

	<b>WEST VIRGINIA DIVISION OF JUVENILE SERVICES</b>	<u>POLICY NUMBER:</u>  	<u>PAGES:</u>  3
<u>CHAPTER:</u> <b>Administration and Management</b>	<u>REFERENCE AND RELATED STANDARDS:</u> <b>WV Code Chapter §49-2-903; Prison Rape Elimination Act (PREA), §§ 115.361, 115.363, 115.372</b>		
<u>SUBJECT:</u> <b>Investigative Unit</b>			
<u>DATE:</u> <b>October 1, 2015</b>			

**PURPOSE**

It is the policy of the West Virginia Division of Juvenile Services to ensure that all alleged violations of division policy are investigated in a thorough, professional, and impartial manner and to take proactive measures in order to ensure the safety and security of all Division of Juvenile Services’ facilities, residents and staff while preserving public safety.

**CANCELLATION**

This policy has been revised and supersedes Policy 111.00 dated October 1, 2013.

**APPLICABILITY**

This Policy applies to all Division of Juvenile Services’ staff, vendors, and volunteers.

**DEFINITIONS**

**Unusual Event:** any occurrence which interrupts the normal operation of any area within the Division of Juvenile Services. This shall include, but is not limited to, escapes, attempted escapes, assaults, attempted assaults.

**PROCEDURE**

1. The Director of the Division of Juvenile Services’ Investigative Unit has the responsibility of supervising the activities of all Division Investigators.
2. All requests for assignment of Division Investigators will be channeled through the Director of the Investigative Unit.
3. Initiation Process for Division Investigations

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- a. All allegations of resident child abuse, sexual abuse, or physical abuse, facility security breach, or criminal activity will be reviewed to determine if an investigation is warranted, regardless of when it occurred.
- b. The Director of the Investigative Unit will make the assignment of an Investigator to handle the investigation.

#### 4. Notification of Outside Law Enforcement Agency

- a. Whenever the Director of the Investigative Unit believes that there is sufficient, credible information that a event of a serious nature that could result in criminal charges-has taken place, notification of the West Virginia State Police shall be made as soon as practical.
- b. **All** sexual assault and sexual abuse allegations will be reported immediately.
- c. The person making the notification shall record the date, time, and name of the law enforcement officer or civilian employee receiving the notification.

#### 5. Investigative Reports

- a. The Investigator shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
- b. Upon completion of the investigation, the Investigator assigned to the case will generate a copy of the report in its entirety and deliver it to the Director of the Investigative Unit, who will then forward it to the Director of the Division.
- c. Information obtained or revealed during any investigation will not result in any retaliatory actions against any reporting employee or reporting resident, unless they are determined to be responsible.

#### 6. Administrative/Garrity Rights Warning

- a. Any Division of Juvenile Services' staff member needing to be questioned in regards to an official investigation will be provided with an Administrative/Garrity Rights Warning Form (Attachment #1).
- b. The staff member will read the Administrative/Garrity Rights or have the Administrative/Garrity Rights read to him/her prior to any questioning.

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- c. The staff member will acknowledge by his/her signature that he/she understands his/her Administrative/Garrity Rights prior to questioning.

7. Employee expectations during an investigation

- a. Cooperate fully with investigators by providing truthful information.
- b. Will not influence or intimidate others during an investigation.
- c. Maintain confidentiality.

8. Professional Decorum

- a. Any questioning, inquiry, or investigation shall take place in a professional manner.
- b. The employee shall receive all common courtesies and due respect during the investigative process.
- c. All investigators in the Investigative Unit will be issued badges, gold in color, titled Investigator.

9. Investigation Review

- a. The Director of the Investigative Unit shall review all investigations that take place.
- b. The Director of the Division of Juvenile Services is the final approving or disapproving authority concerning any investigation that has been conducted.

10. This policy will be adopted in its entirety. No operational procedure will be developed.

**RIGHTS RESERVED**

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

APPROVED:

  
 \_\_\_\_\_  
 Director

10/6/15  
 \_\_\_\_\_  
 Date

STATE OF WEST VIRGINIA  
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY  
DIVISION OF JUVENILE SERVICES

**Administrative/Garrity Rights Warning**

You are advised that you are about to be questioned concerning administrative matters relating to the official business of the West Virginia Division of Juvenile Services. You are entitled to all rights and privileges guaranteed by the Constitution and the laws of the State of West Virginia and of the United States. During the course of this questioning, if you disclose information which indicates that you may be guilty of criminal conduct, neither your self-incriminating statements nor the fruits of any self-incriminating statements you make can or will be used against you in any subsequent criminal proceeding against you. Since this is an administrative matter and any self-incriminating information you may disclose will not be used against you in a court of law, you are required to answer any questions fully and truthfully. Your answers, subsequent evidence, and information may be used against you in relation to Division administrative charges for violations of regulations promulgated by the Division of Juvenile Services, and/or Operational Procedures of the facility. Refusing to answer questions or answering questions untruthfully in relation to any official Division investigation is a violation of West Virginia Division of Juvenile Services Policy 138.00, specifically subsection 2.g., and may result in disciplinary action up to discharge from employment.

**Confidentiality Notice**

You are hereby directed, by order of the Director of the Division of Juvenile Services not to discuss the details of this interview and/or investigation with other employees of the Division of Juvenile Services. Any discussion with any person involved in the investigation or inquiry may be construed as an attempt to influence them. This may be considered a violation of Policy 138.00, specifically subsection 2.g., which states "Refusal to cooperate in any official state inquiry or investigation, including a refusal to answer work related questions; attempting to influence others involved in an inquiry or investigation; and/or providing untruthful or misleading information", and subsection 2.h., which states "Participating in unauthorized discussion regarding an official investigation or inquiry."

By signature below, I acknowledge that I am now a participant in an official investigation being conducted by the West Virginia Division of Juvenile Services. I have read and understand the Rights presented on this form and have had all questions, if any, concerning this form answered fully. I understand that confidentiality is a requirement in this administrative process. I further certify that I will answer all questions presented both truthfully and completely. I make these statements without any belief of threat or intimidation by the investigator(s).

\_\_\_\_\_ I have read the above warnings and I understand each of them.  
*Initial*

\_\_\_\_\_ The above warnings have been read to me by \_\_\_\_\_  
*Initial* and I understand each of them.

Signature: \_\_\_\_\_ Name \_\_\_\_\_ Date \_\_\_\_\_

Witness: \_\_\_\_\_ Name \_\_\_\_\_ Date \_\_\_\_\_