

Gulf Coast Trades Center (GCTC)	Standard Operating Procedure: A.015
Section: RESIDENTIAL SERVICES	Effective Date: 10/01/2020
Regarding: INVESTIGATION PROTOCOL	Supersedes: 5/25/04

Purpose:

The purpose of this standard operating procedure is to establish guidelines for conducting investigations.

Discussion:

Gulf Coast Trades Center is committed to protecting youth from abuse, neglect and improper childcare practices by GCTC staff.

Staff who have cause to believe that a youth has been or may be mistreated must report the incident. Any staff member who fails to do so, without sufficient justification, is subject to disciplinary action up to and including termination.

Retaliation against any person who in good faith files a report is strictly prohibited. Staff found guilty of retaliation may be subject to disciplinary action.

Reports, records and working papers used or developed during an investigation are confidential and may only be disclosed for purposes consistent with existing interagency agreements and Chapter 34 of the Texas Family Code.

Allegations of abuse, neglect and improper childcare practices are investigated. A confirmation of abuse, neglect or improper childcare practice is grounds for disciplinary action or criminal prosecution.

- I. Definitions as defined by Texas Department of Family and Protective Services (TDFPS):
 - A. Abuse – Deliberate actions resulting in injuries to youth or genuine threats of such actions or concerns about physical injuries of an unexplained or suspicious nature.
 - B. Neglect – Failure to provide youth with necessary food, clothing and shelter to maintain a healthy life.

- C. Physical Injury (Not TDFPS Definition) – An injury that normally requires examination or treatment by a trained health care professional, whether or not examination or treatment is actually received.
 - D. Emotional Harm (Not TDFPS Definition) – An impairment in the youth’s growth, development, or psychological functioning that normally requires evaluation or treatment by a trained mental health or health care professional, whether or not evaluation or treatment is actually received. Sexual conduct in residential facilities is presumed to cause substantial emotional harm.
 - E. Sexual conduct (Not TDFPS Definition) – A lewd exhibition or a sexual contact with another person, including orifice penetration, fondling or sexual stimulation, whether or not the conduct is consensual.
- II. Reporting:
- A. Refer to SOP A.016
- III. Standards for Investigations:
- A. Staff assigned to conduct an investigation shall be qualified by experience and training to conduct quality investigations.
 - B. Reports that allege immediate risk of physical or sexual abuse of youth that may result in death or serious harm to youth shall be investigated jointly with law enforcement.
 - C. The initial response from the GCTC assigned investigator and peace officer shall take place not later than 24 hours after law enforcement is notified of the report.
 - D. In the event a law enforcement agency has assumed the investigation of the allegation, staff assigned to conduct the investigation will cooperate and assist with law enforcement’s investigation and not take any action that may be detrimental to the investigation.
 - 1. A preliminary investigation shall be conducted to determine whether evidence exists to corroborate the allegations that abuse, neglect, or exploitation has occurred. An abbreviated investigation report shall be prepared in cases where no such evidence is found.
 - 2. If evidence exists that gives cause to believe a violation has occurred, a thorough investigation shall be conducted following the preliminary investigation. Evidence that is relevant and reasonably available will be gathered and preserved, including documents, physical evidence, witness interviews, statements, photographs, and security videos.
 - 3. The investigator will make a determination as to whether:

- a. an alleged act or failure to act occurred,
 - b. whether there was substantial emotional harm or physical injury to the youth,
 - c. whether staff failed to provide the standard of care or supervision expected under the circumstances that are alleged,
 - d. whether the actions or failure to act under the circumstances violated the standard of care or supervision expected, and
 - e. whether actions or failures to act caused substantial emotional harm or physical injury to the youth.
4. The investigator's findings will be based on a preponderance of evidence. In the event a finding based on a preponderance of evidence cannot be made regarding the allegations, the investigator will indicate that the evidence is inconclusive.
 5. The investigator will prepare a written report of the findings, including a summary and analysis of the evidence relied upon in reaching the findings. Copies of relevant documents and photographs will be attached to the report.
 6. In the event the investigator determines that the evidence affirms findings pertaining to a different type of allegation than the one assigned, the investigator will indicate those findings in the written report.

IV. Final Report Submission and Closure:

- A. The GCTC investigator shall submit the completed investigative report to the Residential Services Director or designee within fifteen (15) business days following the assignment.
- B. If extenuating circumstances exist, the investigator may request an extension. The extension may be approved only by the Residential Services Director or designee.
- C. Within five (5) workdays following receipt of the report, the Residential Services Director or designee will review the report and consult with the investigator regarding any necessary clarifications.
- D. The Residential Services Director may extend the deadline for this review if necessary for a thorough and complete report.

E. The Residential Services Director will indicate in the report, the final disposition of the allegations as follows:

1. whether allegations of abuse, neglect or improper childcare practices are founded, not founded or inconclusive,
2. whether a violation of agency policy or standards of care exists, although the violation may not constitute abuse, neglect, or improper childcare practices,
3. approve the investigative findings as presented by officially closing the report and referring to the Executive Director.
4. Impose disciplinary action, if warranted, according to GCTC's personnel policies and procedures up to and including termination of employment.

V. Appeals of Investigative Findings:

- A. Youth and Parent may file complaints or appeals regarding the final outcome of investigations. Requests shall be handled in accordance with the provisions of GCTC's policies and procedures.
- B. Staff found in violation of policies and procedures may appeal disciplinary action taken against them. Requests for appeal shall be submitted in writing to the Executive Director or his designee within ten (10) days of receipt of notice of the outcome of the investigation or imposition of disciplinary action. The appeal must be made in writing and clearly describe the grounds for the appeal.

VI. Confidentiality of Reports:

- A. Accurate and timely investigation information will be compiled related to the number and nature of reports filed and confirmed, the dates and locations of reported incidents, the average length of time required for investigations and the identification of significant trends.
- B. Additional information including a summary of the findings and corrective actions taken with regard to all confirmed reports will be prepared for periodic review and analysis by the Executive Director.
- C. The identity of the person making an allegation, and files, reports, records, tapes, communications, and working papers used or developed during an investigation are confidential and not open for public inspection under the provisions of Family Code §261.201.
- D. A report may be provided to law enforcement or other criminal justice agencies for purposes of investigation and prosecution.

- E. Reports may be provided to a parent, referring agency, managing conservator or other legal representative of a youth upon written request and shall be releasable in accordance with the Public Information Act.
- F. Evidence contained in a report may be released to GCTC staff to appeal the investigation findings or defend disciplinary action taken against them. The staff member shall make the request for information in writing and documents shall be released in accordance with the Public Information Act.
- G. Investigation reports are confidential youth records and information contained may only be used by staff to request an appeal of an investigation or to defend disciplinary action taken.