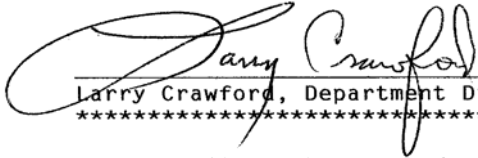

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D1-8.1 Criminal Investigation Unit Responsibilities and Actions


Larry Crawford, Department Director

August 12, 2007

Effective Date

I. PURPOSE: This procedure establishes guidelines concerning the scope and depth of investigations in the department. All investigations will conform to uniform standards and consistency in investigation techniques and reporting. The investigation focus will encompass all violations of criminal law. Investigations conducted outside the scope of criminal law will be limited to events that may endanger the safety and security of offenders, facilities and staff or the public or which are sufficiently complex to require the skills of a trained investigator.

A. AUTHORITY: Section 217.025, 217.040, 217.405 and 217.410 RSMo.

B. APPLICABILITY: This procedure applies to all staff and offenders of the department. Staff whose classifications are covered by a bargaining unit may have additional or alternate processes as required by that bargaining unit's agreement.

C. SCOPE: Nothing contained in this procedure shall be construed to grant to any staff member or offender any right to an investigation or to hear charges against her/him.

II. DEFINITIONS:

A. Administrative Inquiry: An inquiry conducted by a staff member's supervisor or staff member assigned by the chief administrative officer when an allegation has been made, or information exists, that indicates a staff member has committed an act included in, or similar to, category I behaviors.

B. Behaviors:

1. Category I Behaviors: Behaviors generally related to job performance or job misconduct, performance, attendance or attitude which may reasonably be addressed by supervisory staff.

a. Category I behavior would normally include, but not be limited to:

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- (1) general performance issues,
- (2) unsatisfactory performance,
- (3) abuse of sick leave,
- (4) time/attendance issues,
- (5) inattention to duty,
- (6) verbal abuse of staff and/or offenders,
- (7) disobedience/insubordination,
- (8) discourteous conduct,
- (9) retaliation against staff and/or offenders,
- (10) misuse of state property,
- (11) being under the influence of alcohol/drug,
- (12) off duty misconduct not involving criminal or illegal activity,
- (13) staff sexual harassment of an offender, or
- (14) staff sexual misconduct - verbal/other.

2. Category II Behaviors: Staff behaviors other than those behaviors listed as category I behavior.

a. Category II behaviors include, but are not limited to:

- (1) avoidable contact or association with an offender,
- (2) improper use of force,
- (3) staff sexual misconduct - physical contact, or
- (4) acts that result in violation of criminal law.

3. Category III Behaviors: Offender behaviors that result in the violation of criminal law.

C. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Staff at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

a. Deputy Director

2. Department Sections in the Director's Office:

a. Deputy Director

b. Central Office Section Heads

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3. Division of Probation and Parole:
 - a. Division Director
 - b. Chief State Supervisor
 - c. Assistant Division Director
 - d. Field Service Administrator
 - e. Superintendents
 - f. Regional Administrators
 - g. District Administrators
 4. Division of Adult Institutions:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Assistant to Division Director
 - d. Superintendents
 5. Division of Offender Rehabilitative Services:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Central Office Section Heads
 6. Division of Human Services:
 - a. Division Director
 - b. Central Office Section Heads
- D. Criminal Investigation Unit:** A unit of investigators established for the primary purpose of investigating criminal acts suspected or known to have occurred within the operations of the department. The unit will have authority to investigate all matters or events established by procedure and will work closely with other criminal justice agencies during the performance of the investigation process.
- E. Inspector General:** A person serving as administrator over the criminal investigation unit and compliance unit of the department.
- F. Investigation:** A review conducted by an investigator when an allegation has been made, or information exists, that indicates a staff member or offender has committed an act included in, or similar to, category II or III behaviors.
- G. Investigator:** A person who performs investigations at the regional or statewide level.
- H. Major Incident Investigation Team:** A group of 6 or more investigators who are assigned to investigate any incident within the department.
- I. Offender:** Any individual under the custody/supervision of any division within the department.
- J. Offender Abuse:** When a staff member knowingly injures any offender by beating, striking, kicking, wounding or by sexual contact with the offender. This does not include authorized uses of force as permitted by department and divisional procedures.

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- K. Regional Investigation Supervisor:** A person who supervises the criminal investigation unit within a region.
- L. Staff:** Any person who is:

 - 1. an employee - employed by the department on a classified or unclassified basis (permanent, temporary, part-time, hourly, per diem) and are paid by the Statewide Advantage for Missouri (SAM) Human Resources payroll system;
 - 2. contracted to perform services within a department facility (i.e., medical services, mental health services, education services, substance abuse services, etc.) and has been issued a permanent department identification card;
 - 3. a volunteer in corrections;
 - 4. a student intern;
 - 5. issued a permanent department identification card (i.e. information systems) and as outlined in D2-14.1 Staff Identification; and
 - 6. issued a special access card as outlined in D2-14.1 Staff Identification.
- M. Staff Sexual Harassment of an Offender:** Includes, but is not limited to:

 - 1. repeated verbal statements or comments of a sexual nature to an offender by staff, and
 - 2. demeaning references to gender or derogatory comments about body or clothing.
- N. Staff Sexual Misconduct - Physical:** Includes, but is not limited to:

 - 1. any physical behavior or act which is sexual in nature involving an offender and staff or official visitor and staff. Romantic relationships between staff and offenders are included in this definition.
 - 2. any sexual acts including an offender and staff or official visitor and staff, including, but not limited to, intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire.
- O. Staff Sexual Misconduct - Verbal/Other:** Includes, but is not limited to:

 - 1. threatened or requested sexual acts, addressed to an offender or other staff by staff.
 - 2. an invasion of privacy, or voyeurism for sexual gratification by staff.
- P. Warrant Application:** A document completed and signed by a member of the criminal investigation unit and submitted to

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the county prosecuting attorney for consideration of filing criminal charges against a person.

III. PROCEDURES:

- A. Americans with Disabilities Act complaints and investigations will be conducted in accordance with D1-1.2 ADA Compliant/Grievance Procedure.
 - 1. If any investigation reveals that a situation/complaint is related to this act, the investigator will consult with this program's site coordinator.
- B. Staff who believe they have been subjected to sexual or other harassment are responsible for informing their immediate supervisor, a personnel representative, or the human relations officer for their area in accordance with D2-11.4 Sexual and Other Harassment.
- C. While an investigation is pending, staff who are interviewed and their representatives, may not disclose any matter that was discussed during an interview that occurred as part of an investigation.
- D. Category I Behaviors:
 - 1. Category I behavior will be addressed in accordance with D1-8.4 Administrative Inquiries.
 - 2. In those incidents where it is unclear that the behavior constitutes category I or II behavior, further inquiry should be conducted before a final decision is made regarding the category.
 - a. In these cases the chief administrative officer and regional investigation manager/designee shall review and evaluate the incident and communicate to determine the appropriate course of action.
 - b. The primary focus shall be to determine the extent of the misconduct and the necessity to conduct a category I inquiry or category II or III investigation.
 - c. Should the chief administrative officer and regional investigation manager/designee disagree on the category of the incident or as to how it should be handled, each will refer to the next level in the chain of command for further determination.
- E. Category II and III Behaviors:
 - 1. Allegations of category II and III behaviors shall be submitted for review by forwarding a completed [Request for Investigation](#) (Attachment A) to the regional investigation manager/designee.
 - a. The primary focus shall be to determine the extent of the misconduct and the necessity to conduct a category I inquiry or category II or III investigation.

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2. If a criminal law violation is suspected, the regional investigation manager/designee will determine whether the law enforcement agency with jurisdiction will be notified.
 - a. The investigation may continue as long as it does not interfere with the law enforcement investigation.
 3. If the behavior appears to be a violation of criminal law, is serious and there is an immediate need to contact law enforcement officials, the chief administrative officer/designee will notify the division director of the incident and, when appropriate, the law enforcement agency having jurisdiction.
- F. Investigation Requests:
1. The department director may initiate an investigation involving a staff member, an offender or any incident or situation in any of the divisions within the department.
 2. The department director/designee may request an outside agency to investigate any department staff member or incident.
 - a. The inspector general will be notified of such a request when possible and when appropriate.
 3. The inspector general/designee may initiate an investigation of a suspected violation involving a staff member, an offender or any incident or situation in any of the divisions within the department.
 4. The division director may request investigative assistance from the inspector general.
 5. The chief administrative officer may request an investigation.
 - a. If the allegation is urgent and requires immediate assistance, the chief administrative officer may request assistance from a law enforcement agency to investigate any criminal offense.
 - (1) the inspector general shall be verbally or electronically notified.
 - (2) The person requesting the law enforcement assistance shall follow such notification by forwarding a completed Request for Investigation to the criminal investigation unit.
 6. Section heads located at central office or within the worksite of another division shall process investigation requests through their division director/designee, the deputy director/designee and the department director/designee, as appropriate.
 7. Investigators may investigate alleged criminal law

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violations to the extent requested and authorized by the criminal justice/law enforcement agency.

- a. When a law enforcement agency having jurisdiction assumes investigative authority, department investigators may assist to the extent authorized by the agency conducting the investigation and the inspector general/designee.
- b. Investigators are authorized to initiate a Request for Investigation and submit such request to the respective regional investigation manager/designee for approval.

G. General Investigation Requirements:

1. When any staff member becomes aware that an actual or alleged violation of category I, II, or III behaviors has occurred, the staff member will immediately notify the chief administrative officer through the staff member's chain of command.
2. If any investigation involves a case of physical injury, the injured party will receive medical attention prior to any investigative questioning.
 - a. If an investigator observes erratic behavior by the injured party, the investigator will ensure the chief administrative officer/designee is notified.
3. Staff must fully cooperate with all investigations and must fully and truthfully relate their knowledge of all facts pertaining to the alleged behavior under investigation.
4. Truth verification examinations may be initiated.
 - a. If initiated, they shall be conducted in accordance with D1-8.2 Truth Verification Examination - Employees or D1-8.3 Truth Verification Examination - Offender.
5. Law enforcement agencies conducting criminal investigations involving department staff are authorized to conduct investigations or inquiries to the extent permitted by law.
6. When the investigator and the individual being interviewed have a mutual agreement that the recorded interview should be interrupted, paused, or stopped, the recorded interview will be suspended until such time as both parties mutually agree that the recorded interview should again proceed.
 - a. Prior to suspending the recorded interview, the investigator will state that the recording device is being stopped and indicate the time the recording is being stopped.
 - b. The individual being interviewed will acknowledge her/his agreement or disagreement with the suspension of the recorded interview.

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- c. These statements shall be captured on the recording media.
 - d. If the individual being interviewed does not agree to the suspension of the recorded interview, the recording device will continue to record.
 - e. If the interview is suspended and later resumed, the investigator shall make a recorded statement of the date and time the recording device is reactivated and the recorded interview is resumed.
7. The investigator will forward documented findings of a formal investigation to the regional investigation manager/designee for review, disposition and dissemination.
 8. A staff member shall not withhold information from her/his superiors or coworkers that negatively affects, or could affect, ongoing operations of state government or the department.
- H. Investigation Process Rights and Privileges:
1. A staff member under investigation for a category II behavior may be issued the department's [Administrative Proceedings Warning](#) (Attachment B) or the [Administrative Proceedings Warning - Contract Staff](#) (Attachment C).
 - a. If an administrative proceedings warning is issued, the staff member will be asked to sign the form before questioning.
 - b. The Administrative Proceedings Warning or Administrative Proceedings Warning - Contract Staff should reflect the relevant subject matter that is to be discussed.
 - c. If the subject matter is changed, a new Administrative Proceedings Warning or Administrative Proceedings Warning - Contract Staff should reflect the change and should be signed by the staff member.
 2. Offenders under investigation for criminal law violations shall be administered the [Statement of Your Rights/Waiver of Rights](#) form (Attachment D) prior to any questioning.
 3. Probation and parole staff whose positions are covered by the Service Employees International Union (SEIU) shall be issued the [Employee Right to Representation](#) (Attachment E) in person, immediately prior to being interviewed as part of an official investigation.
 4. Staff participating in an investigation conducted by the criminal investigation unit will be entitled to advice, assistance or representation by a worksite coworker, or other person as established by the appropriate bargaining unit agreement, if the staff

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member has a reasonable expectation the investigation may lead to her/his demotion, suspension or dismissal.

a. The representative shall not be connected in any way to the investigation.

b. Arrangements for representation shall not delay the investigative proceedings.

5. The chief administrative officer, or the person requesting the investigation, will be provided a status report by the regional investigation manager/designee upon written request.

I. Inspector General Responsibilities:

1. The inspector general will provide guidance and direction to the criminal investigation unit in conducting investigations for all divisions of the department.

2. The inspector general will supervise and manage the operations of the criminal investigation unit and will supervise the regional investigation managers.

a. All final decisions concerning investigative methods will be made by the inspector general.

3. When a staff member has reasonable cause to believe that an offender has been abused in accordance with 217.405 or 217.410, the inspector general, as the director's designee, shall receive, process, initiate investigations and make reports as required in accordance with D1-8.6 Offender Abuse/Sexual Contact.

4. The inspector general will keep the department director and deputy director informed of active investigations that are of a serious nature, have potentially serious negative consequences to the department or have the potential to generate media interest.

5. When a request for investigation is submitted by a division that involves a staff member from another division, the inspector general's office will send copies of the Request for Investigation and attachments to the respective division director so she/he is aware that staff her/his division is involved in an investigation.

6. The inspector general/designee may request assistance from outside agencies that have appropriate jurisdiction or authority to investigate the allegations of an incident within the department.

7. The inspector general may assign investigators statewide to temporary assignments to ensure adequate support during investigative processes.

J. Investigation Manager Responsibilities:

1. The regional investigation manager shall:

a. oversee investigation activities within a designated

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region; and

b. report directly to the inspector general.

2. The regional investigation manager will manage the assignment of investigators to investigate allegations of category II or III behaviors.
3. The regional investigations manager will manage the assignment of cases, provide supervision, direction and guidance to investigators in her/his designated region.
4. The regional investigation manager will manage the review and evaluation of all investigation reports and information to ensure all appropriate investigative actions have been taken.
5. The regional investigation manager will ensure that the chief administrative officer/designee is advised of information relating to any investigation at the facility which does not compromise the confidentiality or the integrity of the investigation.
6. The regional investigation manager will ensure that warrant applications, if applicable, are completed by a member of the criminal investigations unit and submitted with each case presented to the county prosecuting attorney's office in accordance with IS19-3.1 Request for Prosecution.
 - a. The inspector general/designee will send the chief administrative officer the final investigation report as notification of referrals for prosecution.
7. The regional investigation manager/designee will assist the chief administrative officer/designee in evaluating and reviewing behaviors to determine whether an investigation should be conducted by the criminal investigation unit or remain in the chief administrative officer's purview.
8. As the need dictates, an investigator may be utilized to provide guidance, training or other short-term assistance to ensure that proper methods and processes are utilized by staff in handling category I behaviors.

K. Investigator Responsibilities:

1. The investigator shall answer directly to the regional investigation manager/designee in the appropriate investigative region and shall be given authority to investigate any matter as assigned by the regional investigation manager or inspector general.
2. The investigator shall aid and assist in investigations as directed, and to the limit permitted, by the responsible law enforcement agency and the inspector general.
3. Investigators may be assigned outside their normally assigned region to assist in statewide investigations.

- L. Chief Administrative Officer/Designee Responsibilities:
1. The chief administrative officer/designee will evaluate and review behaviors to determine whether the behavior is a category I, II or III behavior.
 - a. If the chief administrative officer/designee questions the category of behavior, she/he should seek input from the regional investigation manager/designee.
 - b. If the behavior is a category I behavior, remaining under the purview of the chief administrative officer, the chief administrative officer may seek assistance from the regional investigation manager/designee as needed.
 - c. Investigation requests should be submitted to the investigation unit on category II and III behaviors at the time of the incident, immediately upon becoming aware of a category II or III behavior, or at the time the allegation occurs.
 - d. If the matter remains under the purview of the chief administrative officer and a category II or III behavior is subsequently discovered, all relevant information and material will be submitted to the regional investigation manager/designee along with a completed Request for Investigation.
 2. The chief administrative officer/designee will notify the division director of a category II or III behavior incident and, when appropriate, the law enforcement agency having jurisdiction.
 3. The chief administrative officer/designee will ensure that staff immediately secure the crime scene after appropriate medical attention is rendered in accordance with D1-8.9 Crime Scene Security.
 4. The chief administrative officer/designee will ensure that staff are made accessible to investigators for interviews or other related investigatory processes.
 5. The chief administrative officer/designee shall provide adequate facility resources, including additional personnel as necessary during an investigation by the criminal investigation unit. Resources are identified as:
 - a. private, permanent working space to conduct interviews, and
 - b. adequate, secure storage areas for evidence and other investigative property.
 6. The chief administrative officer/designee will be advised in writing of investigation results consistent with terms of confidentiality identified in this procedure.
 7. The chief administrative officer/designee will take

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necessary actions to assist an injured party if any investigation involves a case of physical injury.

M. All investigators of the department will be allowed unrestricted access to any department owned or operated facility and to all areas and information under the jurisdiction of the department as needed to perform the duties of her/his position, as is legally permissible, and in accordance with D2-11.13 Employee Searches and IS20-1.3 Searches.

1. Examples would include, but not be limited to:
 - a. all physical areas of central office, institutions, treatment centers, community service centers, probation and parole community release centers or any other department owned or leased properties;
 - b. all staff informational files such as official personnel files, working files, performance appraisal files, log notes, emergency information files, health files, time and attendance files, training files, investigation files, administrative inquiry files, workers compensation files, employee discipline files or any other files that may contain information concerning a staff member;
 - c. all offender records, open and closed; and
 - d. all department information concerning activities or incidents that occur on department property or that concern staff or the department.
2. Anyone having questions regarding such access should contact the inspector general.

N. Outside Law Enforcement Interview Process: Law enforcement representatives (local, state and federal) whose purpose is to interview an offender or offenders in conjunction with a criminal investigation will be permitted access to the facility upon presentation and verification of credentials.

1. A Missouri Uniform Law Enforcement System (MULES) and National Criminal Investigation Check (NCIC) record check will not be conducted.
2. Requests from outside law enforcement agencies to interview an offender will be handled by the investigator.
 - a. The chief administrative officer/designee will be informed of all interviews scheduled by the investigator by memorandum, prior to the interview. The investigator will:
 - (1) verify the reason for the interview;
 - (2) make arrangements, of time, date and place for the interview to occur;

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(3) verify the authenticity of the law enforcement representative requesting the interview.

(A) Questions or uncertainty regarding authenticity of an individual's credentials or legitimacy of the request will be handled by the investigator.

(B) Contact should be made with the outside law enforcement agency for verification.

(4) Offender notification will be handled by the investigator (this may entail custody staff bringing the offender to the place of the interview on the day of the interview).

(5) Offenders may refuse to be interviewed.

3. If the investigator is unavailable to coordinate the interview, the regional investigation manager/designee will assume these responsibilities.

4. The chief administrative officer will be informed by memorandum of any incidents, irregularities, questions on credentials, etc. and may deny the interview.

5. If, during this process, it is determined the offender poses a security risk, this information should immediately be shared with the chief administrative officer/designee.

O. Investigation Reports:

1. If a staff member resigns during an investigation, the chief administrative officer shall notify the investigator immediately.

a. The investigator will make every effort to conduct an interview prior to the staff member leaving the worksite.

b. If the on site investigator is unavailable, the chief administrative officer shall immediately notify the regional investigation manager.

2. If the investigation concerns allegations of offender abuse or other potential felony, the local law enforcement agency will be contacted and requested to continue the investigation.

P. Investigation Reports:

1. Investigators shall use a standardized [Investigation Report](#) format (Attachment F) for all investigations.

a. Investigators shall use the investigative tracking system to assign an individual case number to each case.

b. The regional investigation manager will ensure each case is reviewed and, upon approval, ensure

that all reports are distributed to the appropriate chief administrative officer or other designated authority.

2. The division director/designee will complete the [Inspector General Investigation Tracking Report](#) (Attachment G) and submit it to the inspector general within 20 working days of the receipt of an investigation.
3. If a staff member resigns, or is dismissed, prior to, during or after the investigation and the investigation reveals information that would adversely affect that person's rehire, a report will be submitted to the central office human resources manager by the chief administrative officer in accordance with D2-3.1 Resignations.
4. Each division director shall be responsible for ensuring that a log is maintained of all investigations, noting whether or not disciplinary action was taken. This log should contain the following information:
 - a. division,
 - b. work location,
 - c. date of incident (if known),
 - d. type of allegation (found or unfound),
 - e. subject(s),
 - f. victim(s),
 - g. witness(es),
 - h. case number (when applicable),
 - i. action taken and date, and
 - j. any additional comments.
5. The inspector general will ensure completion of the [Month/Year Incident Type Report](#) (Attachment H) and will forward copies to the deputy director and department director as appropriate.
6. All original investigative materials will be retained at the respective investigation office.

IV. ATTACHMENTS:

- | | | |
|----|----------|---|
| A. | 931-4151 | Request for Investigation |
| B. | 931-3469 | Administrative Proceedings Warning |
| C. | 931-4083 | Administrative Proceedings Warning - Contract Staff |
| D. | 931-2539 | Statement of Your Rights/Waiver of Rights |
| E. | 931-4395 | Employee Right to Representation |
| F. | | Investigation Report |
| G. | 931-4123 | Inspector General Investigation Tracking Report |
| H. | | Month/Year Incident Type Report |

V. REFERENCES:

- A. D1-1.2 ADA Complaint/Grievance Procedure
- B. D1-8.2 Truth Verification Examination - Employees
- C. D1-8.3 Truth Verification Examination - Offender
- D. D1-8.4 Administrative Inquiries
- E. D1-8.6 Offender Abuse/Sexual Contact
- F. D1-8.9 Crime Tips Hotline
- G. D2-3.1 Resignations
- H. D2-4 Personnel Performance Evaluation
- I. D2-9.1 Employee Discipline
- J. D2-10.1 Employee/Management Grievance
- K. D2-11.4 Sexual and Other Harassment
- L. D2-11.6 Labor Organizations
- M. D5-3.2 Offender Grievance
- N. IS19-3.1 Request for Prosecution
- O. Major Incident Investigation Team Procedural Manual

VI. HISTORY:

- A. Original Effective Date: 06/05/89
- B. Revised Effective Date: 10/15/90
- C. Revised Effective Date: 01/01/95
- D. Revised Effective Date: 12/01/99
- E. Revised Effective Date: 07/12/02
- F. Revised Effective Date: 08/04/03
- G. Revised Effective Date: 08/12/07