **Q. How are parolees informed of that right?**
 4 A. During the initial contact. As a
 5 matter of fact, also in their release paperwork,
 6 the 800 number is on their release paperwork.
 7 **Q. Looking at the form set forth on**
 8 **page 1612, the determination of request for**
 9 **contact, one reason that can be given for denial of**
 10 **request for contact is, quote, insufficient therapy**
 11 **sessions to make assessment.**
 12 **Do you see that?**
 13 A. Yes.
 14 **Q. Does a therapist have the discretion to**
 15 **withhold approval for parent/child contact because**
 16 **he or she feels that he doesn't yet know the**
 17 **parolee well enough to make a recommendation?**
 18 A. Yeah. The therapist has the ability to
 19 state an objection over allowing contact.
 20 **Q. Is there any limitation on how long the**
 21 **therapist can take to make a recommendation?**
 22 A. No. There's nothing in writing that
 23 says that there's any kind of limitation.
 24 **Q. We took the deposition of Dr. Eleanor**

Page 79

1 **Harris who's a therapist who runs a group at Images**
 2 **on the south side of Chicago? Are you familiar**
 3 **with Images?**
 4 A. Yes.
 5 **Q. She testified that she would want to**
 6 **know a parolee for a year before she'd feel**
 7 **comfortable making a recommendation about whether**
 8 **they could have contact with children.**
 9 **Could the Department of Corrections**
 10 **keep checking the box that says "insufficient**
 11 **therapy sessions to make assessment" for a year if**
 12 **Dr. Harris was not comfortable making a**
 13 **recommendation until a year went by?**
 14 A. It'd be highly unlikely, but yes.
 15 **Q. Looking at Exhibit 1, another reason**
 16 **that can be given for denial of request for contact**
 17 **is, quote, therapist requested polygraph but**
 18 **results are not available.**
 19 **Does a therapist have the discretion**
 20 **to withhold approval for request for contact**
 21 **because the parolee has not yet taken a polygraph**
 22 **exam?**
 23 MS. BAUER: I'm going to object to the
 24 question on the basis of withholding approval

Page 80

1 because he's already testified it's on the basis of
 2 the containment team.
 3 So with that in mind, if you can
 4 answer.
 5 THE WITNESS: The therapist has the right to
 6 object or has a right to withhold their approval
 7 based on whatever, no polygraph, not enough time.
 8 That's their opinion.
 9 BY MS. NICHOLAS:
 10 **Q. Is there any limitation set by the IDOC**
 11 **on how long a therapist can withhold their approval**
 12 **based on the absence of a polygraph examination?**
 13 A. No.
 14 **Q. Do therapists have the discretion to**
 15 **withhold their approval for request for contact**
 16 **with children until the parolee passes a polygraph?**
 17 A. If that's what the therapist feels
 18 comfortable with, then yes, they have that ability
 19 to say that. Again, though it's a containment
 20 team, and although the therapist is -- their
 21 opinion is -- weighs heavy on this entire process.
 22 Again, there's still another format.
 23 If the agent and the commander thinks that the
 24 offender could, you know, have contact or begin to

Page 81

1 have -- begin to have contact with their child,
 2 phone contact or whatever, they would bring that --
 3 that would be a situation where the containment
 4 team is not in agreement. They would bring that
 5 then forth to myself or Sarah Brown-Foiles, and we
 6 can make a determination on that.
 7 **Q. How do you decide whether to defer to**
 8 **the judgment of the therapist if there's a**
 9 **disagreement?**
 10 A. I usually consult Sarah Brown-Foiles.
 11 **Q. What criteria do yourself and Sarah**
 12 **Brown-Foiles use to decide whether to defer to the**
 13 **therapist's judgment if there's a disagreement?**
 14 A. We look at overall compliance; whether
 15 there have been any issues supervising the parolee
 16 during his parole term; has the parolee made
 17 themselves available or done the things that would
 18 enable him to satisfy what the therapist wants to
 19 see; has the parolee made all of his appointments
 20 for sex offender treatment; any other therapists
 21 involved; the age of the victim -- not the victim,
 22 I'm sorry -- the age of the child that he wants to
 23 see; custodial parents' opinion about the
 24 visitation or contact. Let me see.

Page 46

1 A. Yes.

2 **Q. And you think it would be appropriate**

3 **to treat someone different if their offense**

4 **involved an adult victim versus a minor?**

5 MS. BAUER: I'm just going to object to vague

6 and misstates testimony.

7 You can answer.

8 THE WITNESS: Do I think it would be

9 appropriate to treat them differently?

10 BY MS. NICHOLAS:

11 **Q. With regard to whether contact with**

12 **their child is approved.**

13 A. I'm just saying that I would think

14 differently about whether it would be okay for a

15 person to have contact depending upon who their

16 victim was, their -- their victim of choice and --

17 yeah.

18 **Q. Do you take into account whether the**

19 **person who's in your therapy group had contact with**

20 **their child while they were in prison?**

21 A. Well, do I take that into account?

22 I -- I really can't answer that question. Because

23 I've got no control over what goes on while they're

24 in, and I don't know whether -- if the person tells

Page 47

1 me that they've had contact with their child while

2 they were in, I don't know whether it's true or

3 not. So I really, you know, can't say that I

4 really know.

5 **Q. Okay. You mentioned that someone has**

6 **to pass a polygraph before they could be approved**

7 **to have contact with their child, true?**

8 A. I said they had to take the polygraph.

9 **Q. Okay. So that's -- you're**

10 **distinguishing from passing the polygraph?**

11 A. Yeah. I'm not sure whether they have

12 to pass it or not, but I know they have to take it.

13 **Q. What's the source of that rule?**

14 A. What's the source of that rule? My

15 director.

16 **Q. Okay. So your director said, as a**

17 **matter of policy, Emages is going to require**

18 **someone to take a polygraph before a request for**

19 **contact with their child can be approved?**

20 A. Yeah.

21 **Q. Do you know why that's the practice?**

22 A. No.

23 **Q. In your experience providing sex**

24 **offender therapy, do you think it's necessary that**

Page 48

1 **someone take a polygraph examination before they**

2 **have contact with their child?**

3 A. I have no idea.

4 **Q. Fair to say that the reason you would**

5 **require one is that that's what your director has**

6 **told you was the policy?**

7 A. That, plus there's a lot of information

8 that you can learn from a polygraph.

9 **Q. And I do want to get into that in a**

10 **little more detail. I want to just stay on the**

11 **topic of what criteria will be required for someone**

12 **to have contact with their child approved.**

13 **You said one thing that would be**

14 **looked at would be their attendance and**

15 **participation in therapy, right?**

16 A. Um-hmm.

17 **Q. Why is that?**

18 A. Why is that? Because I want -- that

19 would give me the opportunity to learn about that

20 client.

21 **Q. For how long do you want someone to be**

22 **in your therapy group before you'd feel comfortable**

23 **making a recommendation about whether they can have**

24 **contact with a child?**

Page 49

1 A. At least a year.

2 **Q. Is that true for phone contact or**

3 **contact by letter, as well as in-person contact?**

4 A. Typically that would be yes, yeah.

5 **Q. Okay. So before making any**

6 **recommendation about contact between a parent and**

7 **child, you would want to have the person in your**

8 **therapy group for at least a year?**

9 A. Yeah. I would want to know them.

10 However, if somebody told me this

11 person already has involvement with their child and

12 it's been going on all the time, then, you know,

13 what can I say? You know, if -- if I learn this

14 person is already in contact with a child or has

15 been while they were in -- you know, incarcerated,

16 I wouldn't -- I might think differently.

17 Other -- otherwise I would want

18 that person -- I would like to know this person

19 pretty much myself before I make any kind of

20 recommendation.

21 **Q. Is it your understanding that every**

22 **person on parole for a sex offense is restricted**

23 **from having contact with their children?**

24 A. Well, I know it used to be. I