

BUREAU OF JUVENILE JUSTICE SERVICES
POLICY AND PROCEDURE

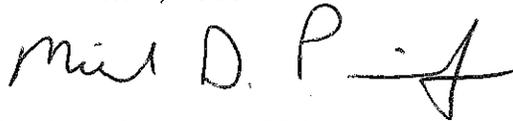
Title: Management of Investigations

Manual Section: Program Management

Manual Number: 1.09B

Effective Date: March 4, 2013

Approved By:



Supersedes Policy Number: 1.09A

Date: July 6, 2010

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Attachments: Appendix A: BJJS Investigation Checklist
Appendix B: BJJS Witness Statement
Appendix C: Investigative Report Format
Appendix D: Investigative Report Example
Appendix E: Written Letter of Pre-Disciplinary Conference
Appendix F: Unsubstantiated Allegation/Complaint Employee Notification Letter

Authority:

The authority of the Bureau of Juvenile Justice Services (BJJS) to issue this policy and procedure is given by Article VII of the Public Welfare Code, Act of 1967, P.L. 31, No. 21, the Juvenile Act, 42 Pa.C.S. Sections 6301 et seq, and the Prison Rape Elimination Act of 2003 (PREA) Juvenile Facility Standards.

Applicability:

Youth Development Center/Youth Forestry Camp (YDC/YFC) system and contracted programs under the jurisdiction of BJJS.

Rationale:

To provide a uniform system of investigation for alleged incidents or acts, which ensure an immediate and thorough analysis of available evidence, facts and circumstances.

Definitions:

Administrative Investigation – A non-criminal investigation conducted by the Bureau of Juvenile Justice services to determine agency policy or procedure violations.

Automated Intake and Incident Reporting System (AIIRS) – An electronic management information system that captures data related to residents and incidents involving residents, employees and facilities.

BJJS Director – A director who has oversight responsibility for the Bureau of Juvenile Justice Services.

Complaint – A communication, either written or verbal, that alleges or implies non-compliance with standards and/or administrative/program regulations, or that alleges harmful or unprofessional practices.

Criminal Investigation – Investigation conducted by state or local law enforcement agencies.

Designating Entity – The director or designee/Labor Relation Coordinator who assigns a management employee to conduct an investigation.

Employee – A person employed by the Commonwealth of Pennsylvania, who is assigned to a YDC/YFC facility, BJJS or an education provider.

Evidence – A means by which an alleged matter of fact is established or disproved through an investigation. Evidence includes testimony of witnesses, records, documents, objects, relevant facts and information and other probative items or matters.

Facility Manager – A Youth Development Counselor Manager or an individual within the organizational hierarchy who represents an equal level of authority and is directly reportable to the Facility Program Director .

Facility Program Director – An employee who has oversight responsibility of a youth forestry camp, one or more areas of a secure treatment facility, or one or more areas of a youth development center.

First Responder – The first employee who arrives on the scene of an incident.

Investigation – A searching inquiry to ascertain facts. Steps taken by assigned staff to obtain evidence that supports or disputes allegations of misconduct.

Investigator – A person employed or contracted by DPW who has been officially charged to conduct the investigation.

Labor Relations Coordinator (LRC) – A DPW employee, assigned to BJJS, who specializes in employee relations and development.

Perpetrator – A person who has committed an act of misconduct, offense, or crime.

Resident – A person committed by court order and placed in a facility under the jurisdiction of the Bureau of Juvenile Justice Services.

Resident Abuse – An act by an employee toward, or with a resident, that does not have as its legitimate goal the healthful, proper and humane care and treatment of the resident, any act or omission that reasonably may cause or causes physical or emotional harm or injury to a resident or deprives a resident of his or her rights, as defined by DPW, or any non-action, which results in emotional or physical injury to a resident.

Subject of the Report – Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator named in a report made to DPW or a county children and youth agency under 23Pa. C.S. 6303.

Target – Person(s) whose act(s) or omission(s) was alleged by the victim or witness; or seems, by evidence gathered, to have most probably caused or contributed to the incident or act being investigated.

Policy:

All identified incidents or acts in violation of Federal or State laws, DPW, BJJS or of agency regulations or policies and procedures, involving a YDC/YFC resident, employee or an agency under the jurisdiction of BJJS, shall be reviewed through analysis of available evidence, facts and circumstances to determine the appropriate level of response.

The Bureau will conduct investigations promptly, thoroughly and objectively; and where reasonable evidence exists shall be referred to Law Enforcement Agencies for criminal investigation.

Procedure:

A. Pre-Investigation Process

1. The following incidents or acts require investigation:

a. Resident/Employee/Visitor death

All deaths will be reported and investigated when involving a resident during his/her commitment to the facility, an employee while performing Commonwealth business, or a visitor while on facility grounds, or any of the above during a facility sponsored activity as per Policy 1.02A Reporting Deaths.

b. Any alleged act of child/resident abuse

Refer to Policy 1.06A Reporting & Investigating Alleged Child/Resident Abuse for further information and reporting requirements.

c. Major disturbance

Three or more youth involved in the same incident, that is in violation of institutional rules and subject to disciplinary action, which could include room confinement or the filing of criminal charges.

d. Incidents involving visitor/volunteer(s)

Alleged violation(s) by a visitor/volunteer(s) regarding any Federal or State laws, DPW, BJJS or facility regulations or policies and or any unexpected, serious occurrence or situation of injury or illness requiring immediate action by a visitor, volunteer, employee or outside licensed health care professional.

e. Illness or injury/resident (requiring outside medical/psychiatric intervention)

Unexpected, serious occurrence or situation of injury or illness requiring immediate action by an outside licensed health care professional.

f. Employee misconduct

Alleged violations of any Federal or State laws DPW, BJJS or agency regulations or policies and procedures that could rise to the level of disciplinary action.

g. Inappropriate sexual behavior by a resident

Any sexual behavior between individuals, consensual or otherwise, including, but not limited to, vaginal/anal penetration, oral sex, direct skin-to-skin touching of sexual organs or intimate body parts.

h. Inappropriate sexual behavior by an employee

Any sexual behavior, comments and/or gestures by an employee.

i. Employee conduct related to sexual abuse or harassment

Actions that contributed to the sexual abuse or sexual harassment of a resident *different from actually facilitating the abuse*

j. Employee possessing contraband

Any employee found to have money in excess of \$100, implements of escape, undeclared nonprescription or prescription medication, drug paraphernalia, alcohol, other intoxicants, poisons, weapons, unauthorized cameras, unauthorized personal communication devices, recording devices, food in quantities larger than for reasonable personal consumption during that shift unless specifically approved by the facility director or designee, as well as any other item which could reasonably pose a danger to the residents, employees, visitors of the YDC/YFC system and the community.

Additionally, any items introduced or found in the facility that are expressly prohibited by those legally charged with the responsibility for the administration and/or operation of the facility. This may include, but is not limited to, improperly possessed drugs (whether legal or illegal) and weapons

k. Theft

The taking of another's property without right or permission.

l. Fire

Any unplanned occurrence of fire regardless of whether the Fire Department was contacted.

m. Police/Fire Department involvement

Any occurrence or event in which the police or fire department is involved.

n. Lost or damaged Commonwealth property

Any loss or damage to Commonwealth owned and/or leased property, in excess of \$500.00.

o. Suicide attempt

A deliberate action by a resident intended to cause his/her own death.

p. Self-injurious behavior

The physically harming of one's own body in an attempt to relieve emotional pain. It is a physical act done to oneself, by oneself, without the intent of suicide, though death may unintentionally result from self-inflicted injury.

q. Completed suicide

A suicide attempt, resulting in death.

r. Absence without leave (AWOL)

A resident is considered AWOL if they have eluded supervision for 15 minutes or they have gone beyond the physical boundaries of the perimeter fence or facility boundaries without permission.

s. Any director within BJJS shall maintain the right to initiate an administrative investigation for any alleged act, which violates policy, regulation or procedure. This includes any suspicion or probable cause of an alleged act that may affect the residents, the facility and/or may have the potential for media involvement.

2. Dual agency involvement: When an alleged act of child abuse, sexual abuse/harassment or a violation of the PA Crimes Code or Motor Vehicle Code is alleged, the following applies:

a. The county Children and Youth Agency is the primary agency responsible to investigate reports of alleged child abuse in agencies operated by DPW.

b. A BJJS internal investigation is not in lieu of the Children and Youth agency investigation and is conducted to determine adherence to policies and procedures.

- c. Pennsylvania State Police (PSP)/Local Law Enforcement Investigations – When PSP or local law enforcement is conducting an investigation, an internal facility investigation may only commence after the Facility Program Director /designee provides notification to, and receives approval from the PSP or local law enforcement entity.
 - d. A BJJS internal investigation shall collaborate with and not impede any external investigation.
3. Reporting incidents or acts requiring investigation:
- a. When an employee observes or has reason to suspect an incident or act requiring an investigation has occurred, the employee shall:
 - 1.) Immediately notify their supervisor.
 - 2.) Document the incident or act in the AIIRS by the end of the shift.
 - 3.) If alleged incident or act involves their immediate supervisor, the employee will notify next higher-level supervisor in the chain of command or another supervisory staff prior to documenting in AIIRS.
 - b. Upon notification of an incident or act requiring investigation, the employee receiving the allegation shall notify their immediate supervisor who will subsequently notify the next level in the chain of command regarding the alleged complaint.
 - c. The Facility Program Director or designee shall notify the Labor Relations Coordinator (LRC) before commencing any formal investigation.
 - d. Incident or act involving death, suicide attempt, major disturbance, AWOL, community incident and/or fire requires immediate notification by the regional, complex or Facility Program Director or designee to the BJJS Bureau Director or designee.
 - e. Any alleged incident or act requiring investigation that involves a YDC manager, Facility Program Director, Complex Director, or Regional Director, requires the immediate notification by the Facility Program Director, Regional Director or LRC to the BJJS Director or designee.
4. Assigning the investigation:
- a. Upon receiving notification of an alleged infraction, a designated entity shall immediately contact the LRC to collaborate in the assignment of an investigator to investigate the alleged complaint.

- b. Any incident, act or allegation requiring investigation involving a YDC/YFC manager, Facility Program Director, Complex Director or Regional Director requires the assignment of an investigator by the BJJS Director or designee.
5. Initial investigative action steps:
- a. An employee will immediately notify their supervisor of an alleged infraction. The person who has been notified, in collaboration with the LRC, shall assess the following issues to determine appropriate action:
 1. Ensure the target(s) shall have no direct contact with the alleged victim(s); implement a documented safety plan to ensure the safety of the victim and/or reporter and to preserve the integrity of the investigation.
 2. Based upon available information and the perceived severity level of the incident and, at the discretion of management, the target may also be denied direct contact with all residents and/or be suspended pending the outcome of the investigation.
 3. If the incident occurred within a time period that still allows for the collection of physical evidence, the first responder shall take all reasonable actions, to preserve and protect the site of the incident until appropriate steps can be taken to collect the evidence.
 - In cases of sexual abuse, the alleged victim(s) shall be instructed not to take any actions that could destroy physical evidence (showering, defecating, urinating, changing clothes, etc)
 4. Take photographs, with a date stamp if possible, of the site of the incident and of the alleged victim, if applicable, as soon as possible and before the area is compromised. Insert a ruler into the photograph being taken, to indicate the size of the injury. In cases of sexual abuse, no photographs will be taken of anyone's genital areas.
 5. Ensure all employees, including supervisory/management employees, who have witnessed or have knowledge concerning the incident, complete an AIIRS report. These reports must be written prior to the employee going off duty. When necessary, management employees are to direct employees on duty to remain beyond their scheduled shifts to facilitate and accommodate the investigation of the incident.
 6. In the event that the director/designee suspects that a violation of either the Pennsylvania Crimes Code or Motor Vehicle Code has occurred, the PSP/local law enforcement shall be notified.

7. Upon receiving the investigative assignment from the designated entity, the investigator shall commence the investigation by consulting with the LRC to be certain of what, if any; preliminary steps may have already been initiated or completed prior to assignment.
 - 1.) The investigator shall use the BJJS Investigator Checklist (Appendix A) to guide and document the investigative process.
 - 2.) The BJJS Investigator Checklist shall be used throughout the investigation to ensure the investigation is completed in a timely, orderly and comprehensive manner.
 - 3.) The BJJS Investigator Checklist shall be used as a reference document for the submission of requested updates to management, and shall be permanently maintained with the final investigative written report.

Note – Investigations may lead to legal action; therefore, be advised that the investigation report, working papers and internal documents related to the investigation, may be the subject of “discovery” and subpoenas can be issued as part of the legal process.

B. Investigative Goal and Process

1. The investigator’s primary responsibility is to collect facts and information to determine the manner in which the incident or act occurred. This responsibility is achieved through the proper collection and use of evidence.
 - a. The investigator will collect all evidence.
 - b. The order of collection will vary according to the circumstances but generally will proceed in the following order:
 - 1.) Physical Evidence – Is collected and preserved because it is volatile and subject to rapid change.
 - 2.) Testimony – Must be collected while memories are clear and before opportunities for contamination, collusion, distortion and/or confusion occur.
 - 3.) Documentary – Is least susceptible to deterioration or change and its collection can generally be deferred until after physical evidence and testimony have been gathered.

c. Based on preliminary data available, it should be possible to establish the witness categories listed below. Generally, this is also the preferred order in which to conduct interviews.

- 1.) The Reporter: The person who reported the incident or act.
- 2.) The Victim: The person injured and/or abused.
- 3.) Direct Observer(s): Person(s) present at the time that may or may not have played a role in the action.
- 4.) Others: Person(s) who may have relevant information about the case.
- 5.) The Target: Person(s) whose act(s) or omission(s) was alleged by the victim or witness; or seems, by evidence gathered, to have most probably caused or contributed to the incident or act being investigated.

2. A resident involved in an incident as either a reporter, direct observer, target, witness or victim may request and have provided an advocate during investigative interviews.
3. A witness who is covered by a collective bargaining unit may request appropriate union representation at the interview. Contact the LRC for assistance with scheduling the interview as the need arises.

Since this is an internal personnel action, legal representation is not permitted during the interview process.

4. Select an interview site that is conducive to private discussion and a relaxed, atmosphere. Maintain the privacy of the interview.
5. There are three formats to use for exploring a witness' knowledge of an incident:
 - a. Free Narrative – The witness' description, in his/her own words, of what occurred. This format is a preferred method.
 - b. Direct Examination – A series of specific questions that assist the witness in relating his or her account in an orderly, logical and complete fashion. This format, in conjunction with the free narrative format, is a preferred method.
 - c. Cross Examination – A series of questions designed to test the conviction, reliability and veracity of the witness' account. This format will depend on the investigator's preliminary conclusions about what the witness has reported. Collaboration with the LRC is strongly recommended prior to using this method.

6. The Witness Statement (Appendix B) records the witness' observations and actions with respect to the incident or act being investigated (as told to the investigator) and is required by DPW. The Witness Statement should accomplish the following objectives:
 - a. Allows the witness to review and affirm, in the report, the details of their account.
 - b. It should aid the investigator in summarizing and understanding facts and circumstances told by the witness.
 - c. It may be used in a subsequent administrative or criminal proceeding to refresh the witness' recollection, to establish the circumstances of the investigation and/or to prevent a witness from recanting his/her account of the incident.
7. Whenever possible, the statement should be written by the witness and signed immediately upon completion by the witness and the investigator. If the witness is unable to write the statement, or requests that the investigator do so, the investigator must take care to ensure that no editing of the statement occurs and that it is written in the first person.
8. If a witness refuses to sign the statement, it is appropriate to ask why. Indicate on the last page of the statement that you were unable to obtain a signature, to include any reason given for the refusal. In the case of an employee who refuses to sign a statement, immediately notify the LRC of their refusal to sign and ask for further instruction.
9. All coordination with law enforcement during the administrative investigation shall be facilitated by the Regional Director, or designee, or the Labor Relations Coordinator (LRC).

B. Investigation Written Report

1. It is the responsibility of the assigned investigator to prepare a comprehensive written report using the Investigation Report Format (Appendix C), to be submitted to the LRC within 24 hours after completion of the investigation and by the LRC's assigned completion date. The Investigation Report Example (Appendix D) may be used to assist the investigator in maintaining format standards and consistency.

2. The final investigation report is the compilation of facts gathered during the investigation, and must contain only objective, factual information that is technically correct and accurate. The presentation of the findings in the report should:
 - a. Identify all available evidence.
 - b. Provide a basis for informed management decisions and actions.
3. Upon receiving the investigation report, the LRC shall review the report and request any additional information that may be needed from the assigned investigator. The LRC will assign a new completion deadline to receive any additional requested information.
4. Investigation reports and associated records shall be retained for a period of ten years, unless otherwise required by Commonwealth or Federal Law.

C. Post Investigation Process

1. The LRC, upon receiving the final report from the assigned investigator, shall review the findings with the Facility Program Director, Complex Director, Regional Director and Bureau Director or designee as appropriate, to determine if the allegations are substantiated or unsubstantiated and determine an appropriate, course of action.

The evidentiary standard used in determining whether an allegation is either substantiated or unsubstantiated will be no higher than a preponderance of the evidence.

- a. If an allegation against an employee is substantiated and a disciplinary response is determined to be the appropriate response, the LRC shall prepare the "Written Letter of Pre-Disciplinary Conference" (Appendix E), assign a supervisory level employee of a higher pay grade of the target to schedule and conduct the Pre-Disciplinary Conference.
- b. If an allegation against an employee is unsubstantiated, The LRC shall notify the regional, complex and Facility Program Director, the target's program manager and supervisor, and the target of such finding through the use of the Unsubstantiated Allegation/Complaint Employee Notification (Appendix F).

- c. Residents reporting allegations of sexual abuse or sexual harassment in a facility shall be notified as to whether the allegation was deemed substantiated, unsubstantiated, or unfounded. If the allegation was referred to a law enforcement agency for investigation, BJJS will make reasonable attempts to request information about the final disposition of the case in order to provide the resident with notification.

In addition, the resident shall be informed if the abuser has been indicted or convicted on a charge relating to sexual abuse within the facility, and if the abuser was an employee that the employee is no longer posted within the resident's unit or is no longer employed by the facility.

Such reporting to the resident shall be facilitated by the Facility Program Director or designee.

2. Employee(s) assigned investigative responsibilities shall not be a part of any resultant disciplinary process.
3. The final investigation report and all supportive documentation shall be kept on file as required by DPW and BJJS record retention standards.

Related Policies and Supporting Documents:

- BJJS Policy 1.02: Reporting Deaths
- BJJS Policy 1.03: Automated Intake and Incident Reporting System (AIIRS)
- BJJS Policy 1.06: Reporting & investigating Alleged Child/Resident Abuse
- BJJS Policy 1.08: Employee Conduct with Residents &/or Former Residents

Child Protective Services Act, Act of November 20, 1975 (P.L. 438, No. 124)
Department of Public Welfare Personnel Manual Section 7178: Patient/Resident Abuse

Department of Public Welfare Personnel Manual Section 7170.1: Code of Conduct

Department of Public Welfare Personnel Manual Section 7174: Employee Discipline for Misconduct

Department of Public Welfare Personnel Manual Section 7175: Union Management Relations

Department of Public Welfare Administrative Manual 7084: Incident Management

DPW Management Directive 505.30 : Prohibition of Sexual Harassment in Commonwealth Work Setting

Executive Order 2002.4 : Prohibition of Sexual Harassment

DPW Policy Statement : April 2012 : Prohibition of Sexual Harassment

Bureau of Juvenile Justice Services

Appendix A

Investigation Checklist

ACTION	COMPLETED	FOLLOW-UP NEEDED	COMMENTS
1. Initial Data			
Date & Time of Incident:			
Date & Time Notified:			
Date & Time Investigation Begun			
2. Area			
Secured Photographs/ Drawings			
3. Client/Patient/Student			
Name & Case #			
Medical Examination			
Photographs of Injury			
Statement Profile			
4. Witnesses			
Names			
Sequestered			
Statements			

BJJS Investigator Checklist
(Continued)

ACTION	COMPLETED	FOLLOW-UP NEEDED	COMMENTS
5. History: Individual/ Population			
Previous injuries - client			
Previous injuries - area			
Previous abuse - client			
6. Physical Evidence			
Area Searched			
Evidence Bagged			
Evidence Labeled			
Evidence Described			
7. Client/Patient Records			
Treatment Plan Reviewed			
Clinical Record Reviewed			
RN Log Reviewed			
Area Log Reviewed			
Psychiatric Eval. Reviewed			

BJJS Investigator Checklist
(Continued)

ACTION	COMPLETED	FOLLOW-UP NEEDED	COMMENTS
8. Notification			
Facility Program Director			
Regional Coordinator			
State Police			
Director in Charge			
Childline			
Family			
Other			
Labor Relations			
9. Accused			
Interviewed			
Statement			
Advised of Charges			
Union Representation			
Work History			

BJJS Investigator Checklist

(Continued)

ACTION	COMPLETED	FOLLOW-UP NEEDED	COMMENTS
10. <i>Additional Documents</i>			
Work Schedules			
Break Schedules			
Program Schedules			
Security reports			
File Notes			
Police Reports			
11. <i>Statements Reviewed for Conflicts</i>			
12. <i>Consider Additional Action</i>			

D

WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Commonwealth business and will be considered for all purposes, including actions under the statutes of this Commonwealth, just as though it had been sworn or affirmed before a court of law or formal arbitration panel.

Signature and Date

Interviewer's signature and date

Typist's signature and date

BJJS INVESTIGATIVE REPORT WRITING FORMAT

When writing a final report, the product should provide any reader with an understanding of the case without having to refer to other documents.

When writing the report, divide the material into three major sections containing the following types of information: Introduction, Investigative Procedure, and Summary of the Evidence.

I. Introduction

- A. When was the investigation assigned? (Date/Time)
- B. Who assigned it? (Name/Title)
- C. What is the specific allegation, as reported to you?
- D. How was the allegation brought to the attention of the administration?
- E. Include reference to names, places and times if those items were known at the time of the assignment.

II. Investigative Procedure

- A. When was the investigation started? (Date/Time)
- B. Did you visit the area? If so, what the arrival time? If you did not visit the area, why not?
- C. If you visited the area, with whom did you speak, when you first arrived? (Name/Title/Date/Time) What was the topic of the conversation?
- D. With whom else did you speak? (Name/Title/Date/Time) Why? What Did you speak about?
- E. Answer the following questions with respect to collection of each form of evidence.
 - 1. Physical Evidence:
 - a. Was there a scene to secure? (Date/Time/Location)
 - b. How was the scene secured? Describe in detail.

- c. What physical evidence was collected? List each item. (Date/Time)
- d. Describe the manner in which the evidence was collected and logged.
- e. Where was evidence kept once it was collected? Identify any individual(s) who had access to that location.

2. Demonstrative Evidence:

- a. Did you take pictures of the location? (Date/Time/Size)
- b. What kind of camera did you use?
- c. Make a list of each picture you took.
- d. How were the pictures labeled?
- e. Did you make a diagram? If so, identify each area included in the diagram.
- f. Did you collect any other demonstrative evidence? (Maps, X-rays, etc.) If so, identify.

3. Testimonial Evidence:

- a. Make a list of each person you interviewed in chronological order. Include the person's name, title, date, time and place of the interview.
- b. If any person was re-interviewed, identify who and why.
- c. How did you decide who to interview?
- d. At the time of the interviews, was any person identified as a target? If so, who? (Name/Title)
- e. Did any witnesses request union representation? If so, who attended and for which union.

4. Documentary Evidence:

- a. From which witnesses did you obtain statements? If you did not get a statement from any of the witnesses, explain why not.

- b. List in chronological order the statements you did obtain.
(Name/Title/Date/Time)
- c. What other documentary evidence did you collect? Make a list by name of document. For example, "progress notes." Include date of material, how it was collected and when it was collected.

III. Summary of the Evidence

- A. Make a list of each of the questions you must answer by virtue of the investigation. These questions will be related to allegation(s) listed in the introduction. For example, if the initial allegation is as follows:

"At 11:00 a.m. on June 12th the resident claims that Joe Frank hit him with a set of keys and told him that he should move out of his way."

The questions you must answer are then:

1. Did Joe Frank hit the resident with a set of keys at approximately 11:00 a.m. on June 12th?
2. Did Joe Frank tell the resident to "move out of his way" on June 12th?

- B. For each of the questions, first summarize the information, which constitutes Direct Evidence in the case. Categorize information according to the four forms:

1. Testimonial
2. Documentary
3. Physical
4. Demonstrative

In the case of Directive Evidence, most of the information will be Testimonial.

- C. When summarizing the evidence, you may group information given from a variety of people to the extent it is similar. For example, you may say:

"Present in the dayroom at the time of the incident was two staff persons and two residents. Jill, a resident and Ray, an aide, both

claim that they saw Joe hit the resident with the keys, which they claim were in Joe's right hand. The other witnesses claim that they were engaged in a craft project and did not notice what had happened. "

- D. Once you have completed this process for direct evidence, summarize the **Circumstantial Evidence** you have collected. **Circumstantial Evidence** may often be found in the answer to one or more of the following questions:
1. Is one or more of the stories inconsistent with the physical evidence in the case?
 2. Did the person who is providing the information have the ability to perceive what he or she claims to have observed? Any hearing or sight impairments? Location consistent with what the witness claims to have seen?
 3. Was the person giving the information paying attention to the activity about which he or she is reporting?
- E. In addition to the questions noted above, you should also identify any corroborating evidence, which tends to affirm any of the versions offered by those having **Direct Evidence**.

IV. Conclusions – A Separate Report Not Part of Investigative Report

- A. Any conclusions drawn will be identified in a *separate* report. A conclusion (or finding of fact) is what is believed to be true and will be a managerial assessment of the information contained in the investigative report and the PDC report, including overall credibility.
- B. If management is unable to determine what "really happened", the report shall so state and explain why the investigation is inconclusive.
- C. Significance to be attached to pieces of evidence.
- D. Identification/Resolution (if possible) of discrepancies, conflicts, etc.
- E. Characterization of the evidence.

INVESTIGATION REPORT EXAMPLE

Bureau of Juvenile Justice Services (BJJS)

Nature of Complaint: Hostile Work Environment, based upon degrading and unprofessional comments.

Complainant Information: Mr. Jay Complainant, Youth Development Aide (YDA), Pennsylvania Youth Development Center (PYDC)

Target Information: Mr. John Target, Youth Development Counselor Supervisor (YDCS), Pennsylvania Youth Development Center (PYDC)

Investigator: Mr. Joseph Investigator, Youth Development Counselor Supervisor (YDCM), Pennsylvania Youth Development Center

Date(s) of Investigation: January 01, 2008 – January 05, 2008.

I. Introduction

I, Mr. Joseph Investigator, YDCM at Pennsylvania Youth Development Center (PYDC), was assigned to this investigation by Ms. Jane Assignment, Labor Relations Coordinator, on Thursday December 30, 2007.

The specific allegations as reported to me were contained in a written statement from YDA Jay Complainant, sent via email on December 29, 2007 and received by Mr. Mann, Director for the Bureau of Juvenile Justice Services (BJJS).

At the time of the assignment, I was provided with a copy of the email statement. The nature of the allegation is a "hostile work environment". The statement identifies Mr. John Target as the investigatory target, through engaging in the following alleged behavior(s);

1. Mr. Jay Complainant, YDA at PYDC, emailed a witness statement expressing a concern that he received "unprofessional and degrading" treatment by Mr. John Target, YDCS, PYDC. The incident is alleged to have occurred on December 28, 2007, in the office of Mr. Target's supervisor, Mr. Steven Supervisor, YDAS, PYDC. Mr. Complainant alleges that Mr. Target created a hostile work environment by replying to his request to volunteer to cover an overtime shift by stating; "in order to volunteer for the job you would have to know how to actually do the job". Mr. Complainant alleges

that this statement was made in the presence of his supervisor, Mr. Steven Supervisor, and as such, was "unprofessional and degrading" to the complainant. Mr. Complainant further states that since this alleged incident occurred, it has affected his job, "in the regard that I have the added stress of what Mr. Target believes about my abilities and that he does not regard me as an asset to the facility and other staff members".

II. Investigative Procedure

The investigation was begun on Monday January 01, 2008. This writer started the investigation by reading Mr. Complainants witness statement that was sent via email, followed by establishing interview dates for Mr. Jay Complainant, Mr. Steven Supervisor and Mr. John Target.

The allegations, as reported, are not time related nor did a physical scene need to be secured for photo's or evidence collection. The location of the alleged occurrence was Mr. Steven Supervisor's office at PYDC, and both Mr. Complainant and Mr. Supervisor were interviewed separately at the same location of the alleged incident for this report.

The staff interviewed and the date and order of each interview are as follows;

Mr. Jay Complainant	01/10/2008
Mr. Steven Supervisor	01/10/2008
Mr. John Target	01/11/2008

Physical Evidence:

There was no physical evidence to be secured during this investigation.

Demonstrative Evidence:

There is no demonstrative evidence to be secured in this case.

Testimonial Evidence:

Interview selections were based upon the following;

- Identification of witnesses supplied by the complainant, Mr. Jay Complainant.

During the course of the investigation, Mr. Complainant did request to have union representation present during his interview process, which was approved and provided to him.

Documentary Evidence:

Documentary evidence consisted of the three written statements obtained during interviews identified above, and the email complaint sent by Jay Complainant on December 29, 2007.

IV. Summary of Evidence

The questions to be answered in this investigation are: Did Mr. John Target address Mr. Jay Complainant in the presence of Mr. Steven Supervisor, regarding volunteering for an overtime shift on December 28, 2007? If so, did Mr. Target address Mr. Complainant in a “degrading and unprofessional” manner creating a “hostile work environment”?

Direct Evidence – Testimonial

Question #1: Did Mr. Target address Mr. Complainant regarding volunteering to fill overtime shift on December 28, 2007?

- All three interviewee’s, Mr. Target, Mr. Supervisor and Mr. Complainant agree that the overtime volunteer discussion did take place in Mr. Supervisor’s office. However, Mr. Target advises the discussion did not take place on December 28, 2007, as this date was a Saturday and he was not working. Mr. Target and Mr. Supervisor believe the discussion did take place on a week day in mid-December, but are unable to identify a specific date.

Question #2: Did Mr. Target address Mr. Complainant in a “degrading and unprofessional” manner creating a “hostile work environment”?

- Mr. Complainant states that when he volunteered to fill the overtime shift being discussed between Mr. Target and Mr. Supervisor, Mr. Target allegedly replied; “in order to volunteer to do the job, you would actually have to know how to do the job”. Mr. Complainant reports that; “I feel the statement made by Mr. Target was not only unprofessional, but it was especially degrading since it was made in front of another employee, my supervisor. Since this incident, my job has been affected in the regard that; I have the added stress of what Mr. Target believes about my capabilities, and that he doesn’t regard me as an asset to the facility and its staff members”.

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- Mr. Steven Supervisor is Mr. Jay Complainant's immediate supervisor. Mr. Supervisor was interviewed as a result of being identified by Mr. Complainant as being present and engaging in a discussion regarding the volunteer overtime with Mr. Target. When questioned if Mr. Target made the statement, or one similar to; "in order to volunteer to do the job, you would actually have to know how to do the job", Mr. Supervisor reported that Mr. Target replied to Mr. Complainant's volunteer request as follows; "John (Mr. Target) said, as best I can recall, that there was a lot of resident tension in the facility right now and he didn't think Jay (Mr. Complainant) was experienced enough to effectively handle it right now". Mr. Supervisor further reports that; "John did not say it in an offensive manner in my opinion".
- Mr. Target reports that he was in conversation with Mr. Supervisor when Mr. Supervisor had informed him that YDA Slacker had recently phoned into the facility to call off work due to illness. Mr. Target reports he had been placing phone calls to staff members in order from the equalization list when Mr. Complainant walked in to overhear my phone call. Mr. Complainant spoke up saying; "I'm here; why not give the shift to me"? Mr. Target reports replying as follows; "Jay, there is a lot of acting out among residents in the facility right now, and I could use someone a little more seasoned to deal with it"; "at which point I (Mr. Target) turned and left Mr. Supervisor's office to continue making my phone call's in the privacy of my own office".

Direct Evidence – Documentary

- Signed witness statements from the above interviews.
- Overtime Equalization List
- Mr. Steven Supervisor reports that Mr. Target had already begun calling employees in the order of the equalization list, prior to Mr. Complainant volunteering. Mr. Supervisor stated that Mr. Target replied to Mr. Complainant's volunteer request by stating; "John (Mr. Target) said there was a lot of resident tension in the facility right now and he didn't think Jay was experienced enough to handle it". Mr. Supervisor did not feel Mr. Target's comments were degrading or unprofessional in any way and stated; "when you stop and think about it, I thought Jay would take offense to it. I believe Jay saw this as an opportunity to maybe retaliate against John because of bad feelings among other employee's toward John and his expectations of staff performance. I believe Jay is defensive regarding his work habits and feedback, he took John's comment as a personal attack". Mr. Supervisor further stated that; "if Jay makes an off-handed comment to John in the course of a shift, that's all fun and o.k., but if John would do

Appendix D

it, it's not o.k. Although this wasn't the case in today's situation, at other times it is".

- The target, Mr. John Target, disagrees with the allegation that he created a "hostile work environment" for Mr. Complainant.

Mr. Target reports that "several days after the overtime conversation and in passing, Jay made a comment to something I said, I don't recall exactly what it was I said but Jay replied back; "you said I don't know how to do my job". Mr. Target reports that he stated; "I never said that to you Jay", to which Mr. Complainant allegedly replied back; "yes you did, when I asked about volunteering for the overtime shift, you said it". Mr. Target reports responding with; "Jay, I said there is a lot of acting out among residents in the facility right now, and I could use someone a little more seasoned to deal with it, not that you didn't know how to do your job. Plus, you weren't next in line on the equalization list so I couldn't have given you the shift anyhow". Mr. Complainant allegedly responded; "same difference" and walked away.

When asked why Mr. Target responded to Mr. Complainants volunteer overtime request with;, "there is a lot of acting out among residents in the facility right now, and I could use someone a little more seasoned to deal with it", Mr. Target replied; "I didn't believe he was prepared to deal with the facility climate at that time, he is still learning the job in many ways and on different levels. I should have just told him that I was required to follow the equalization list, but I wanted him to know he still has worked to do to get better at his job, so I thought this was the best way to respond".

Submitted by:

Joseph Investigator

Date

PDC NOTICE

(CAN BE LETTER OR MEMO)

(name)
(address)

Employee # _____

Dear (name):

This is to advise you that an investigation is presently being conducted into the following allegation(s) concerning your conduct as an employee of this organization:

(List the charge. Note: If the charge violates a specific policy, note that here too.) - Specifically, (describe in detail the facts of the charge).

Sample charges:

Failure to Follow Policy and Procedure (as defined by Department Policy 7174). Specifically, in case # 1234, on or about (date), you made a determination of eligibility for consumer after-care subsidy benefits, and indicated in the case file that you had verified requisite eligibility information, without retaining a record of the information and/or calculations upon which you based your determination. Such retention is required by the Eligibility Determination Handbook, Section 22-A. Your actions violate that requirement.

Disorderly Conduct (as defined by Department Policy 7174). Specifically, on (date), you responded to co-worker S. J.'s request to assist her in cleaning up food that a resident had spilled by making a loud and profane remark. This remark, which included the words, "f... you," was heard by consumers and other staff who were in the area.

A Predisciplinary Conference (PDC), to be conducted by (individual's name who will be conducting the PDC), has been scheduled for (date) at (time) in (location). The purpose of the conference is to afford you an opportunity to answer the allegation(s). The nature of the evidence in support of the allegation(s) will be described to you at that time. (Omit the following for non-union-covered employees:) You will, at your request, be allowed union representation at this meeting.

Discipline may or may not be imposed depending on the facts gathered during the investigation. You will be notified, in writing, as soon as possible of the final outcome of the investigation and whether or not disciplinary action will be taken.

Should you choose not to attend this conference, decisions concerning appropriate action that may be warranted will be made based upon the available information.

If you have any questions concerning this matter, contact (name) at (number).

Sincerely,

cc: (appropriate union representative's name if union-covered)
(any other appropriate individuals)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
Bureau of Juvenile Justice Services
HUMAN RESOURCES DEPARTMENT
8 OPPORTUNITY DRIVE
LOYSVILLE, PENNSYLVANIA 17047
PHONE: (717) 789-5589 FAX: (717) 789-5588

SUBJECT: Unsubstantiated Allegations/Complaint Notification

RE: *Resident Name, Cottage/Program*

DATE OF INCIDENT:

TO: *Investigatory Target*

FROM: *Regional Director, Complex Director, or Facility Program Director*

DATE: *Today's Date*

An investigation was conducted into the allegation(s) of a policy and procedure violation regarding; _____

Based upon the information available at this time, there is no evidence to support the allegations/complaint.

Thank you for your cooperation in the investigatory process.

Cc: Facility Program Director
Complex Director
Regional Director
Labor Relations Coordinator
Employee's Program Manager
Employee's Supervisor
Investigation File