

**JUSTICE AND PUBLIC SAFETY CABINET**  
**Internal Investigations Branch**  
**(Amended After Comments)**

**500 KAR 13:020. Internal Investigations Branch.**

RELATES TO: KRS 15A.020

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 authorizes the Secretary to promulgate administrative regulations for the proper administration of the Cabinet and its programs. This administrative regulation establishes the procedures for investigations by the Internal Investigations Branch, Office of Legal Services.

Section 1. Definitions.

- (1) "Disability" is defined in 42 U.S.C.A. § 12102(1).
- (2) "Excessive physical contact" means physical contact used or applied by an alleged offender against a juvenile that results in or creates a substantial risk of serious physical injury as defined by KRS 500.080(17) or death.
- (3) "Facility" means a group home, day treatment, residential treatment, youth development center, a detention center, any other entity or location for juvenile care operated by or contracted with the Department of Juvenile Justice for the placement of juveniles, or any entity housing a juvenile placed by or committed to the Department of Juvenile Justice.
- (4) "Findings" means that once an investigation is completed, an incident, whether a serious incident or special incident, will be classified as being resolved under one of the following categories:
  - (a) "Exonerated" means the incident occurred, but the offender's actions were not improper, not excessive, or were otherwise reasonable under the circumstances.
  - (b) "Not Substantiated" means, based on a preponderance of the evidence, there is insufficient evidence to determine if an incident occurred.
  - (c) "Pending further investigation" means a critical witness or offender cannot be located or refuses to cooperate with the initial investigation, or there is other interference with the investigation, beyond the control of IIB, that prevents IIB from making a final determination for its finding.
  - (d) "Substantiated" means an incident occurred, the actions of the offender were not justified, and the incident is proven by either the admission of the offender or by a preponderance of the evidence.
  - (e) "Unfounded" means the allegations against the offender are false because the incident did not occur; or the offender was not involved in the incident.
- (5) "Inappropriate physical contact" means physical contact used or applied by an offender against a juvenile that has resulted or could result in physical injury as defined by KRS 500.080(15).
- (6) "Internal Investigations Branch" or "IIB" means the investigation unit that is part of the Office of Legal Services within the Justice and Public Safety Cabinet.
- (7) "Initiation" means any action by the Internal Investigations Branch intended to ensure the immediate safety of the victim or to obtain evidence or information relevant to the investigation.
- (8) "Juvenile" means a person who is under the custody, control, or supervision of the Department of Juvenile Justice as a result of a court order or interstate supervision.
- (9) "Offender" means a person:
  - (a) Who is employed at, volunteers in, visits, or contracts with a facility; and
  - (b) Against whom an allegation of a special incident has been made.

(10) "Serious incident" means an act or omission committed by an offender that creates an imminent and substantial risk to, or actually causes harm to the health, safety, or welfare of a juvenile, including:

- (a) The use of excessive physical contact that results in injury or could have resulted in injury to a juvenile;
- (b) Inappropriate physical contact that results in an injury or could have resulted in an injury to a juvenile;
- (c) Sexual activity by an offender on, against, involving, or in the presence of a juvenile, including any contact or interaction, that uses, permits, disregards, or encourages the use or exploitation of a juvenile for the sexual gratification of the offender or another person;
- (d) Permitting, inducing, assisting, or causing a juvenile to engage in:
  - 1. An offense enumerated in KRS 530.064, 530.065, or 530.070; or
  - 2. Other illegal activity.

(11) "Special incident" means an act or omission committed by an offender that creates a risk to, or actually causes harm to the health, safety, or welfare of a juvenile, including:

- (a) Failure to provide appropriate supervision, medical care, food, clothing, shelter, or education;
- (b) Use of inappropriate consequences, such as exercise, harsh physical labor, or other physical consequences as punishment in violation of accepted practices in accordance with 505 KAR Chapter 1 and DJJ Policies and Procedures;
- (c) Harassing a juvenile;
- (d) Actual or attempted use by an offender of a juvenile for the offender's or any other person's personal gain or self-interest;
- (e) Accepting or soliciting a bribe or other quid pro quo from a juvenile or their family or indicating to a juvenile or their family that the offender will accept a bribe or other quid pro quo;
- (f) Use of humiliating, demeaning, profane, racially charged, or sexually explicit language directed at a juvenile or use of any language that discriminates against a juvenile based on a juvenile's status regarding race, color, religion or creed, national origin or ancestry, sex, gender, pregnancy, sexual orientation, gender identity, or disability;
- (g) Use by an offender of threats or otherwise communicating or indicating to a juvenile that by, either act or omission, an offender will cause or permit another person to physically harm that juvenile; or
- (h) Extending, offering, or agreeing to extend or offer any unearned special privileges to a juvenile in exchange for any money, tangible property, intangible property, services, or any other value paid, delivered, or agreed to be delivered to the offender or any other person by a juvenile.

## Section 2. Receiving a Report.

(1) The Internal Investigations Branch shall accept reports alleging facts that may be serious or special incidents.

- (a) A toll-free number shall be made available to report an incident, which shall be answered by IIB during normal business hours, 8:00 a.m. to 4:30 p.m. Eastern Time, Monday to Friday.
- (b) A voice mailbox system on the toll-free number shall be available for reporting an incident after normal business hours. IIB shall assign an individual on a rotating basis to check the messages after normal business hours. IIB shall take action immediately if the safety of a juvenile is involved. Otherwise, IIB shall take action on the call the next business day.

(2) Anonymous reports that give sufficient information, including the name of the alleged offender and victim, date and time of the alleged conduct, name of the facility, and nature of the alleged conduct, shall be accepted.

(3) Referrals from any other source that give sufficient information, including the name of the alleged offender and victim, date and time of the alleged conduct, name of the facility, and nature of the alleged conduct, shall be accepted.

(4) If IIB needs additional information to determine whether further investigation is warranted, it shall conduct a preliminary inquiry.

### Section 3. Investigation of Reports of Serious Incidents and Special Incidents.

(1) If IIB receives a report of a serious incident, IIB shall conduct a preliminary inquiry or open an investigation.

(2) If IIB receives a report of a special incident, IIB may conduct a preliminary inquiry, an investigation, or forward the complaint to the Department of Juvenile Justice or another appropriate authority for an investigation.

(3) IIB may investigate a report or allegation at the request of the commissioner of the Department of Juvenile Justice, the commissioner's designee, the secretary of the Justice and Public Safety Cabinet, or the secretary's designee.

(4) A report or allegation not investigated by IIB may be referred to another appropriate individual or agency.

### Section 4. Time Frames for Investigating Reports of Suspected Serious or Special Incidents. Following the receipt of the report, IIB shall complete an intake, and either open a preliminary inquiry or investigation or refer the report in accordance with Section 3 of this administrative regulation. IIB preliminary inquiries and investigations shall be conducted according to the time frames established in this section.

(1) If the report indicates a juvenile is in imminent danger of physical harm or injury, the preliminary inquiry or investigation shall be initiated immediately including ensuring the safety of the alleged victim and any other juvenile with whom the offender may have contact and the retention of evidence. Personal contact shall be made with the victim within twenty-four (24) hours, if possible. If the report indicates that the victim is no longer in a facility, the investigation shall be initiated within forty-eight (48) hours and every effort made to have personal contact with the victim within three (3) workdays.

(2) If evidence is obtained which warrants further investigation, an investigation shall be initiated.

(3) If the report does not indicate imminent danger of physical harm or injury, the preliminary inquiry or investigation shall be initiated within twenty-four (24) hours and personal contact made with the victim within seventy-two (72) hours.

(4) Unsuccessful efforts to make personal contact shall be documented in the investigative file.

(5) Any deviation from the time frames shall require supervisory approval and be documented in the investigative file.

(6) The time shall begin when the report is received by IIB staff.

### Section 5. Investigation. The investigation of an allegation or report shall include the following:

(1) A completed intake;

(2) Report of any special incidents as required by KRS 620.030 and 620.040;

(3) The Commissioner of the Department of Juvenile Justice or designee shall be notified of the report;

(4) Interviews with the following:

(a) The victim, who shall be interviewed privately, outside the presence of the offender, with no more than two (2) persons present in addition to the victim and IIB

- investigator;
- (b) The alleged offender; and
- (c) Appropriate witnesses;
- (5) A review of documentation relevant to the incident; and
- (6) Obtaining and preserving appropriate evidence.

Section 6. Determining the Validity of the Report. The investigator shall:

- (1) Complete a written report within thirty (30) days of receipt of the allegation, unless there are extenuating circumstances that are documented, such as law enforcement action, court proceedings, or investigator workload issues. The report shall contain:
  - (a) The information gathered during the investigation; and
  - (b) A finding regarding the allegation as exonerated, pending further investigation, substantiated, not substantiated, or unfounded;
- (2) Submit the report through supervisory channels within IIB and the Office of Legal Services for the Justice and Public Safety Cabinet for review and approval;
- (3) Forward all completed investigations to the Commissioner of the Department of Juvenile Justice or the commissioner's designee;
- (4) Forward all completed investigations of substantiated special incidents that may involve abuse or neglect of a child, in accordance with KRS 620.030 to the:
  - (a) Cabinet for Health and Family Services; and
  - (b) Local commonwealth or county attorney, law enforcement, or the Kentucky State Police with the exception of all documents and evidence that are protected under *Garrity v. New Jersey*, 385 U.S. 493 (1967).

*KERRY HARVEY, Secretary*

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