ADMINISTRATIVE INVESTIGATION PROCEDURE FOR MAJOR UNUSUAL INCIDENTS IN CATEGORY A

Major Unusual Incidents in Category A

- Emotional abuse
- Exploitation
- Failure to report
- Misappropriation
- Neglect
- Physical abuse
- Prohibited sexual relations
- Rights code violation
- Sexual abuse
- Unexplained or unanticipated death

Findings in administrative investigations of major unusual incidents in category A will be based upon a preponderance of evidence standard. "Preponderance of evidence" means that credible evidence indicates that it is more probable than not that the incident occurred. There are three possible findings of a category A administrative investigation:

- "Substantiated" means there is a preponderance of evidence that the alleged incident occurred.
- "Unsubstantiated/insufficient evidence" means there is insufficient evidence to substantiate the allegation. "Insufficient evidence" means there is not a preponderance of evidence to support the allegation or there is conflicting evidence that is inconclusive.
- "Unsubstantiated/unfounded" means the allegation is unfounded. "Unfounded" means the evidence supports a finding that the alleged incident did not or could not have occurred.

When it is not possible or relevant to the administrative investigation to meet a requirement of this appendix, the investigative agent will document the reason.

Steps for Investigating Major Unusual Incidents in Category A

1. Interview the victim no later than three working days following notification of the major unusual incident and document the results. Exceptions to this requirement are when the individual is unable to provide any information or the investigative agent determines that the circumstances warrant interviewing the individual later in the administrative investigation.
2. Visit the scene of the incident.
3. Secure physical evidence. Take photographs of injuries, as applicable. Secure and sketch and/or photograph the scene of the incident. Provide a detailed description of any injury that may have resulted from the incident, including the shape, color, and size. Take a photograph of any injury that may have resulted from the incident; record the name of the person who took the photograph and the date and time the photograph was taken. Provide a written description of the physical evidence along with the date, time, and location of the gathering of evidence. Photograph and/or describe materials or objects that played a part in the incident. Provide a written description, sketch, or photograph of the area where the incident occurred. Note environmental factors that may have caused or contributed to any injury.
4. Follow-up with law enforcement. Include a copy of the police report, as applicable.
5. Review all relevant documents relating to the primary person involved that form the basis for the reported incident and the relevant documents relating to the individual who is the alleged victim.
6. Interview persons who have relevant information about the incident and document the interviews. Interviews may be documented and statements taken via videotape, audiotape, or other means as appropriate. Gather written statements from all relevant witnesses. Note the date and time of each interview and the name of the person who conducted the interview.
7. Interview medical professionals as to the possible cause/age of physical injuries and document the interviews. Include a statement from a qualified medical professional as to whether or not the injury is consistent with the description of the incident, including the apparent age of the injury and probable force necessary to cause the injury. Include a description of treatment received or ordered. Qualified medical professionals include, but are not limited to, physicians, nurses, and emergency medical technicians working within the scope of their licenses.

8. Conduct follow-up interviews if needed.
9. Evaluate all witnesses and documentary evidence in a clear, complete, and non-ambiguous manner.
10. Evaluate the relative credibility of the witnesses. Factors to be considered in judging the credibility of a witness include:
    a. Whether the witness's statements are logical, internally consistent, and consistent with other credible statements and known facts (e.g., does the witness appear to leave out or not know about information that the witness should know about?);
    b. Whether the witness was in a position to hear or see what is claimed;
    c. Whether the witness has a history of being reliable and honest when reporting incidents or making statements regarding incidents;
    d. Whether the witness has a special interest or motive for making a false statement (e.g., is there a possible bias of the witness?);
    e. The relevant disciplinary history of the primary person involved, such as involvement in similar past allegations;
    f. The witness's demeanor during the interview (e.g., did the witness appear evasive or not forthcoming?); and
    g. Whether the witness did other things that might affect the witness's credibility.
11. Complete a written report that:
    a. Includes a clear statement of the allegation;
    b. Includes a succinct and well-reasoned analysis of the evidence;
    c. Includes a clearly stated conclusion that identifies which allegations were and were not substantiated;
    d. Identifies the causes and contributing factors to the incident; and
    e. Addresses the prevention plan that has been implemented.

Incident Specific Requirements – Emotional Abuse

1. Provide a statement of the exact actions, words, gestures, or other communicative means used to threaten, coerce, intimidate, harass, or humiliate the individual or the pattern of behavior that created a hostile environment and the context in which these were used.

2. Provide a description of the reaction of the individual to the words, gestures, or communicative means, including any words or vocalizations which will be taken into account but not serve as the basis for not substantiating a major unusual incident.
3. Describe the volume used, including such description as loud, soft, and tone of voice, and where the primary person involved was located in relation to the individual.
4. Describe the history of interactions between the primary person involved and the individual.

Incident Specific Requirements – Exploitation or Misappropriation

When five or more people had access to the individual's property and the value of the property is fifty dollars or less, detailed questionnaires may be substituted for initial interviews. Follow-up interviews will be conducted as indicated based on information included or omitted in responses to the detailed questionnaires.

1. Document that there was an unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit or gain of the primary person involved.
2. Document the depriving, defrauding, or otherwise obtaining the real or personal property of an individual by means prohibited by the Revised Code or the Administrative Code. Include any indication of the intent of the primary person involved.
3. Describe any items taken from the individual or anything received by the primary person involved as a result of the exploitation or misappropriation.
4. Gather copies of all financial records related to the incident, including cancelled checks.
5. Document the date, time, and officer's name for law enforcement agency notification.
6. Include an indication of whether or not the individual may have consented to the taking of the individual's property or to the exploitation.
7. Verify that the property belonged to the individual.
8. Provide a description of how the improper act occurred.
9. Obtain the outcome of a criminal case, if resolved.

10. When applicable, ensure an individual's personal funds are restored in accordance with rule 5123-2-07 of the Administrative Code.

Incident Specific Requirements – Failure to Report

1. Provide a statement indicating the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse the primary person involved did not report, including when and how it occurred.
2. Provide a statement indicating that the primary person involved was aware of the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse, including when and how the primary person involved became aware.
3. Provide a statement of how the failure to report the emotional abuse, exploitation, misappropriation, neglect, physical abuse, or sexual abuse by the primary person involved caused physical harm or a substantial risk of harm to the individual; be specific regarding any wound, injury, or increased risk of harm to which the individual was exposed as a result of the failure to report.
4. Explain why the primary person involved knew or should have known that the failure to report would result in a substantial risk of harm to the individual.
5. Provide a written description of any injury.
6. Provide an explanation from the primary person involved of why that person failed to report.
7. Provide a statement of any reasons or circumstances explaining the failure to report by the primary person involved.

Incident Specific Requirements – Neglect

1. Verify and document the duty of the primary person involved to provide care to the individual.
2. Document the medical care, personal care, or other support required but not provided by the primary person involved that consequently resulted in serious injury or placed the individual or another person at risk of serious injury. Include the time period of the alleged neglect.

3. Verify and document the primary person involved had knowledge that the withheld medical care, personal care, or other support was needed by the individual. Such documentation might include the individual service plan, medical information available to the primary person involved, statements made by others to the primary person involved, statements made by the primary person involved, or training received by the primary person involved.
4. Verify that the action or inaction of the primary person involved resulted in serious injury or placed the individual or another person at risk of serious injury.
5. Specifically describe the serious injury or risk of serious injury caused by the action or inaction by the primary person involved.
6. Consider whether a systems issue contributed to the situation or outcome.

Incident Specific Requirements – Physical Abuse

1. Provide written statements that include a description of the amount of physical force used which may include, but is not limited to, speed of the force, range of motion, open or closed hand (fist), the sound made by impact, texture of surface if the individual was dragged or pulled, and the distance the individual was dragged, pulled, or shoved.
2. Provide a description of the individual's reaction to the physical force used (e.g., the individual fell backward or the individual's head or other body part jerked backward) and any indication of pain or discomfort experienced by the individual which may include words, vocalizations, or body movements.
3. Include comments made during the incident by the primary person involved.
4. Document how the harm to the individual is linked to the physical force used by the primary person involved.

Incident Specific Requirements – Prohibited Sexual Relations

1. Describe and document the type of sexual conduct or sexual contact.
2. Document whether or not the incident was consensual. (Note: Consent does not excuse sexual contact by a caregiver with an individual when the caregiver is paid to care for the individual.)

3. Verify and document that the primary person involved was providing paid care to the individual.
4. Verify and document that the primary person involved was not married to the individual.
5. Provide a statement of any known, long-term, personal relationship the primary person involved has with the individual or other circumstances relevant to the sexual conduct or sexual contact.

Incident Specific Requirements – Rights Code Violation

1. Indicate the specific right or rights of the individual violated by the primary person involved and describe how each right was violated, including any information or circumstances relevant to the incident.
2. Describe the harm or risk of harm caused to the individual as a result of the rights code violation by the primary person involved.

Incident Specific Requirements – Sexual Abuse

1. Document that the sexual activity was unwanted or the individual was unwilling.
2. Document that the primary person involved engaged in importuning, voyeurism, public indecency, pandering, or prostitution with regard to an individual.
3. Document the individual's capacity to consent.
4. Document any touching of an erogenous zone for the apparent sexual arousal or gratification of either person.
5. Describe the sexual conduct or sexual contact, including any penetration of the individual.
6. Include the results of any physical assessment conducted by a medical professional.
7. Include the results of any human sexuality assessment.
8. Provide a copy of the police report.
9. Include all medical information related to the incident.
10. Document the date, time, and officer's name for law enforcement agency notification.

Incident Specific Requirements – Unexplained or Unanticipated Death

1. Provide a statement explaining why the death is considered unexplained or unanticipated.
2. Document relevant medical interventions, treatment, or care received by the individual.
3. Include a copy of the police and/or coroner's investigation report.
4. Complete the required questions following deaths as specified by the department.