

	JUVENILE JUSTICE SERVICES Safety And Emergency Operations	Effective Date: 12/15/10
		Issue Date:
	Title: Protection From Harm	
	Procedure #: P.5.23	

1. **ISSUING AGENCY:** Children, Youth and Families Department (CYFD)
2. **SCOPE:** Juvenile Justice Services (JJS)
3. **STATUTORY AUTHORITY:** 32A-2-1 et.seq. NMSA 1978
4. **FORMS:** JJS Facility Inquiry Form
5. **APPLICABLE POLICY**
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7. **DEFINITIONS:**
 - 7.1 "abused youth" means a youth:
 - 7.1.1 who has suffered or who is at risk of suffering serious harm because of the action or inaction of JJS staff, contractors, volunteers, or other employees;
 - 7.1.2 who has suffered physical abuse inflicted or caused by JJS staff, contractors, volunteers, or other employees;
 - 7.1.3 who has suffered sexual abuse or sexual exploitation inflicted by JJS staff, contractors, volunteers, or other employees;
 - 7.1.4 who has been knowingly, intentionally or negligently placed in a situation that may endanger the child's life or health by JJS staff, contractors, volunteers, or other employees; or
 - 7.1.5 who has been knowingly or intentionally tortured, cruelly confined or cruelly punished by JJS staff, contractors, volunteers, or other employees.
 - 7.2 "Practice Improvement Bureau (PIB) Facility Inquiry Team" refers to the organizational unit housed within the Practice Improvement Bureau of the Protective Services Division of CYFD responsible for conducting PS Inquiries, determining whether the allegation was founded or unfounded and reporting findings to proper JJS Administrative Staff .
 - 7.3 "physical abuse" includes but is not limited to any case in which the youth exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:
 - 7.3.1 there is not a justifiable explanation for the condition or death;
 - 7.3.2 the explanation given for the condition is at variance with the degree or

- nature of the condition;
- 7.3.3 the explanation given for the death is at variance with the nature of the death; or
- 7.3.4 circumstances indicate that the condition or death may not be the product of an accidental occurrence.
- 7.4 "Serious Incident Report (SIR)" is any occurrence which compromises the safety, security or emotional well-being of clients, staff, and visitors or endangers the public. SIRs are completed by any facility disciplines using an approved form which is prepared and submitted to Central Office electronically within 24 hours of the occurrence.
- 7.5 "sexual abuse" includes but is not limited to criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law.
- 7.6 "sexual exploitation" includes but is not limited to:
 - 7.6.1 allowing, permitting or encouraging a youth to engage in prostitution;
 - 7.6.2 allowing, permitting, encouraging or engaging a youth in obscene or pornographic photographing; or
 - 7.6.3 filming or depicting a youth for obscene or pornographic commercial purposes, as those acts are defined by state law.

8. REPORTING REQUIREMENTS

- 8.1 Any employee, volunteer or contractor who knows or has a reasonable suspicion that a JJS client is an abused youth or who receives a report by a client that he/she or another client in JJS facilities is an abused youth must immediately, and in no case later than the end of the shift they are on, report the matter to the facility Nursing Supervisor using a Facility Inquiry Form. This report may be made, if necessary due to a conflict or for other good cause, to outside law enforcement directly rather than via the Nursing Supervisor. In no case shall a JJS employee, volunteer or contractor conduct an investigation of a reported abuse incident, including questioning the victim or alleged perpetrator, unless pursuant to an official investigation.
- 8.2 Nursing Supervisors will review all SIR's for their facility on a daily basis and if a subject of a report meets the definition of abused youth above, the incident will be reported to the PS Evaluator via email at CYFD-PSEvaluator@state.nm.us.
- 8.3 If medical staff responding to a restraint or injury or otherwise attending to a client knows or has a reasonable basis to believe that a JJS client is an abused youth, they must immediately report the incident to the facility Nursing Supervisor using a Facility Inquiry Form.
- 8.4 Pursuant to state law, the requirement to report under this section applies without exception to any CYFD employee, volunteer or contractor, including a member of the clergy, a medical practitioner, a social worker acting in an official capacity, a school teacher or other school professional, or a behavioral health professional, unless the information to report is privileged as a matter of law.
- 8.5 Any violation of this reporting obligation or retaliatory actions taken or threatened against another employee, volunteer, contractor or a youth for reporting an incident may result in disciplinary action, up to and including termination.

9. REPORTING PROCESS

- 9.1 The person making the report will use a Facility Inquiry Form and provide as much detailed information as possible regarding the circumstances of the report, including the identity of persons involved, the location and time of relevant events, and the identity of others (clients or staff) who may provide further information.
- 9.2 Any person making or receiving a report under this section will take whatever immediate steps the person believes are necessary to protect the client and to preserve any evidence that may be pertinent in an investigation.

10. REPORT FOLLOWUP

- 10.1 Upon receipt of a SIR, Facility Inquiry Form, or other report that alleges that a client is an abused youth, the JJS Director or JJS Deputy Director then takes the following actions:
 - 10.1.1 ensures that the Nursing Supervisor and if necessary, the PIB Facility Inquiry Team have been notified;
 - 10.1.2 notifies the Employee Relations Bureau (ERB) if client safety requires separation or removal of an employee accused of wrongdoing;
 - 10.1.3 ensures that the staff person, contractor or volunteer accused of wrongdoing is separated from contact with the alleged victim, in compliance with JJS separation procedures; and
 - 10.1.4 if applicable, notifies the contracting entity or volunteer organization of the nature of the allegation and that their employee or volunteer is to be separated or removed from premises until completion of the investigation;
 - 10.1.5 ensures law enforcement authorities have been notified and requested to conduct an investigation;
 - 10.1.6 ensures that law enforcement has access to any of the staff, records and clients required for completion of the investigation; and
 - 10.1.7 ensures that staff has received and follows directions on how to preserve the scene of the alleged incident until law enforcement arrives.
- 10.2 Upon receipt of a SIR, Facility Inquiry Form, other report or firsthand knowledge alleging that a client is an abused youth, the facility Nursing Supervisor will immediately make contact with the client subject of the report to ensure their safety and report the allegation to the PIB Facility Inquiry Team via email.
- 10.3 When a Nursing Supervisor receives notification from PSD that the report has been accepted or not accepted for investigation, he or she will immediately provide a written notice to the client subject of the report.

11. CONFIDENTIALITY OF REPORTS

- 11.1 Investigation reports and files are confidential and not subject to public inspection or disclosure:

12. AUTHORIZED SIGNATURE:



APPROVED: _____

Date 12/09/10

**Bill Dunbar, Cabinet Secretary
Children, Youth and Families Department**