

<b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b>	Transmittal # 16-12	Policy # 22.3
Applicability: <input checked="" type="checkbox"/> All DJJ Staff <input checked="" type="checkbox"/> Administration <input checked="" type="checkbox"/> Community Services <input checked="" type="checkbox"/> Secure Facilities (RYDCs and YDCs)	Related Standards & References: DJJ 5.1, 8.5, 8.42, 16.5, 23.1 3-JDF-1D-08, 4-JCF-2A-21, 4-JCF-3D-04, 07, 4-JCF-6E-07, 3- JDF-3A-31, 3-JDF-3C-09, 4-JCF-3C-16, 4-JFC-3D-01, 04, 07	
Chapter 22: INVESTIGATIONS	Effective Date: 9/13/16	
Subject: INTERNAL INVESTIGATIONS	Scheduled Review Date: 9/13/17	
Attachments: A - Investigation Confidentiality and Privacy Acknowledgement	Replaces: 7/1/15 Investigations APPROVED: <div style="text-align: center;"></div> <hr style="width: 30%; margin: auto;"/> Avery D. Niles, Commissioner	

**I. POLICY:**

Trained, qualified and professional investigators of the Office of Investigations shall conduct administrative and criminal investigations. Employees shall cooperate fully in internal investigations and provide accurate reports of violations of law, policies, and/or conduct by youth and staff.

**II. DEFINITIONS:**

**Administrative Investigation:** An impartial investigation or inquiry conducted at any time deemed necessary, to determine facts and collect evidence in connection with a matter involving good faith and reasonable belief of violation of departmental policies, rules and regulations as well as Federal or State law.

**Contractor:** Non DJJ employee contracted to provide services to DJJ.

**Criminal Investigation:** An investigation of alleged violations of Georgia law committed on DJJ property or involving DJJ programs, employees, or youth supervised by the department.

**DFCS:** Department of Family and Children's Services.

**Employee:** For purposes of this policy only, employee includes individuals employed by DJJ. It does not include contractors, interns and volunteers conducting business with DJJ.

**Garrity Warning:** A legal warning to an employee during the course of an internal investigation, ordering the employee to fully cooperate during the investigation and to provide truthful statements, submit to polygraph examinations, and other chemical testing as directed by the investigator. Employee will also be informed that their statement or evidence gathered may not be used against them in a subsequent criminal proceeding.

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	2 of 8

**Investigator:** An investigator from the Office of Investigations assigned to investigate incidents that involve DJJ staff or youth.

**Miranda Warning:** A legal warning given to an arrested person under criminal investigation before they are interrogated. The warning is given to preserve the admissibility of the arrested person's statements during criminal proceedings. A person who has been taken into custody but was not given a Miranda warning may have any statements or confessions they made excluded as evidence against them in court.

**Other Testing:** Includes, but is not limited to, handwriting analysis, drug screening, and breath/blood alcohol testing.

**Polygraph:** An instrument designed to measure physiological responses of individuals to questions for the purpose of detecting deception or verifying truth of statements. Such an instrument shall, at a minimum, record visually, permanently, and simultaneously a subject's cardiovascular pattern, respiratory pattern, and galvanic skin response.

**Prison Rape Elimination Act (PREA):** A United States federal law that supports the elimination, reduction and prevention of sexual assault and rape within corrections systems. It applies to all federal, state, and local prisons, juvenile facilities, jails, police lock-ups, private facilities, and community settings such as residential facilities.

**Preponderance of Evidence:** The greater weight of evidence required to be presented by the plaintiff (party with the burden of proof) in civil cases, with or without a jury, to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy and not the amount of evidence.

**Substantiated:** The allegation has been established by proof or competent evidence.

**Unfounded:** There is no basis in reason or fact that supports the allegation.

**Unsubstantiated:** There is no proof or competent evidence to prove or verify the allegation.

### III. PROCEDURES:

A. Each employee will report to their supervisor any suspected employee or youth misconduct that may adversely affect a DJJ youth or program. Each supervisor will report to their supervisor any suspected employee or youth misconduct or criminal misconduct.

B. The functions of the Office of Investigations include:

1. Receiving Special Incident Reports and maintaining a database of special incidents (See DJJ 8.5 Special Incident Reports);
2. Prioritizing and assigning incidents to Investigators for investigation;

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	3 of 8

3. Providing ongoing supervision of investigations assigned to Investigators;
  4. Briefing and providing data concerning allegations of sexual abuse/exploitation, child abuse, inappropriate use of force, and other incidents to the Commissioner, Assistant Commissioner, Associate Superintendent, Deputy Commissioners, Division and Office Directors;
  5. At the request of facility/program/office Directors, coordinating investigations of child abuse, sexual abuse/exploitation, and neglect incidents with Department of Family and Children's Services (DFCS);
  6. Providing copies of investigative reports to other law enforcement entities upon request or when required by law;
  7. Filing juvenile complaints and/or criminal warrants when appropriate;
  8. Consulting with DJJ management staff in making a determination of child abuse, sexual abuse/exploitation, child neglect, inappropriate use of force, and/or other significant staff misconduct or mistreatment of youth;
  9. Consulting with Directors and Regional Administrators in making recommendations for preventive and corrective actions; and
  10. Coordinating criminal investigations with local law enforcement officials as necessary. The Director of Investigations will serve as the liaison to the Georgia Bureau of Investigation; and
  11. As the Commissioner deems necessary, additional investigative duties and responsibilities may be assigned.
- C. The Office of Investigations will conduct investigations into the incidents specified in the SIR Codes Guide (see DJJ 8.5, Special Incident Reports).
- D. The Office of Investigations will also investigate any other special incidents as required by Department policy, the Commissioner, Assistant Commissioner, or the Deputy Commissioners.
- E. All employees will cooperate fully in internal investigations authorized by the Department. Such cooperation may include giving verbal and written statements, taking a polygraph examination, and/or submitting to other testing. The accused employee will be advised initially whether the investigation is administrative or criminal in nature.
1. Criminal Investigations (Miranda Warning)
    - a) If the investigation is criminal in nature, the Miranda Warning should be given prior to any questioning.

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	4 of 8

- b) Different versions of the warning exist, but the following is a standard version:

***"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to speak to an attorney, and to have an attorney present during any questioning. If you cannot afford a lawyer, one will be provided for you at government expense."***

- c) No questions will be asked once the subject acknowledges an understanding of the Miranda Warning and requests to speak with an attorney.

2. Administrative Investigations (Garrity Warning)

- a) If the investigation is administrative in nature, the Garrity Warning will be given prior to any questioning.
- b) The subject will be ordered to answer questions with the understanding that nothing discussed should be used in any criminal proceeding.
- c) Investigators will ask questions that are directly, specifically, and narrowly worded to assist with determining the subject's fitness for duty.
- d) Failure to cooperate with the investigation by refusing to answer questions posed during the interview will result in discipline up to and including termination from employment. When conducting an investigation, Investigators may direct DJJ employees below the level of Deputy Commissioner to answer questions related to their conduct or job performance. DJJ employees will cooperate with these investigative efforts.

3. Facility/office Directors will ensure that employees are available for appointments with Investigators.

4. Persons subject to internal investigations shall not in any way retaliate or seek reprisals against youth and staff for cooperating in an investigation and providing requested information.

E. All investigations will be conducted within reasonable timeframes as approved by the Chief or Director of Investigations.

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	5 of 8

- F. The Investigator will prepare the Report of Investigation, (ROI), which will include a summary of all evidence, written statements, and determinations, and will forward a copy of the report to the appropriate Field Supervisor for review and approval. Upon review and determination that ROI and case file is complete and accurate, the Field Supervisor will approve the report. The Field Supervisor will submit the completed case file to the OI administrative staff for final review and approval by the Chief of Investigations.
- G. Once approved by the Chief of Investigations, the OI administrative staff forwards a copy of the ROI to the appropriate Deputy Commissioner or designee for completion of the disposition, based on the findings of the investigation. Upon receipt of the approved disposition back to OI, the OI administrative staff closes the case in the DJJ automated systems and is responsible for filing and maintaining the OI Investigation case files.
- H. The Office of Investigations will maintain the chain of custody of all evidence gathered during the investigation pending completion of the investigation or until the evidence is relinquished to law enforcement officers, if applicable.
- I. The Director of Investigations will request a copy of all criminal investigation reports completed by the Georgia Bureau of Investigation (GBI) involving matters pertaining to DJJ.
- J. For investigations completed by the Office of Investigations, the investigative and disciplinary dispositions concerning the case file will be entered into the Incident Reporting Database by the Office of Investigations administrative staff.
- K. The Office of Investigations will maintain records of all completed investigations in accordance with retention schedules established by the Secretary of State (See DJJ 5.1, Record Management). These records will include:
1. Investigative reports; and
  2. Final adverse action (if a classified employee, the State Personnel Board's initial decision).
- L. In the case of allegations of misconduct or criminal acts by a member of the Office of Investigations, the Commissioner may request that an outside agency, such as the Georgia Bureau of Investigation (GBI), conduct an investigation to determine the facts of the situation and if prosecution is warranted. The Director of Human Resources will recommend any personnel actions that may be necessary because of the investigation after a review of the outside report.
- M. Law Enforcement Referrals:

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	6 of 8

1. The Office of Investigations has authority as sworn officials to investigate all allegations of criminal violations occurring on DJJ property.
2. The Office of Investigations may coordinate its investigative efforts with the appropriate law enforcement agencies (e.g., GBI, local sheriffs, and police departments) as needed.
3. The Director of Investigations will be the official liaison with all outside law enforcement agencies.
4. The Director of Investigations will receive approval from the Commissioner prior to referring any incident to the GBI for Investigation.

N. Training Requirements:

1. Investigators who are conducting criminal investigations will be certified by the Georgia Peace Officers Standards and Training Council as Law Enforcement Officers. All training will be documented in the Training Resource Information System (TRIS).
2. Investigators must receive a minimum of 20 hours of annual training recognized by the Georgia Peace Officers Standards Training Council. Additionally, POST Law Enforcement Certified investigators must pass Firearms Qualification and Use of Deadly Force Training annually.
3. Investigators must receive training in the following topics:
  - a) Criminal Procedures;
  - b) PREA Investigations Training;
  - c) Internal affairs investigations;
  - d) Interviews and interrogations; and
  - e) Fundamentals of Criminal investigations, if the investigator has no previous investigation training.

O. Prison Rape Elimination Act (PREA) (see DJJ 23.1):

1. The Office of Investigations will investigate all allegations of sexual misconduct on DJJ property or in a residential program contracted by DJJ, including third party and anonymous reports.
2. The Investigator will produce a final Report of Investigation within established time frames as approved by the Chief or Director of Investigations.

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	7 of 8

3. If the investigation reveals that a youth has made a false accusation that in good faith, could not have believed to be true, the facility/office may take disciplinary action against the youth through all means available within the agency's disciplinary process (see DJJ 16.5, Disciplinary Reports and Hearings).
  4. Following an investigation into the youth's allegations of sexual misconduct, the Office of Victim's Service shall inform the youth as to whether the allegation was substantiated, unsubstantiated, or unfounded. A summary of the Report of Investigation (ROI) will be provided to the Office of Victim's Services following the administrative review process (See 14.10, Victim's Rights, Services, and Notification).
- P. The nature and content of active investigations is strictly confidential and shall not be discussed with anyone other than the investigator or as authorized by management staff directly involved in the investigation or its process. This policy does not prohibit the employee from reporting alleged wrongdoing to appropriate law enforcement or legal authorities.
- Q. All employees and privatized staff must read and sign the Investigation Confidentiality and Privacy Acknowledgement (Attachment A). The Acknowledgement will be filed in the employee's local personnel file.
- R. The Office of Investigations may record interviews during the investigative process. It is required that all suspect interviews be recorded electronically if possible.
- S. Only the Office of Investigations, Legal Services, and Office of Human Resources are authorized to tape, record, or monitor conversations or meetings occurring in person or otherwise between or among persons employed by the Department of Juvenile.
- T. All pictures, audios, or videos recorded, collected, captured, or stored by an employee during an employee's employment, which are related to any official Department business, are the property of the Department whether the employee utilized departmental equipment or equipment owned by the employee or another person. The employee shall ensure that digital data collected as evidence or digital data that has or may have evidentiary value is treated, collected, stored, and documented as evidence in accordance with chain of custody standards in DJJ 8.42, Crime Scene Preservation. The storing of digital data that was collected as evidence shall not be saved on personally owned digital equipment or in any other manner, once it has been properly saved and logged as evidence.
- U. All pictures, audios or videos recorded, collected captured or stored by an employee during the employee's employment, which are related to any official Department business, shall not be forwarded or provided in any manner to any

Chapter	Subject	Policy #	Page
INVESTIGATIONS	INTERNAL INVESTIGATIONS	22.3	8 of 8

person without the approval of the Director of Investigations, in consultation with the Office of Legal Services.

- V. Personally owned equipment used to collect digital data related to any official Department business may be considered evidence and the equipment or its contents may be inspected, seized, or held as evidence as necessary.

**IV. LOCAL OPERATING PROCEDURES REQUIRED: NO**