



<b>INTERNAL MANAGEMENT POLICY &amp; PROCEDURE</b>	<b>SECTION NUMBER</b>  01-181	<b>PAGE NUMBER</b>  1 of 6
	<b>CHAPTER &amp; SUBJECT:</b>  ADMINISTRATION: Investigations and Inquiries	
<b>Approved By:</b>  <i>Teresa Williams</i>  Teresa Williams, Acting Commissioner		<b>Original Date Issued:</b> 10/04/02 <b>Current Amendment Effective:</b> 09/14/12 <b>Replaces Amendment Issued:</b> 10/04/02

**POLICY**

The Juvenile Justice Authority (JJA) shall investigate or conduct an inquiry into all allegations of administrative and criminal violations and allegations of sexual harassment that occur: (1) on the grounds of a juvenile correctional facility; (2) that occur off the grounds of a juvenile correctional facility that involve a juvenile offender that is sentenced to a juvenile correctional facility who is in transport to or from a juvenile correctional facility; and/or (3) that otherwise involve JJA personnel acting in their official capacity. JJA will review the results of such investigations and inquiries, and act upon them in a manner that is prompt, thorough, objective and consistent. JJA will investigate all allegations of criminal behavior, and all allegations of sexual abuse or sexual harassment including third-party and anonymous allegations. Where sexual abuse is alleged, JJA will use investigators who have received special training in sexual abuse investigations involving juvenile victims.

**DEFINITIONS**

Abuse: Any act or failure to act which results in harm or presents imminent risk of harm.

Administrative Investigation or Inquiry: A non-criminal agency investigation or inquiry into an alleged violation of agency policy and procedure.

Adult Protective Services (APS) Report: A report of suspected abuse or neglect of a person 18 years of age or older, pursuant to K.S.A. 39-1443 and amendments thereto.

An Act Which if Committed by an Adult Would be Considered a Crime: A phrase used to describe a criminal act committed by a child.

Child: A person less than 18 years of age.

Crime (criminal): An act or omission defined by law and for which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized. Crimes are classified as felonies, misdemeanors, traffic infractions, and cigarette or tobacco infractions.

Harm (harmed): Includes psychological injury or damage.

Inquiry: The investigation of an incident that does not include: (1) loss or misuse of state property; (2) an alleged violation of the juvenile code or criminal code; or (3) an alleged sexual harassment, that is conducted at the direction of the superintendent/designee or executive staff member.

Neglect: Acts or omissions by a person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm.

Sexual abuse: Any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include: (1) allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material; (2) Sexual abuse of a juvenile offender by another juvenile offender; and (3) Sexual abuse of a juvenile offender by a staff member, contractor, or volunteer.

Sexual abuse of juvenile offender by another juvenile offender: When one or more juvenile offender engages in, or attempts to engage in unwanted sexual contact with another juvenile offender by force, the use of threats, intimidation, unwanted touching, or other actions, and/or communications by one or more juvenile offender aimed at coercing and/or pressuring another juvenile offender into engage in a sexual act, and includes any act prohibited by K.S.A. 21-5501 through K.S.A. 21-5513, that is perpetrated on a juvenile offender, and 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:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) 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.

Sexual abuse of a juvenile offender by a staff member, contractor, or volunteer: includes any act prohibited by K.S.A. 21-5501 through K.S.A. 21-5513, that is perpetrated on a juvenile offender, and any of the following acts, with or without consent of the juvenile offender:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) through (5) of this definition;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a juvenile offender, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Sexual Harassment: Includes: (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one juvenile offender directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to a juvenile offender 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.

Substantiated allegation: An allegation that was investigated and determined by a preponderance of the evidence to have occurred.

Suspected Child Abuse or Neglect in State Institutions (SISI) Report: A report of suspected child abuse or neglect occurring in an institution operated by commissioner of juvenile justice, pursuant to K.S.A. 38-2223 and amendments thereto.

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.

Voyeurism by a staff member, contractor, or volunteer: An invasion of privacy of a juvenile offender by staff for reasons unrelated to official duties, and includes peering at a juvenile offender who is using a toilet in his or her cell to perform bodily functions; requiring a juvenile offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a juvenile offender's naked body or of an inmate performing bodily functions.

## **PROCEDURES**

### **I. Reporting Requirements**

- A. All employees, contract staff, volunteers and juvenile offenders shall be responsible for being alert to and reporting signs of abuse, neglect, sexual abuse, sexual harassment or criminal behavior that might occur, that is occurring or that has occurred at a juvenile correctional facility, or that involves a JJA employee, contract staff, or volunteer working in their official capacity.
- B. Any juvenile offender that has been or has reason to suspect that another juvenile offender has been harmed as a result of physical, mental or emotional abuse or neglect, sexual harassment or sexual abuse, shall immediately notify a point-of-contact line staff member, a designated staff member, or make a confidential report through the use of the Kansas Protection Report Center at 1-800-922-5330.
- C. Any employee, contract staff, or volunteer that has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect, sexual harassment or sexual abuse, shall follow the procedures set forth in IMPP 12-120, Critical Incident Reporting – Juvenile Correctional Facilities and IMPP 07-101, Prevention, Intervention and Reporting Abuse, Neglect, Sexual Abuse and Sexual Harassment.
- D. When any employee, contract staff, or volunteer has reason to suspect that any person at a juvenile correctional facility has committed a crime or an act which if committed by an adult would be considered a crime, the employee, contract staff, or volunteer shall immediately notify an on-duty juvenile corrections officer or JJA special investigator, if that employee, contract staff, or volunteer is not a juvenile corrections officer or JJA special investigator. The juvenile corrections officer or special investigator shall follow the procedures set forth in IMPP 12-114, Crime Scene, Contraband and Physical Evidence Preservation and IMPP 07-101, Prevention, Intervention and Reporting Abuse, Neglect, Sexual Abuse and Sexual Harassment, if applicable.
- E. When any employee, contract staff, or volunteer has reason to suspect that any person at a juvenile correctional facility has engaged in sexual harassment at a juvenile correctional facility, the employee, contract staff, or volunteer shall immediately notify an on-duty juvenile corrections officer or JJA special investigator, if that employee, contract staff, or volunteer is not a juvenile corrections officer or JJA special investigator. The juvenile corrections officer or special investigator shall follow the procedures set forth in IMPP 12-114, Crime Scene, Contraband and Physical Evidence Preservation and IMPP 07-101, Prevention, Intervention and Reporting Abuse, Neglect, Sexual Abuse and Sexual Harassment, if applicable.
- F. Any employee, contract staff, or volunteer that fails to or that refuses to fully cooperate with any investigation or inquiry, or who otherwise takes action to obstruct an investigation or inquiry in any manner, shall be subject to disciplinary action, up to and including dismissal, denial of access to the facility and/or referral for criminal prosecution.
- G. Nothing in this policy shall be construed to prohibit or discourage any person from also notifying local law enforcement of any incident listed in this section.

## **II. Investigations and Inquiries, General Procedures**

- A. All investigations pursuant to this policy shall be conducted only under the supervision of the chief attorney/designee.
- B. All investigations shall be handled in a confidential manner.
- C. JJA has zero tolerance for retaliatory action against anyone who has reported allegations of sexual harassment and/or criminal acts. Retaliatory action against anyone who has reported allegations of sexual harassment and/or criminal acts may be grounds for dismissal or permanent removal from facility grounds.
- D. Any person that intentionally makes or causes to be made a false report of abuse, neglect, sexual abuse, sexual harassment or criminal behavior shall be subject to disciplinary action, removal from the juvenile correctional facility and potential criminal action.
- E. This policy should in no way be construed as to limit the authority of the superintendent or the executive staff to conduct an inquiry into a matter that does not include: (1) the loss or misuse of state property; (2) an alleged violation of the juvenile justice code or criminal code; or (3) an alleged sexual harassment.
  - 1. The superintendent or executive staff member shall assign an appropriate person to conduct the inquiry and that person shall report only to the person who assigned the inquiry.
  - 2. A formal written report of all findings made during the inquiry shall be promptly completed and submitted to the person that assigned the inquiry. All such reports shall be forwarded to the superintendent and shall be maintained by the superintendent.
  - 3. If the inquiry shows that it is more likely than not that a crime was committed, or that a policy or regulation was violated, or that sexual harassment may have occurred, the person who assigned the inquiry shall promptly stop the inquiry, complete a written report of the findings, forward a copy of the report to the superintendent and the chief attorney/designee for review, and the person that conducted the inquiry shall promptly follow the procedures set forth in IMPP 12-120 Critical Incident Reporting – Juvenile Correctional Facilities.

## **III. Investigators**

- A. Investigators shall:
  - 1. Be certified law enforcement officers pursuant to K.S.A. 38-2386, and amendments thereto;
  - 2. Be impartial, fair and professional in all investigations;
  - 3. Be independent and unrestricted in the selection of investigations to be conducted, the scope of investigations to be undertaken, and the selection of evidence to review or examine during an investigation, subject to the supervision of the chief attorney/designee;
  - 4. Have full and unlimited access to records, physical properties, and personnel relevant to the investigation. Records and information given to investigator during the course of an investigation shall be handled in the same prudent and confidential manner as those staff normally responsible for them; and
  - 5. Promptly submit a written report to the chief attorney/designee following the conclusion of each investigation.

**IV. Suspected Child Abuse or Neglect in State Institutions (SISI) Report and Adult Protective Services (APS) Reports**

- A. JJA shall cooperate with the Office of the Kansas Attorney General when investigating SISI and APS reports for incidents allegedly occurring at a juvenile correctional facility. Pursuant to the SISI Investigations Working Policy established by the Kansas Attorney General with the assistance of JJA, when a SISI report or APS report is filed with the Office of the Kansas Attorney General, the report will be forwarded to the JJA chief attorney/designee for review and assignment of an inquiry or investigation.
1. If the case is assigned to a facility for an inquiry, the report shall be forwarded to the facility superintendent/designee via e-mail by central office staff designated by the chief attorney.
    - a. The superintendent/designee shall assign a staff member to conduct the inquiry and prepare an inquiry report within 10 business days of assignment.
    - b. The completed inquiry report shall be forwarded to the central office staff member designated by the chief attorney, who shall forward the report to the chief attorney/designee.
    - c. The chief attorney/designee shall review the inquiry report and make a determination whether:
      - (1) The allegations are substantiated, unsubstantiated or unfounded; and
      - (2) Whether the case needs to be assigned to a JJA special investigator or referred to the Office of the Kansas Attorney General for further investigation.
    - d. The chief attorney/designee shall notify the reporting party via written letter informing the reporting party only whether his/her allegations were substantiated, unsubstantiated or unfounded.
  2. If an investigation is assigned to a JJA special investigator, the investigator shall be notified in writing and a case file shall be generated.
    1. The JJA special investigator shall promptly prepare a written report of all findings and submit the report to the chief attorney/designee for review.
    2. The Office of the Kansas Attorney General shall be promptly notified by the chief attorney/designee whether the allegations were substantiated, unsubstantiated or unfounded.

**V. Requests for Investigations**

- A. A superintendent may request an investigation by forwarding such request in writing to the chief attorney/designee for review.
- B. Any employee of JJA may request an investigation by making such request in writing to his/her immediate supervisor or appointing authority, who shall then submit the written request to the chief attorney/designee for review.
1. If the commissioner or other executive team member is the target of an investigation, the chief attorney/designee shall assign an investigator outside JJA to conduct the investigation.
- C. All other requests for investigations shall be submitted in writing to the chief attorney/designee for review, except that the chief attorney/designee may begin an investigation without a written complaint if the chief attorney/designee believes circumstances made known to the chief attorney/designee warrant an investigation.

- D. Upon receipt of a request for an investigation, the chief attorney/designee shall review the request and determine whether an investigation shall be conducted and the scope of the investigation.
  - 1. It shall be the ultimate decision of the chief attorney/designee as to whether an investigation shall be conducted and the scope of the investigation.
  - 2. Investigations into allegations of sexual abuse or sexual harassment shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

**VI. Legal Division's Responsibilities**

- A. Upon notification of an alleged criminal act, administrative violation or sexual harassment, the chief attorney/designee shall review the complaint/request to determine whether an investigation or inquiry should be conducted, and shall consider whether the matter should be forwarded to local law enforcement or the attorney general.
  - 1. Nothing in this policy shall be construed to prohibit or discourage joint investigations with the special investigator and an outside law enforcement agency.
- B. If the chief attorney/designee determines that it is more likely than not that a crime or an act that if committed by an adult would be considered a crime was committed, the chief attorney/designee shall forward the report to the local county/district attorney pursuant to K.A.R. 123-13-103.

**VII. This IMPP shall serve as final policy for the Juvenile Justice Authority and no Facility Orders shall be allowed on this subject.**

**This policy shall replace the following:**

IMPP 01-181 Investigations  
IMPP 12-110 Crimes Committed at a Juvenile Correctional Facility

**REFERENCES**

K.S.A. 38-2223  
K.S.A. 38-2386  
K.S.A. 39-1443  
K.S.A. 21-5501 through K.S.A. 21-5513  
K.A.R. 123-13-103  
IMPP 07-101  
IMPP 12-114  
IMPP 12-120  
JCF: 4-JCF-3D-04

**ATTACHMENTS**

NONE



## EMPLOYEE STATEMENT OF RECEIPT AND ACKNOWLEDGMENT OF IMPP OR FACILITY ORDER

---

**SUBJECT:**

**IMPP NUMBER:**

**FACILITY ORDER NUMBER:**

**KJCC-EAST**     **KJCC-WEST**     **LJCF**

**TITLE:**

**EFFECTIVE DATE:**

---

I have received one (1) electronic copy of the IMPP or Facility Order as titled above. I acknowledge that I have read and have had the opportunity to ask questions about the policy or Facility Order. I further acknowledge that I understand and agree to comply with the policy or Facility Order.

\_\_\_\_\_  
SIGNATURE (Typing name signifies your signature.)

\_\_\_\_\_  
DATE