

Travis County Juvenile Probation Department Administrative Services	Policy Number AS-901		Pages 1 of 9		
Chapter: Abuse and Neglect Prevention and Response	Related Standards / Policies: TJJD: 341.15 343.208 343.412 343.493 343.606 343.620 343.675 344.620 345.310 348.106 348.134 348.136 355.232 355.234 355.400 37 TAC 358 ACA: 3-JDF-1C-05-1 3-JDF-1D-09 3-JDF-3D-06 3-JDF-3D-06-1 3-JDF-3D-06-2 3-JDF-3D-06-9 3-JDF-3D-06-10 3-JCRF-1C-04 3-JCRF-1D-10 3-JCRF-3D-04 3-JCRF-3D-05 3-JCRF-3D-04-1 3-JCRF-3D-04-9 3-JCRF-3D-04-10 3-JCRF-4C-27 4-JCF-3A-02 4-JCF-3D-01 4-JCF-3D-07 4-JCF-6D-06 2-7032-1 2-7111 2-7133-1 DSHS: 448.201 448.203 448.213 448.214 448.217 448.218 448.506 448.603 448.701 448.703 448.705 PREA: 115.311 115.322 115.331 115.333 115.351 115.353 115.354 115.361 115.363 115.376				
Subject: Reporting of Child Abuse, Neglect, and Exploitation					

I. POLICY

Staff with cause to believe a juvenile is a victim of abuse, neglect or exploitation shall immediately report such allegations as required by law, standards, and Department policy. The Department has a zero tolerance policy towards all forms of abuse, neglect and exploitation, to include sexual abuse and sexual harassment.

II. DEFINITIONS

- A. **Abuse and neglect:** Conduct as defined in Texas Family Code, Section 261.
- B. **Staff:** A person hired to a position in the Department or an intern, volunteer, contracted program services staff or other individuals working under the auspices of the Department.
- C. **Exploitation:** A staff member's illegal or improper use of a juvenile or the resources of a juvenile, to include those held by a juvenile's family and acquaintances, for monetary or personal benefit, profit, or gain.
- D. **Juvenile:** A person who is under the jurisdiction of the juvenile court, confined in a juvenile justice facility, or participating in a juvenile justice program administered or operated under the authority of the juvenile board.
- E. **Juvenile Justice Facility:** A residential facility administered or certified by a juvenile board.
- F. **Juvenile Justice Program:** A non-residential program, including a juvenile justice alternative education program (JJAEP), administered by a juvenile probation department or under contract with a juvenile board.

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G. **Sexual Abuse**: Conduct committed by an employee, volunteer, or other individual working under the auspices of a facility or program against a juvenile that includes sexual abuse by contact or sexual abuse by non-contact and as defined in 28 C.F.R Part 115. A juvenile, regardless of age, may not consent to sexualized contact under any circumstances.

H. **Sexual Abuse by Contact**: Any physical contact with a juvenile that includes:

- a. contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b. contact between the mouth and the penis, vulva, or anus;
- c. contact between the mouth and any body part with the intent to abuse, arouse, or gratify sexual desire;
- d. penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire;
- e. any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire; and
- f. any attempt to engage in the activities described in subparagraphs (1) – (5) of this paragraph.

I. **Sexual Abuse by Non-Contact**: Any sexual behavior, conduct, harassment, or actions other than those defined as sexual abuse by contact, which are exhibited, performed, or simulated in the presence of a juvenile or with reckless disregard for the presence of a juvenile, including but not limited to:

- a. any threat or request for a juvenile to engage in the activities described in sexual abuse by contact;
- b. any display of uncovered genitalia, buttocks, or breasts in the presence of a juvenile;
- c. voyeurism, which means an invasion of privacy of a juvenile for reasons unrelated to official duties, such as peering at a juvenile who is using a toilet to perform bodily functions; requiring a juvenile to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a juvenile's naked body or of a juvenile performing bodily functions; and

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d. sexual harassment, which includes repeated verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

J. **Sexual Harassment**: Conduct as defined in 28 C.F.R. Part 115, Section 115.6 and sexual abuse by non-contact.

III. PROCEDURES

A. **Requirements for all allegations**: Upon observing or learning that a juvenile may be a victim of physical, mental, emotional or sexual abuse, neglect, exploitation, or sexual harassment (ANE), the staff will take immediate steps to report the allegation.

1. Allegations will be accepted verbally or in writing from juveniles, parents / guardians, a third party or a private or anonymous source.

a. Any juvenile wishing to make a report of abuse will be granted access to the necessary tools to make those reports. Resources may include, but are not limited to:

1. grievances or paper to document the complaint;
2. writing utensils;
3. reasonable access to confidential contact with attorneys and designated representatives of attorneys through telephone, uncensored letters and personal visits; and
4. access to oversight agencies, such as TJJD and DSHS, by phone or uncensored letters.

b. Any juvenile wishing to make a verbal report of abuse may tell any staff member without having to submit it to the subject of the complaint.

2. After notifying the appropriate supervisory personnel, the staff member shall make the required notifications and reports. The staff member will provide the appropriate notification to the relevant agency or investigatory authority using that agency's required reporting system or format.

3. The staff member will document pertinent information regarding the allegation on a Department serious incident report. Required notifications and / or due diligence efforts to notify appropriate individuals or agencies will be included in the report.

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4. In accordance with Texas Family Code 261.101, the duty to report cannot be delegated to another person.
 - a. The staff member who is the first person of knowledge shall report the information immediately, but no later than being relieved of duty on the same date he or she receives the information.
 - b. The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, to include an attorney, a member of the clergy, a medical practitioner, a social worker, or a mental health professional.
5. All original documents will be forwarded to the Division Director (Director) or designee.
6. Staff members and supervisors shall ensure that the reports are made according to the mandated time frames.
7. The staff member will maintain confidentiality of all reports and notifications.
 - a. Pertinent information will only be disclosed if needed to make treatment, investigation, and other security and management decisions.
 - b. The staff member's information may be disclosed for Department administrative investigations and / or criminal investigations.
 - c. The information may be conveyed to the Court, juvenile's attorney and/or the juvenile's probation officer on a need-to-know basis.

B. For ANE allegations in the home: For incidents alleged to have been committed by the person responsible for the child's care, custody or welfare, the staff member will file a report as soon as possible, but no later than 24 hours of first learning of the incident. The staff member will:

1. file a report with the Texas Department of Family and Protective Services (TDFPS) using their hotline or online reporting system;
2. notify the law enforcement agency having investigation jurisdiction of the allegation; and
3. document the pertinent details of the allegation and corresponding notifications on the corresponding division's serious incident report.

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C. For ANE allegations at a Travis County Juvenile Probation Department facility or program: If the incident occurred in a Department facility or program, reports are made to the operating, licensing, certifying, or registering agency and / or the agency responsible for regulation or oversight of the facility or program where the incident is alleged to have occurred.

1. The staff will notify the law enforcement agency having criminal investigation jurisdiction of the allegation, which includes Travis County Sherriff's Department at the main campus and Austin Police Department and / or AISD Police Department at satellite office and program space.
2. The Texas Juvenile Justice Department (TJJJ) must be contacted regarding incidents alleged to have occurred at the Department.
 - a. The staff will follow the guidance of the Department supervisor in reporting information within the required time frames.
 1. For the following incidents, call local law enforcement within one (1) hour and TJJJ within four (4) hours:
 - a. Serious physical abuse as defined in 37 TAC 358;
 - b. Sexual abuse by contact and sexual abuse by non-contact; and / or
 - c. Death, to include suicide and non-custodial death defined in 37 TAC 358.
 2. Report the following ANE allegations to TJJJ within 24 hours:
 - a. Emotional abuse;
 - b. Verbal abuse;
 - c. Exploitation;
 - d. Medical or Supervisory Neglect; and
 - e. Physical Abuse.
 3. Report the following serious incidents (as defined by 37 TAC 358) to TJJJ within 24 hours:
 - a. Youth on youth physical assault;
 - b. Youth sexual conduct;
 - c. Escape or escape from furlough
 - d. Attempted escape;
 - e. Attempted suicide; and

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- f. Reportable injury.
4. If the staff member calls the abuse hotline to make the initial report, he or she will submit a *TJJD Incident Report Form* within 24 hours of the call. Information provided to the call center must include:
 - a. Date the alleged abuse, neglect, exploitation, death, or serious incident occurred;
 - b. Type of allegation or serious incident;
 - c. Name of the alleged victim;
 - d. Name of the person of interest, if applicable;
 - e. Reporter's name and phone number; and
 - f. Names of the facility or program in which the incident occurred.
- b. The staff member will complete all elements of and submit the *TJJD Incident Report Form* by email or fax. The elements of *TJJD Incident Report Form* will include:
 1. reporter's information;
 2. location of alleged incident;
 3. law enforcement notification as applicable;
 4. details of the serious incident or allegation of abuse, neglect, exploitation or a death;
 5. notification of parent / guardian or the CPS caseworker if the juvenile is under the guardianship of the child welfare system; and
 6. a description of the incident.
- c. Copies of all reports will be forwarded to the Division Director (Director) or designee.
3. For allegations of ANE that occurred in the Residential units licensed by the Texas Department of State Health Services (DSHS) or the Day Enrichment Program, the staff member will report the information to DSHS as well as TJJD. The staff member will report the information to DSHS by:
 - a. notifying DSHS by phone or using the online reporting system within 24 hours of learning of the incident;
 - b. documenting the details of the allegation and the corresponding reporting information from DSHS on a Department serious incident report; and

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- c. forwarding copies of all reports to the Director or designee.
 - 4. If an ANE allegation is received from an anonymous source, TJJD, or any outside agency or entity, the staff member receiving the information will follow the steps outlined in C (1-3) of this policy to make the required notifications and reports.
 - 5. Within 72 hours of learning of the allegation, the Chief or designee will communicate the Department’s report to the Chief Juvenile Probation Officer or governing body of a department that placed the juvenile in a Travis County facility, program or on interim or permanent supervision.
 - 6. The Chief or designee will make the appropriate notifications of allegations of sexual abuse or sexual harassment.
 - a. If the court retains jurisdiction over the juvenile, the juvenile’s attorney or other legal representative will be contacted within 14 days of the receipt of the allegation.
 - b. Efforts of due diligence will be documented if the Chief or designee is unable to make contact.
- D. For ANE allegations occurring at a non-Department facility:** If the incident occurred in an outside facility or program, reports are made to the operating, licensing, certifying, or registering agency and / or the agency responsible for regulation or oversight of the facility or program where the incident is alleged to have occurred.
- 1. For incidents alleged to have occurred in a residential facility or program licensed by TDFPS, the staff member will report the information by:
 - a. notifying TDFPS by phone or using the online reporting system within 24 hours of learning of the incident;
 - b. documenting the details of the allegation and the corresponding reporting information from TDFPS on a serious incident report; and
 - c. forwarding copies of all reports to the Director or designee.
 - 2. For incidents alleged to have occurred in a residential facility or program licensed by the Texas Department of State Health Services (TDSHS), the staff member will report the information by:
 - a. notifying TDSHS by phone or using the online reporting system within 24 hours of learning of the incident;

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- b. documenting the details of the allegation and the corresponding reporting information from TDSHS on a serious incident report; and
 - c. forwarding copies of all reports to the Director or designee.
- 3. For incidents alleged to have occurred in a residential facility or program registered by TJJD, the staff member will report the information by:
 - a. reporting the information to TJJD online or by phone using the same procedures as outlined in section C 2 of this policy; and
 - b. forwarding copies of all reports to the Director or designee.
- 4. For incidents alleged to have occurred in a facility operated by TJJD, the staff member will within 24 hours:
 - a. reporting the information to TJJD online or by phone; and
 - b. forwarding copies of all reports to the Director or designee.
- 5. For incidents alleged to have occurred in locations or circumstances not described above, the staff member should notify the law enforcement agency having investigation jurisdiction of the allegation or the agency responsible for the certification or licensing of the program.
- 6. The supervisor shall ensure all allegations are documented and all completed reports will be forwarded to the Director or designee.
- 7. The Director or designee will review the information and forward copies to the Assistant Chief and Chief Juvenile Probation Officer (Chief) as warranted.
- 8. A copy of the report(s) may be placed in the juvenile's case folder as approved by the aforementioned personnel.
- 9. The staff member will complete other reports or forms as requested by the Chief or designee.
- 10. Within 72 hours of learning of the ANE allegation, the Chief or designee will communicate the Department's report to:
 - a. the Chief Juvenile Probation Officer and / or governing body of the jurisdiction where the allegation is alleged to have occurred; and
 - b. TDFPS or TJJD when either have conservatorship.

E. Required postings:

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1. Signs reflecting the Department's zero tolerance policy concerning the abuse of juveniles shall be prominently displayed in public areas as determined by the Chief or designee. Signs will include methods for juveniles to have unimpeded access to report allegations directly to TJJD.
2. In programs licensed by DSHS, the Department shall post a legible copy of the following documents in a prominent public location that is readily available to clients, visitors, and staff:
 - a. the Client Bill of Rights;
 - b. the TDSHS's current poster on reporting complaints and violations; and
 - c. The client grievance procedure.
3. These documents shall be displayed in English and in Spanish.

F. **Required training:** All Department personnel shall be trained annually on procedures for reporting abuse, neglect and exploitation.

G. **Reporting requirement:** Failure to adhere to the reporting requirements as described in this policy may result in disciplinary action up to and including termination.

H. Disciplinary sanctions for staff that engage in abuse, neglect and exploitation will be in accordance with AS-214: *Disciplinary Procedures*.

Effective date: January 5, 1998	Approved by: <i>Estela P. Medina</i>
	_____ Chief Juvenile Probation Officer
Revised date: February 19, 2016	