

Juvenile Court Policy 1800

Approved by: **Bonnie Bush, Administrator**

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INTERNAL INVESTIGATIONS POLICY AND PROCEDURES

1800.1 PURPOSE: Spokane County Juvenile Court Services Managers, Supervisor or designees promptly and thoroughly investigate all complaints or notifications of possible wrongdoing.

Written findings and recommendations are submitted to the Juvenile Court Administrator.

1800.2 APPLICATION:

The investigation is to be accomplished with thoroughness, integrity, fairness, impartiality and respect.

1800.3 TYPES :

1800.3.1 Categories and Responsibility

Investigations for Detention or Probation are handled using the same procedures

1800.3.2 Dissemination

Confidentiality will be respected, but disclosure may be necessary due to grievance hearings, court procedures, Union information requests and public disclosure requests.

1800.04 DEFINITIONS:

- **Miranda** is a warning or rights read in the event of a custodial interview by law enforcement. A suspect has a 5th Amendment right not to incriminate him or herself if they are in a situation where they are in custody and being interrogated, they must be made aware of that right.
- **Garrity** is a shorthand term used to recognize a series of court decisions that ruled public employees have a right not to criminally incriminate themselves with statements made during an internal administrative interview. If the employee's misconduct potentially involved a criminal matter, the employee must be provided immunity from the use of any statements in a subsequent criminal prosecution that the employee is forced to make under threat of insubordination/termination. Investigators faced with this scenario should consult with the County prosecutor before proceeding with the interview.
- **Weingarten Rights** are statutory rights an employee has to Union Representation if the employee reasonably fears that discipline or termination

may result from a meeting with a supervisor. Do not forget to review labor agreements which often have similar right imbedded in the contract creating contractual rights. Typically this right is claimed by the employee asking that he/she requests a Union representative be p[resent before a meeting with Management. It is good practice to afford the employee this right because if a Union Representative is denied, statements made during the meeting will likely be inadmissible in any subsequent hearing.

1800.5 PROCESS:

When a complaint is received, the Manager or designee will:

- Protect the safety of the complainant;
- Gather the facts;
- Determine the merits of the complaint;
- Comply with legal obligations;
- Maintain confidentiality to the greatest extent possible;
- Determine if placing staff on Administrative Paid Leave status during the course of investigation is deemed necessary.
- Preserve the reputation of the individuals and agency to the greatest extent possible;
- Recommend and take proper remedial action.

Note: If staff conduct is potentially criminal in nature inform the Juvenile Court Administrator and contact the Spokane Police Department. It is important to coordinate the criminal case with the administrative case.

If the allegations are not criminal in nature, the investigator will identify key witnesses. The investigator should generally interview the complainant first, accused next, then witnesses. The investigation should reflect a chronology of events and, at minimum, include:

- Review of applicable agency policies, including how they are communicated to youth and employees;
- Summary of the complaint;
- List of names and identities of all relevant witnesses with notes on their background and relationship to complainant and accused;
- Employment information of the complainant, the accused and key witnesses;
- Specific information for each identified incident (who, what, where, when, how, why);
- Identity of other possible witnesses, new leads and new documents;
- A conflict check to resolve conflicting witness accounts without identifying the witness; and
- Potentially related claims and relevant information.

Investigators may seek assistance from the Spokane County Human Resources Department and other resources as directed by the Court Administrator. The investigator may receive requests from the Union for information during the course of

the investigation. **Investigators DO NOT RELEASE any information without the express consent of the Court Administrator.**

How to Conduct Interviews

- The investigator should begin every interview with a brief introduction that includes the reason for the interview and a directive that the employee witness must respond to questions and tell the truth. Failure to do so will be considered insubordination and will be grounds for discipline up to and including termination.
- The Investigator should have a witness present to take notes and corroborate evidence.
- The investigator must maintain an air of confidentiality without making a direct promise. The investigator must stress to those interviewed that the information provided will only be shared with others (management, counsel, union representative) on a need to know basis. This assurance of limited confidentiality may not apply if a court compels disclosure.
- The investigator remains neutral and never appears to "take sides". If the witness becomes emotional, take a break. Focus on the prepared interview outline when the interview goes off track. The investigator must instill trust while controlling the interview.
- The complainant is usually the first to be interviewed. In incidents of harassment, discrimination and possible retaliation, the employer has a duty to protect the safety of the complainant. In all workplace complaints, the employer must focus on its legal obligations and ensure compliance with agency and County policies. The complainant is informed of the Court's duty to protect them from any form of retaliation.
- The accused is likely to be one of the next people to be interviewed. It is natural for a person who has been accused of misconduct to behave in a defensive manner. The investigator must inform and assure due process regarding the Court's legal obligation to conduct a thorough and impartial investigation. This includes offering Union representation to the accused.
- When Juvenile Court staff are the accused, the investigator should assure the staff that the court is conducting its investigation in a manner that will prevent damage to reputation by handling the investigation as confidentially as possible, and gathering the facts before making any decisions. This is the time to reiterate internal and county wide policies, zero tolerance policies and to advise that if found to have committed offense at issue, the accused is subject to discipline up

to and including termination, as well as possible criminal charges.

- If an employee has reasonable belief that discipline or discharge may result from what s/he says, the employee has Weingarten rights; the right to request Union representation. An employee must state to the employer that he/she wants a Union representative present. The investigator has (3) options:
 1. Grant the request and delay the interview until the Union representative arrives and has a chance to consult privately with the employee: or
 2. Deny the request and end the interview immediately; or
 3. Give the employee a choice of a) having the interview without representation or b) ending the interview.
- **It is often advisable to have a Union Representative schedule during the interview so Weingarten rights do not become an issue.**

Investigative Recommendations

After all the evidence has been gathered and interviews conducted, the investigator must evaluate and make a determination as to the merits of the complaint. A written summary of the event, including complainant, accused and witness statements, is sent to the Juvenile Court Administrator.

If the allegations are verified, decisions regarding disciplinary and remedial action will reflect consideration of the following information/circumstances:

- The seriousness and frequency of the conduct;
- The employment record;
- The victim's overall record (if a youth);
- The discipline imposed for other prior cases regarding similar violations of court or county policies; and
- A review of documented prior progressive discipline.

PREA related complaints will be submitted to the Detention Manager.

Reports of sexual misconduct, sexual contact, sexual abuse and sexual harassment shall be conducted by an investigator who has experience and training in investigation and appropriate and effective interview techniques

For administrative investigations, Spokane County Juvenile Court staff cannot enforce any higher than a preponderance of evidence to determine substantiation of sexual abuse allegations.

1. The Detention Manager will consult with the prosecutor prior to conducting compelled interviews. (Note: The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined solely by the person's status as a resident or staff. A resident alleging sexual abuse will not

be required to submit to a polygraph examination as a condition for proceeding with the investigation of an allegation.)

- a) Reports to Law Enforcement if administrative investigation determines any laws may have been violated; and
 - b) Documents referrals of sexual abuse and sexual harassment determines any laws may have been violated.
 - c) The Detention Manager will place accused staff on Administrative Paid Leave status during the course of the investigation of a sexual assault.
2. If these allegations are found to be substantiated, the following may occur:
- a) Individualized disciplinary action for residents who engage in sexual abuse; and coordination/counseling will be required as a condition of access to rewards based behavior but not as a condition to general programming or education.
 - b) Corrective action up to and including termination for staff who engage in sexual abuse; and
 - c) Staff will be prohibited from contact with residents.

Victims of sexual abuse are offered no-cost access to forensic medical examinations where evidentiary or medically appropriate. The agency will make available a victim advocate from a rape crisis center. **Please refer to Detention Youth Safety Guide and Detention Policy #12.2** for further information

1800.6 STORAGE AND RETENTION AND DESTRUCTION

Retention will be for 10 years and the original investigation will be stored in Administration under the direction of the Juvenile Court Administrator.