



**Department of Juvenile Justice  
Administrative Procedure**

<b>VOL I-1.7-01</b>	<b>Statutory Authority:</b> <a href="#">Title 66</a> and §§ <a href="#">30-138</a> , <a href="#">66-3</a> and <a href="#">66-21</a> of the <a href="#">Code of Virginia</a> ; <a href="#">Prison Rape Elimination Act of 2003</a> , 34 U.S.C. Ch. 303; <a href="#">28 C.F.R. Part 115 PREA</a>
<b>Subject: Personnel Reporting Responsibilities and the Roles, Functions, and Responsibilities of DJJ’s Investigative Units</b>	<b>Regulations:</b> <a href="#">6VAC35-71-70</a> ; <a href="#">6VAC35-71-75</a>
	<b>Other:</b> <a href="#">DHRM Policy 1.60 Standards of Conduct</a> ACA # 4-JCF-3D-01, 4-JCF-3D-04, 4-JCF-3D-07; 4-JCF-3D-09

**I. PURPOSE**

To establish and clarify the responsibilities of the Department of Juvenile Justice (DJJ) when an allegation is made or a complaint is filed alleging a crime was committed or a violation of policy or procedure has occurred by DJJ staff.

**II. SCOPE**

This procedure applies to all positions, including full-time and part-time classified, wage, restricted, and appointed (“at-will”) positions assigned to DJJ as well as all investigations conducted by DJJ’s investigative units, including administrative investigations and investigations of criminal activity affecting DJJ operations.

**III. DEFINITIONS**

*Abuse* – The improper use or treatment of an individual, a corrupt practice or application of policy or procedure that directly or indirectly affects an individual in an unjust manner, or any intentional act that causes physical, mental, or emotional injury to an individual.

*Administrative Investigation* – An investigation conducted by DJJ’s investigative units into an alleged administrative violation, which is a behavior that, if true, could result in discipline under [DHRM Policy 1.60 Standards of Conduct](#) wherein a disciplined employee has an automatic right to challenge said discipline by an independent administrative hearing officer, pursuant to [DHRM’s Grievance Procedure Manual](#).

*Circumstantial Evidence* – Evidence that tends to prove a factual matter by proving other events or circumstances from which the occurrence of the matter at issue can be reasonably inferred.

*Direct Evidence* – Evidence that, if believed, immediately establishes the factual matter to be proved by it, without the need for inferences.

*Fraud* – The deliberate deception to procure unfair or unlawful gain. This includes an array of intentional irregularities and illegal acts performed by persons inside or outside of DJJ.

*Organizational Unit* – Any unit, facility, or office within the Department of Juvenile Justice, such as correctional centers, Court Service Units (CSUs), or units supervised by a manager who reports directly to a deputy director or the Chief Deputy Director. Each organizational work unit is managed by an organizational unit head such as a superintendent, CSU director, or manager.

*Organizational Unit Head* – The person in charge of a juvenile correctional center, CSU, or other organizational unit of the Department.

*Preponderance of Evidence* – The greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge 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 on the amount of evidence.

*Physical Evidence* – Tangible evidence (e.g., weapon, document, visible injury) that is in some way related to the incident that gave rise to the case.

*Rape* – The [\*Prison Rape Elimination Act of 2003, 34 U.S.C. § 30309\*](#) defines rape as “the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will; or not forcibly or against the person’s will, where the victim is incapable of giving consent because of their youth, or their temporary or permanent mental or physical incapacity; or achieved through the exploitation of the fear or threat of physical violence or bodily injury.”

*Substantiated Allegation* – An allegation that was investigated and determined to have occurred.

*Unfounded Allegation* – An allegation that was investigated and determined not to have occurred.

*Unsubstantiated Allegation* – An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

## **Definitions Related to Sexual Abuse**

*Sexual Abuse* includes:

- a. Sexual abuse of a resident by another resident; and
- b. Sexual abuse of a resident by a staff member, contractor, or volunteer. [28 CFR § 115.6]

*Sexual Abuse of a Resident by Another Resident* includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b. Contact between the mouth and the penis, vulva, or anus;
- c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation. [28 CFR § 115.6]

*Sexual Abuse of a Resident by a Staff Member, Contractor, or Volunteer* includes any of the following acts, with or without consent of the resident:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b. Contact between the mouth and the penis, vulva, or anus;
- c. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) through (e) of this section;
- g. Any display by a staff member, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of a resident, and
- h. Voyeurism by a staff member, contractor, or volunteer. [28 CFR § 115.6]

*Sexual Harassment* includes:

- a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and
- b. Any verbal comments or gestures of a sexual nature to a resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

*Voyeurism by a Staff Member, Contractor, or Volunteer* – An invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at a resident who is using a toilet in their cell to perform bodily functions; requiring a resident to expose their buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions. [28 CFR § 115.6]

## **IV. PROCEDURE**

### **A. Personnel Reporting Responsibilities**

1. Reporting Misconduct, Criminal Violations Affecting DJJ Operations, and Other Violations
  - a. All DJJ employees, volunteers, and contractors (“personnel”) shall report any observed or suspected criminal activity affecting DJJ operations and employee misconduct/sexual misconduct, to include violations of statutes, the [Prison Rape Elimination Act of 2003, 34 U.S.C. Ch. 303 \(PREA\)](#), Executive Orders of the Governor, personnel and fiscal policies of the Commonwealth, Board policies and standards, or DJJ procedures and directives in accordance with established procedures. The commonly used reporting procedures are summarized in this procedure.

- b. Allegations of sexual abuse and sexual harassment as defined by the Prison Rape Elimination Act of 2003, 34 U.S.C. § 30309 and 28 CFR Part 115 PREA, including third-party and anonymous reports, as well as retaliation by other residents or staff for reporting sexual abuse or sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents shall be reported in accordance with VOL IV-4.1-1.03 Prison Rape Elimination Act (PREA).
- c. When DJJ personnel become aware of alleged violations:
  - 1) The appropriate DJJ personnel shall report the allegations through the chain of command in accordance with DJJ procedures;
  - 2) As applicable, the organizational unit head or designee immediately gathers information to help establish the facts and circumstances of the alleged violation(s); and
  - 3) The appropriate DJJ personnel shall take immediate action to correct deficiencies with procedures and practices.
- c. DJJ personnel shall report known and/or suspected criminal activity affecting DJJ operations and violations of the DJJ Code of Conduct as required in VOL I-1.2-01 (Staff Code of Conduct), [DHRM Policy 1.60 Standards of Conduct](#), and, as applicable, the *Initiating an Investigation* Section below.
- d. DJJ personnel, while in the performance of their official DJJ duties, who intend on proceeding with a criminal petition and/or criminal warrant involving criminal activity affecting DJJ operations and/or persons that are committed within the JCC shall contact DJJ's investigative units before obtaining any criminal petitions and/or warrants.
- e. DJJ's investigative units, upon being notified by DJJ personnel who intend on proceeding with a criminal petition and/or criminal warrant, shall:
  - 1) Review the facts and circumstances surrounding the reported criminal activity and determine the investigative course or action.
  - 2) Determine which Code of Virginia has been violated in reference to the reported criminal activity.
  - 3) Ensure the elements of the reported criminal activity are in accordance with the Code of Virginia.
  - 4) Assist DJJ personnel in obtaining the criminal petition and/or warrant.
  - 5) Prepare an Investigative Report in accordance with the *Investigative Findings* section below, once the criminal petition and/or warrant has been issued.
- f. Personnel within DJJ's investigative units who have been certified as law enforcement officers by the Department of Criminal Justice Services (DCJS) shall have, by law, the same powers as a sheriff or a law enforcement officer and have the authority to investigate

allegations of criminal conduct and shall have the powers to arrest for violations of laws that affect the operations of DJJ. Such personnel shall also be permitted to carry their work assigned firearms while on duty, except when prohibited in secure residential facilities.

2. Reporting of Waste, Fraud, and Abuse of Government Resources

a. To report suspected waste, fraud, or abuse of government resources, personnel may use any of the following options:

- 1) Notify their supervisor,
- 2) Contact the heads of DJJ's investigative units at [djjinvestigations@djj.virginia.gov](mailto:djjinvestigations@djj.virginia.gov), 804-239-2090, 804-314-5612, 804-892-6357, or
- 3) Anonymously notify the State Waste, Fraud, and Abuse Hotline at 1-800-723-1615 or using one of the other mechanisms listed on the [Office of the State Inspector General's website](#).

b. Examples of fraud include:

- 1) Offering or accepting bribes or kickbacks;
- 2) Embezzlement (e.g., misappropriating money or property and falsifying records to cover up the act, thus making detection difficult);
- 3) Self-dealing that results in the award of state business to an enterprise in which the state employee holds an interest;
- 4) Receiving any benefit from a source other than the Commonwealth for just doing one's job;
- 5) Using insider information for personal gain;
- 6) Accepting anything of value that may reasonably be perceived as tending to influence one in the performance of their official duties;
- 7) Intentionally concealing or misrepresenting events or data; and
- 8) Submitting claims for services or goods not actually provided to DJJ or for reimbursement of expenses not actually incurred.

c. Upon receiving an allegation of theft or fraud or abuse from the Waste, Fraud, and Abuse Hotline, the heads of DJJ's investigative units or designees shall immediately notify the DJJ Director and implement an appropriate plan of action, to include circumstances that would require that notification be made to OSIG and/or VSP, pursuant to § [30-138](#).

d. Personnel who report theft, fraud, abuse, or other misconduct in good faith shall be protected from retaliation.

- e. Generally, allegations of fraud, waste, and abuse will be investigated by OSIG. However, DJJ's investigative units may investigate such matters when specifically authorized by OSIG.

### 3. Reporting Allegations of Child Abuse or Neglect

- a. All DJJ staff are mandated reporters.
- b. In accordance with § [63.2-1509](#), any DJJ staff member who has reason to suspect that a juvenile is an abused or neglected child as defined in § [63.2-100](#), shall file a report with the local department of social services (DSS), unless staff have actual knowledge that the same matter has already been reported to the local department of social services or state hotline (§ [63.2-1509\(E\)](#)).
  - 1) Suspected child abuse or neglect shall be reported by contacting the local department of social services, calling the state Child Protective Services (CPS) Hotline, or submitting non-emergency reports via the online Mandated Reporter Portal VaCPS.
  - 2) The report shall be made as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect.
- c. DJJ staff who have reason to suspect that a juvenile is an abused or neglected child shall forward any communication resulting from the report to DSS, including any information about any actions taken regarding the report, to DJJ's investigative units.
- d. Allegations of abuse or neglect of a resident in the JCC shall also be reported in accordance with VOL IV-4.1-1.01 Incident Reports.
- e. CSU staff shall also report allegations of abuse or neglect in accordance with VOL III-9462 Serious Incident Reporting.
- f. Allegations of sexual abuse against residents under the age of 18, in addition to notifying DSS/CPS, shall be reported to VSP by DJJ's investigative units per current Memoranda of Agreement (MOA).

### B. Initiating an Investigation

- 1. Referrals for investigations should be made using the supervisory chain of command.
  - a. Once the organizational unit head is made aware of a potential situation involving one of the following types of alleged violations, they shall notify DJJ's investigative units, Human Resources (HR), and Compliance and Legal Support via [djjinvestigations@djj.virginia.gov](mailto:djjinvestigations@djj.virginia.gov) as soon as practical but no later than the next business day:
    - i. Criminal;

- ii. Fraud, Waste, or Abuse of Government Resources;
    - iii. Commonwealth Accounting Policies and Procedure (CAPP) Manual violations; or
    - iv. Any other violation where an investigation or referral to an external entity is mandatory.
  - b. If the organizational unit head is made aware of an administrative violation that, should the allegation be true, they will pursue a Formal Written/Group Notice in accordance with [DHRM Policy 1.60 Standards of Conduct](#), they shall notify DJJ's investigative units, HR, and Compliance and Legal Support via [djjinvestigations@djj.virginia.gov](mailto:djjinvestigations@djj.virginia.gov) as soon as practical but no later than the next business day.
  - c. If the alleged violation is not listed in Section IV(B,1,a) above and the organizational unit head does not intend to pursue a Formal Written/Group Notice, DJJ's investigative units do not need to be notified, except as otherwise required (e.g., PREA allegations must be reported in accordance with VOL IV-4.1-1.03 PREA). However, the organizational unit head may still notify HR and Compliance and Legal Support to request guidance and/or assistance.
2. The heads of DJJ's investigative units or their designees shall screen and assign to any Special Agent/Investigator and/or conduct investigations regarding allegations that are reported and/or referred to DJJ's investigative units.
  - a. When DJJ's investigative units receive an allegation, one or more agents shall initiate an investigation as soon as practicable, but no later than two (2) calendar days, including weekends and holidays, after receiving the allegation.
  - b. If the allegation is determined to be better handled by the HR Investigator, DJJ's Special Agent/Investigator shall confidentially transfer the case file and preliminary data and/or findings to the HR Investigator within 48 hours of the determination to conduct the investigation.
  - c. When required by law or as otherwise appropriate to the circumstances, the heads of DJJ's investigative units shall consult with the Virginia State Police (VSP), local law enforcement, respective Commonwealth's Attorney Offices, and/or the Office of the State Inspector General (OSIG) for guidance and resources. Allegations shall be referred to VSP, OSIG, or DJJ HR for investigation, as appropriate.
  - d. If DJJ's investigative units decline to conduct an investigation, the referring staff member shall be notified of the reason and provided with alternatives, if any. The decision may be appealed up the chain of command to the Deputy Director of Policy.
3. DJJ's investigative units shall cooperate with local, state, and federal agencies that are investigating criminal law violations and allegations of employee misconduct in accordance with PREA Standard 115.371.



C. PREA Investigations

All allegations of sexual abuse and sexual harassment as defined by the [Prison Rape Elimination Act of 2003, 34 U.S.C. § 30309](#) and [28 CFR Part 115 PREA](#), including third-party and anonymous reports, shall be reported and investigated in accordance with VOL IV-4.1-1 .03 Prison Rape Elimination Act (PREA).

D. Administrative Investigations Not Related to PREA

1. Administrative investigations shall be documented in a report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
2. Written reports shall be retained in accordance with the Library of Virginia Records Retention Schedule.

E. Criminal Investigations Not Related to PREA

1. DJJ's investigative units shall investigate allegations of criminal behavior affecting DJJ operations in accordance with a written agreement entered into with the Virginia State Police (VSP).
2. Criminal investigations shall be documented in a report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
3. Written reports shall be retained in accordance with the Library of Virginia Records Retention Schedule.

F. Theft/Fraud Investigations

If theft or fraud is alleged, DJJ's investigative units may request appropriate internal or external personnel to assist with identifying weaknesses in financial and operating procedures that led to the loss.

G. Access to Records, Property, and Personnel in the Course of Investigations

1. DJJ's investigative units shall have unrestricted access to all DJJ records and property.
2. The Director of DJJ or designee shall intervene with any disputes regarding the release of information to investigators and their determination shall be final.
3. While in the course of an investigation, DJJ's investigative unit personnel shall not be required to notify or seek approval of DJJ supervisors or management personnel before contacting individual employees and volunteers. However, when notification will not jeopardize the investigation, DJJ's investigative unit personnel shall notify the applicable deputy director that an employee or volunteer has been contacted.



4. During the course of investigations, DJJ's investigative unit personnel shall make every effort not to disrupt staff work routines, particularly when staff are involved in security positions and/or assigned to critical posts.

#### H. Investigative Findings

1. In addition to the findings of fact resulting from the investigation, DJJ's investigative units may recommend improvements of identified weaknesses and may conduct additional reviews to identify similar weaknesses in other areas within DJJ.
2. In general, but especially in situations where staff tell conflicting accounts of events, DJJ's investigative units shall make every effort to discover facts and circumstances that corroborate or dispute witness testimony.
3. DJJ's investigative units shall not make determinations as to whether violations of procedures or policies have or have not occurred. They shall, to the best of their ability, provide a list of procedures relevant to their findings of fact.
4. DJJ's investigative unit staff shall not opine on issues unless they are recognized as subject matter experts by the Compliance and Legal Support Unit. DJJ's investigative units may consult with subject matter experts and report their opinions and findings.
5. DJJ's investigative units shall not recommend disciplinary action or other personnel actions. These recommendations are made by DJJ Human Resources and Compliance and Legal Support staff.
6. DJJ's investigative unit personnel will make referrals to the appropriate Commonwealth's Attorney's office when a criminal investigation confirms theft, fraud, abuse, sexual misconduct, or other serious or illegal misconduct. The individuals who are found to be responsible may be subject to criminal, civil, and/or personnel actions.
7. Investigations involving possible policy, procedure, regulation, and/or criminal conduct shall be processed through the heads of DJJ's investigative units or designees and forwarded for review to the appropriate Deputy Director for notice of action, if applicable. The Deputy Director or designee shall report back any authorized criminal or civil action to the heads of DJJ's investigative units.
8. All investigative reports generated by DJJ's investigative units, excluding background investigation reports, shall be provided to the Director of Compliance and Legal Support or designee immediately upon completion, who shall review said reports as soon as practicable and provide the report and recommendations to the referring supervisor and corresponding Deputy Director.
9. Decisions regarding discipline rest solely with management. However, DJJ HR and Compliance and Legal Support staff shall assist in the review of potential disciplinary actions and provide recommendations to management to ensure compliance with applicable policies and procedures.

10. When designated by statute, regulation and/or Executive Order, the results of an investigation shall be provided to any federal, state, or local agency showing just cause.

I. Reports from Local, Regional, and Contract Programs

The Central Admission and Placement (CAP) Unit Manager shall ensure that DJJ's investigative units receive copies of all serious incidents, including PREA allegations of sexual abuse and sexual harassment reported by local, regional, and contract programs in accordance with standards or contract terms. Although DJJ has no authority over the operation and security of detention homes, any local, regional, or contract program may ask DJJ's investigative units for assistance or advice at any time.

V. RESPONSIBILITY

The heads of DJJ's investigative units and all DJJ organizational unit heads shall be responsible for ensuring this procedure is implemented and followed.

VI. INTERPRETATION

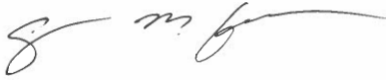
The Deputy Director of Policy or designee shall be responsible for interpreting and granting any exceptions to this procedure.

VII. CONFIDENTIALITY

All procedures and bulletins are DJJ property and shall only be used for legitimate business purposes. Any redistribution of the documents or information contained in the procedures or bulletins shall be in accordance with applicable state and federal statutes and regulations and all other DJJ procedures. Any unauthorized use or distribution may result in disciplinary and or criminal action, as appropriate and applicable.

VIII. REVIEW DATE

This procedure shall remain in effect until rescinded or otherwise modified by the appropriate authority.

<b>Approved by:</b>  _____ Amy M. Floriano, Director	<b>Date:</b> February 13, 2025
<b>Effective Date:</b> February 13, 2025	<b>Office of Primary Responsibility:</b> Deputy Director of Policy; Heads of DJJ's Investigative Units; DJJ Organizational Unit Heads
<b>Supersedes:</b> February 10, 2025	<b>Forms:</b> None.