

STATE OF SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
POLICY AND PROCEDURES

Title:	Investigations	Policy No.:	328	Page(s):	1 of 5
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Originator:	Chief Investigator				
Juvenile Justice Code:	n/a				
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<u>April 18, 2019</u> Effective Date		<u>SIGNED/ <i>Freddie B. Pough</i></u> Freddie B. Pough Director			

POLICY: The South Carolina Department of Juvenile Justice (SCDJJ) will conduct investigations for administrative and criminal matters in compliance with policy and law. The Division of Investigative Services will receive complaints, allegations, and grievances through verbal and written reports from employees, juveniles, volunteers, and others. Each report will be classified as administrative and/or criminal and will be thoroughly investigated and documented. Statistical information will be maintained for review and reference.

PROCEDURAL GUIDELINES:

A. Reporting Process

1. A report from an alleged victim, juvenile, staff member, family member, volunteer, or an event to the Division of Investigative Services can prompt an investigation.
2. A report may be a complaint, allegation, grievance, telephone call, or correspondence.
3. A report will be entered into the Event Report System (ERS), assigned a tracking number, and monitored until closure by the ERS Coordinator.

B. Classification of Event

1. The Investigations Supervisor will review and classify the report based upon the nature and severity of the alleged event. The classification will indicate to which section the allegation will be assigned for investigation. Events may be assigned to the Criminal Investigations Section, Management Review Section, Office of Juvenile and Family Relations, or externally to the appropriate law enforcement agency.
2. Events may be investigated criminally, administratively, or both. Allegations of potential criminal violations involving employees will be completed prior to an administrative inquiry.
3. Significantly serious incidents, as determined by the Inspector General will be reported by the Inspector General to the South Carolina Law Enforcement Division

(SLED) in accordance with the Memorandum of Agreement between SCDJJ and SLED.

C. South Carolina Law Enforcement Division

Upon notification, SLED may assume investigative jurisdiction or elect to work jointly with the Investigations Section. Decisions by SLED whether to undertake an investigation will be made exclusively by SLED. This is also true in the event SLED receives a report from a source other than SCDJJ.

D. Criminal Investigations

1. Allegations serious in nature with potential criminal violations will be assigned to the Criminal Investigations Section for criminal investigation.
2. Investigators will normally interview victims first, followed by possible witnesses, and then any suspects.
3. Investigators will provide suspects with Miranda Warnings prior to questioning them concerning the incident. Suspects may elect not to discuss the incident.
4. Investigators will process crime scenes for potential physical evidence. Evidence collected requiring forensic analysis will be submitted to the SLED Crime Laboratory as soon as possible.
5. Polygraphs can be used as an investigative tool, but suspects cannot be compelled to submit being polygraphed.
6. Investigators will document all investigative activity and findings by preparing a Final Investigative Report that will be reviewed by the Chief of Criminal Investigations and Inspector General prior to submission for judicial review.
7. All completed criminal investigations will be forwarded to the appropriate Magistrate or Solicitor to determine if probable cause exists for criminal charges.
8. Arrest warrants for adult charges will be obtained from the appropriate Magistrate. Upon issue, arrest warrants will be served as expeditiously as possible.
9. Petitions for family court issues will be filed with the appropriate Solicitor's Office.
10. Upon completion of criminal investigations involving employees, the Chief of Criminal Investigations will forward the case to the Quality Control Manager for reassignment to Management Review for an administrative inquiry. All information developed during the criminal investigation may be used to complete the administrative inquiry.

E. Administrative Inquiry

1. The purpose of an administrative inquiry is to determine if policy violations occurred.
2. Statements and information developed during the criminal investigation may be used in the administrative inquiry.
3. If the allegation does not involve criminal activity, but may include policy violations by staff, it will be assigned directly to Management Review without a criminal investigation.
4. The employees involved in an administrative inquiry can be compelled to provide a statement. This statement must be full, complete and truthful. Failure to provide a full, complete and truthful statement will be considered insubordination.
5. At the discretion of the Inspector General, a polygraph examination of the employee may be required.
6. As in the criminal investigation, the victim will be interviewed first if all possible, followed by any witnesses to the event. The subject of the inquiry will be interviewed last.
7. The subject will read, initial and sign the Administrative Inquiry Advisement (Form 328A), which outlines the employee's rights and responsibilities in an administrative inquiry.
8. The subject will be advised that information provided during the administrative inquiry may not be used in any criminal proceeding; therefore, the subject must cooperate and give full and complete information about the incident.
9. If information is received that could lead to possible criminal charges at any time during the course of an administrative inquiry, the Quality Control Manager will stop the inquiry and return the case to the Chief of Criminal Investigations for review and reassignment.
10. Following the administrative inquiry, a report of findings and recommendations will be issued. The Quality Control Manager and the Inspector General will review reports and make a final determination whether any policy violations occurred in the alleged incident.
11. The Administrative Inquiry Report will be forwarded to the Inspector General, with a copy going to the Executive Management Team member having responsibility for the employee.

12. In determining if a case violates policy, the burden of proof is a preponderance of evidence. If it is more likely than not that a violation occurred, then the case is substantiated.
13. All Prison Rape Elimination Act (PREA) administrative investigations will be completed within 45 days. If extenuating circumstances prevent a case from being completed, the investigator must request in writing to the supervisor an extension. The supervisor must approve or disapprove the request in writing (Form 328B, Request for Extension).

F. Management Action

1. Management staff will take employee disciplinary action pending the outcome of the investigation based on the seriousness of the incident. This will be done in conjunction with Human Resources and Legal Counsel, and in compliance with SCDJJ Policy 228, Employee Progressive Discipline.
2. Upon receipt of the Administrative Inquiry Report, management will review the facts and determine any necessary further action. Any corrective action taken by management must be submitted within 15 business days to the Inspector General utilizing 326B, Corrective Action Report.
3. The employee can be disciplined for policy violations up to and including termination without waiting for the court system to dispose of any criminal charges and without compromising the criminal case because management review and a criminal investigation are two (2) separate and distinct processes.

G. Confidentiality and Release of Information

1. All information concerning criminal investigations or administrative inquiries is confidential and will not be released, unless otherwise determined by the Inspector General.
2. The Office of Juvenile and Family Relations will serve as the liaison between SCDJJ and parents/guardians of juveniles involved in investigations for those parents/guardians desiring to be informed on the process and result of an investigation.

H. Records

1. File cabinets containing investigation/inquiry records will be maintained by the ERS Coordinator, will be clearly marked CONFIDENTIAL, and secured. Anyone seeking to enter a confidential file cabinet without proper authorization will be subject to disciplinary action /criminal action.
2. Access to the records is limited to: the SCDJJ Director; Legal Counsel; Inspector General; Chief of Investigations; Quality Control Manager; Investigators and

Camera Surveillance Officer assigned to the case; OIG Administrative Assistants; and the ERS Coordinator.

3. Investigative records will be maintained for 7 years and then destroyed.

RELATED FORMS AND ATTACHMENTS:

Form 328A, Administrative Inquiry Advisement (I-3.5A)

Form 328B, Request for Extension (I-3.5 B)

Form 326B, Corrective Action Report (I-3.2B)

REFERENCED POLICIES:

228, Progressive Employee Discipline (B-3.15)

SCOPE:

This policy applies to all employees, volunteers, juveniles, offices, and locations of SCDJJ.

STANDARD OPERATING PROCEDURES:

Not Required.

TRAINING REQUIREMENT:

All employees are required to review this policy within 30 calendar days of its publication.

UPDATED:

June 10, 2019, Corrected form number

February 19, 2019, New policy and form numbers

September 14, 2018, Agency and policy reorganization