

	<p align="center">JUSTICE CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES</p>	<p>REFERENCES: 505 KAR 1:140</p>
<p>CHAPTER: Detention Services</p>		<p>AUTHORITY: KRS 15A.065</p>
<p>SUBJECT: Complaint Investigations of Secure Juvenile Detention Centers and Juvenile Holding Facilities</p>		
<p>POLICY NUMBER: DJJ 731</p>		
<p>TOTAL PAGES: 7</p>		
<p>DATE ISSUED: July 15, 2005</p>		<p>EFFECTIVE DATE:02/03/06</p>
<p>APPROVAL: Bridget Skaggs Brown</p>		<p>, COMMISSIONER</p>

I. POLICY

The Department of Juvenile Justice shall classify and investigate complaints lodged against detention facilities under the jurisdiction of the Department of Juvenile Justice as well as those entities which operate juvenile facilities governed by the provisions of KRS Chapter 15A.

II. APPLICABILITY

This policy is applicable to all employees of the Department of Juvenile Justice who administer and enforce the provisions of KRS Chapter 15A.

III. DEFINITIONS

As used in this document the following definitions shall apply:

- A. “Administrator” means the person in charge of administering the operation of the secure juvenile detention or holding facility.
- B. “Corrective Plan of Action” means a written response from the administrator stating the facility’s plan to correct all noncompliance items noted on the inspection report.
- C. “Department Order” means an enforceable order issued by the Department of Juvenile Justice directing a facility to comply with standards.
- D. “Detention Complaint” means a formal charge or accusation by a youth or others directed at a detention facility, its staff or operation. A complaint may be classified in one or more of the following categories:

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1. Detention Standard Violation – A complaint that if found to be legitimate would reveal a violation of detention standards.
2. Grievance Complaint – A complaint that is not a violation of Detention Standards or law and could be corrected by using the facility’s grievance procedure.
3. Abuse Complaint—A complaint that alleges physical, sexual, emotional abuse or neglect (also called Special Incidents) in which the health or welfare of a youth is harmed or threatened with harm by a facility staff person. It includes, but is not limited to incidents when a facility staff person:
 - a. Uses inappropriate or excessive force that could result in an injury;
 - b. Engages in any sexual activity to include contacts or interactions which uses or allows, permits or encourages the use of a youth for the sexual gratification of the perpetrator or another person;
 - c. Uses inappropriate consequences such as excessive exercise, harsh physical work, or other physical consequences outside of accepted practices of DJJ;
 - d. Does not provide appropriate supervision, medical care, food, clothing, shelter or education;
 - e. Allows or encourages a youth to engage in illegal activity such as use of drugs or alcohol or gambling;
 - f. Uses humiliating, demeaning, profane or racially charged language and/or gestures directed at a youth;
 - g. Exhibits a pattern of harassing conduct directed at a youth;
 - h. Uses or attempts to use a youth for the staff’s personal gain;
 - i. Accepts a bribe from a youth or indicates that a bribe would be accepted;
 - j. Enters any unlawful transaction with a youth as set forth in KRS 530.064, 530.065 and 530.070;
 - k. Enters a business relationship with a youth;
 - l. Uses verbal threats of harm directed at a youth;

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- m. Extends unearned privileges to a youth in return for something done for staff;
 - n. Uses inappropriate or excessive force which results in an injury.
- E. “Detention Specialist” means a Department employee who serves as a juvenile detention consultant or inspector who administers and enforces the provisions of KRS Chapter 15A.
- F. “Jail” means county jails and correctional or detention facilities, including correctional facilities defined in KRS 600.020 operated by and under the supervision of any political subdivision.
- G. “Juvenile Holding Facility” means a physically secure setting which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified staff to provide twenty-four (24) hour per day supervision.
- H. “Secure Juvenile Detention Facility” means any facility used for the secure detention of youth other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined. Reference KRS 15A.200(4).
- I. Quality Assurance Branch Manager” means the Department of Juvenile Justice Administrator who manages the departmental quality assurance activities.

IV. PROCEDURES

- A. Complaints received by the Department of Juvenile Justice shall be forwarded to the Detention Specialist within the Quality Assurance Branch.
- B. The Detention Specialist shall upon notification of a complaint investigate the complaint as follows:
1. The Detention Specialist shall, upon receipt of a complaint that is a combination of one or more complaint classifications, investigate the complaint by the procedure required for the most serious allegation.
 2. The Detention Specialist shall maintain a record of all complaints received and their outcomes.

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3. The Detention Specialist shall investigate the complaint for violations of applicable laws, standards, and policies. The investigation may be conducted by telephone or by visiting the juvenile detention or juvenile holding facility and interviewing the youth(s), if available, the administrator and other appropriate staff. The Detention Specialist may investigate the complaint by telephone only if the complaint can be thoroughly investigated and all pertinent information obtained.
 4. The Detention Specialist shall review facility records to obtain written documentation available that pertains to the complaint.
 5. Within ten (10) working days of completion of the investigation, the Detention Specialist shall submit a written report including any documentation to the Quality Assurance Branch Manager.
- C. Grievance complaints shall be processed by one or more of the following methods:
1. The Detention Specialist may upon receipt of a grievance complaint, return the complaint to the youth along with a written recommendation to seek relief through the juvenile facility's local grievance procedure.
 2. The Detention Specialist may investigate the complaint by telephone or by visiting the facility and discussing the complaint with the jailer, facility administrator and/or youth.
- D. Abuse Complaint (Special Incident)
1. The Detention Specialist shall notify the Quality Assurance Branch Manager in the event a complaint is received that alleges occurrence of abuse.
 2. Abuse complaints at DJJ operated facilities shall be forwarded by the Detention Specialist to the Justice Cabinet Internal Investigations Unit (IIU) for investigation.
 3. The Quality Assurance Branch Manager shall direct the Detention Specialist to conduct investigation of abuse complaints in non-DJJ operated secure detention facilities or juvenile holding facilities.
 4. The Quality Assurance Branch Manager, upon receipt of a founded abuse investigation shall:
 - a. Consult with the General Counsel;

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- b. Refer the complaint to the Kentucky State Police for investigation if the report suggests there is a potential violation of law;
 - c. Request a report on the results of their investigation; and
 - d. Include the Kentucky State Police report in the Quality Assurance Branch complaint file.
- E. Complaints which appear to be violations of law shall be processed as follows:
 1. The Detention Specialist shall notify the Quality Assurance Branch Manager in the event a complaint is received that could be classified as a violation of law.
 2. The Quality Assurance Branch Manager, upon receipt of a complaint which could be considered a violation of law shall:
 - a. Consult with the General Counsel;
 - b. Refer the complaint to the Kentucky State Police for investigation if the complaint is determined to be a violation of law;
 - c. Request a report on the results of their investigation; and
 - d. Include the Kentucky State Police report in the division of Quality Assurance complaint file.
- F. Completed investigations by the Detention Specialist shall be put in written form and forwarded to the Quality Assurance Branch Manager for disposition, with a copy forwarded to the Director of Program Services. Final Investigative Reports shall contain the following information:
 1. Date, time complaint(s) is received;
 2. Name of person initiating the complaint(s);
 3. Nature of complaint(s);
 4. Narrative explanation of the investigative process:
 - a. Listing of each complaint;
 - b. How each complaint was investigated (facility visit, interviews, record review, etc.).
 5. Related KRS;

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6. Conclusion: if complaint was substantiated and why or if complaint was not substantiated;
 7. Recommended course of action on each substantiated complaint;
 8. Supporting documentation:
 - a. Interviews;
 - b. Facility inspection observations, including pictures if appropriate;
 - c. Facility Policies/Procedures;
 - d. Other relevant information as deemed appropriate;
 9. Date investigation completed;
 10. Name of person completing investigative report.
- G. Upon receipt of the Final Complaint Investigative Report the Quality Assurance Branch Manager shall take the following actions:
1. Review report and if necessary discuss it with the Director of Program Services to clarify any matters.
 2. Prepare draft of letter to facility administrator summarizing results of the complaint investigation. Such letter shall include: areas of compliance and non-compliance with related Kentucky Administrative Regulations; request for submission of a "Corrective Action Plan" addressing areas of non-compliance within thirty (30) calendar days detailing how matters will be resolved and by what date.
 3. Submit letter to the General Counsel for review, suggestions and/or approval as written.
 4. Mail final letter via registered or certified mail to the facility administrator.
 5. The Quality Assurance Branch Manager shall share all investigative reports and corrective action plans regarding Juvenile Holding facilities with the Department of Corrections.
- H. Upon receipt of the Corrective Action Plan from the facility administrator, the Quality Assurance Branch Manager shall:
1. Review the plan to insure it complies with the Corrective Action Plan request.

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2. If the Corrective Action Plan meets desired outcome, a letter shall be prepared confirming such and mailed. A copy shall be attached to the original complaint and kept on file for future reference. A copy shall also be forwarded to the Director of Program Services.
3. If the submitted Corrective Action Plan does not meet the desired outcome, the following action shall take place:
 - a. The matter shall be reviewed with the General Counsel who shall prepare an appropriate second request citing what action shall occur if the Corrective Action Plan is not revised to meet the desired outcome by a specified date. The Quality Assurance Branch Manager shall maintain copy of the request.
 - b. Such letter by the General Counsel shall be issued by registered or certified mail to the facility administrator and the County Attorney with a copy to the Director of Program Services and the Office of the Commissioner.
 - c. The General Counsel and the Quality Assurance Branch Manager, if needed, shall coordinate further action. Copy of letters, legal action, and other related materials shall be kept with the original complaint file.
4. If a Corrective Action Plan is not received, the Quality Assurance Branch Manager shall follow action in H-3.
- I. Communication regarding status of each complaint shall be maintained between the Office of the Commissioner, the Director of Program Services, the Quality Assurance Branch Manager, the Detention Specialist, as needed the General Counsel and the Department of Corrections until the complaint is fully resolved.
- J. The individual initiating the complaint shall be notified in writing of the investigations findings by the Quality Assurance Branch Manager.

V. MONITORING MECHANISM

This activity shall be monitored by the Director of Program Services, the Quality Assurance Branch Manager and the Office of Commissioner or designee.