



TITLE	POLICY NUMBER	
Duty to Advise of Arrests, Prosecutions, and Convictions	DCS 04-50	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Human Resources	02/07/19	

*This policy does not create a contract for employment between any employee and the Department. Nothing in this policy changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.*

## **I. POLICY STATEMENT**

The purpose of this policy is to require all employees to promptly notify the Department of Child Safety (“the Department” or “DCS”) if the employee is arrested for, charged with, or convicted of a crime or offense, or identified as a defendant in an order of protection/injunction against harassment.

It is not the intent of this policy that any criminal justice involvement, or identification as the respondent in any order of protection/injunction against harassment, will automatically result in an action that would adversely affect an individual’s employment with the Department.

## **II. APPLICABILITY**

This policy applies to all DCS employees.

## **III. AUTHORITY**

[R2-5A-501](#) State Personnel System Rules, Standards of Conduct

[A.R.S. § 8-453](#) Powers and duties

[A.R.S. § 12-1809](#) Injunction against harassment; petition; venue; fees; notice; enforcement; definition

#### IV. DEFINITIONS

Arrest: The process of taking a person accused of a crime into custody by a law enforcement officer.

Conviction: A finding of guilty (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal, state, or municipal criminal statutes.

Criminal justice involvement: For the purposes of this policy, an arrest, citation, indictment, or conviction related to any criminal offense subject to the jurisdiction of any local, state, tribal, military, or federal criminal justice system.

Department or DCS: The Arizona Department of Child Safety.

Department Management: The employee's supervisor/manager/administrator, Human Resources, and the applicable Deputy Director (Field Operations or Business Support).

Employee: For the purposes of this policy, "employee" means all DCS full-time, part-time, intermittent, and temporary employees, as well as all students, interns, and volunteers.

Harassment: A series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

Indictment: The formal charging document that results if a grand jury determines there is probable cause to charge a suspect with a crime.

Injunction Against Harassment: A court order directing a person to refrain from having contact with the person who filed the order. Injunction Against Harassment can only be ordered for persons not related, not living together, or sharing a child together. For instance, a co-worker, acquaintance, friend, etc.

Order of Protection: Any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person.

## V. POLICY

### A. Notification of Arrest, Prosecution, or Conviction

As a condition of employment with DCS, any employee who is arrested, cited, indicted, or convicted (hereafter referred to as “criminal justice involvement”) or identified as a respondent in an order of protection/injunction against harassment shall notify his or her direct supervisor in writing by the next business day, or at the first possible opportunity if the employee is incarcerated.

1. Criminal justice involvement for traffic infractions may also be subject to the requirements outlined in the [Fleet Driver Safety Program Policy](#).
2. Criminal justice involvement for drug and alcohol violations may also be subject to the requirements outlined in the [Drug-Free Workplace Policy](#).
3. Criminal justice involvement regarding domestic violence may also be subject to the requirements outlined in the [Domestic Violence in the Workplace Policy](#).
4. Criminal justice involvement may affect an employee’s ability to maintain a fingerprint clearance card necessary for their job duties. See the [Fingerprint Clearance Cards Policy](#) for more information.

### B. Information Provided by Employee

The following details shall be provided by the employee:

1. the date of the arrest/citation/indictment/conviction/order of protection/injunction against harassment;
2. the specific offense for which the employee is charged, or the actions alleged in the order of protection/injunction against harassment;
3. the court that has jurisdiction over the matter and the associated court case number;

4. terms of release, if applicable, and any pretrial orders applied by the court related to the charge; and
5. any other official court documentation requested by Department Management.

C. Investigation

DCS Human Resources will investigate to determine if the matter would materially interfere or pose an unacceptable safety risk with regard to the performance of the employee's job duties, or indicate conduct damaging to the Department's reputation. The Department may initiate an updated criminal background check on the employee both to assist in its risk assessment and to determine whether there is other civil or criminal justice involvement previously unknown to the Department.

D. Criteria for Department Action

In conjunction with DCS Human Resources, Department Management shall determine the most appropriate action to be taken by the Department, if any, taking into account:

1. the effect on any fingerprint clearance required for the employee's position;
2. the association to the employee's position duties and the level of risk that exists for the position's responsibilities and access;
3. the danger to the public, other employees, and vulnerable populations that exists for the position's responsibilities and access; and
4. the effect that the consequences will have on the employee's ability to perform their job duties and satisfy any required clearances (e.g. driver's license).

E. Consequences

A willful failure to report criminal justice involvement, order of protection, or injunction against harassment under this policy or to cooperate with Department Management in regard to a reportable matter under this policy may subject the employee to disciplinary action, up to and including dismissal.

F. Informing DCS Staff of Policy

This policy shall be reviewed in new employee orientation. For current employees, a notification shall be sent Department-wide via email.

## VI. PROCEDURES

- A. All DCS employees must notify the Department of any and all arrests, charges, or convictions as soon as they occur, but not later than one business day of the occurrence.
- B. This notification requirement includes, but is not limited to, charges, arrests, convictions for violations that involve driving while intoxicated and all related offenses, as well as any and all drug offenses, that occur in any jurisdiction.
- C. In addition, the employee will notify their supervisor immediately if they are served with **any** court order or have another party served with a court order.
  - 1. This applies to court orders that are issued based on domestic violence, harassment, stalking, or any other similar misconduct.
  - 2. Employees who have been served with an order of protection/injunction against harassment must abide by the provisions of the court order until the order is quashed, modified, or expired.
  - 3. Employees will provide their supervisors with a copy of the court order and a memorandum providing information surrounding the service of the order, including:
    - a. date;
    - b. time;
    - c. location; and
    - d. method of service.

4. The supervisor will forward the memorandum and a copy of the court order through the chain of command to Human Resources. Based on the severity of the situation, Human Resources may initiate an investigation.
5. After consultation between Human Resources and Department Management, decisions regarding the Department's actions concerning the court order will be made on a case-by-case basis.

## **VII. FORMS INDEX**

[Notification of Arrest, Citation, Indictment and Conviction \(DCS-1912\)](#)