ADMINISTRATIVE REVIEW PROCESS MANUAL

Reconciling Evidence and Concluding Investigations

PA Department of Human Services, Office of Developmental Programs
through contract with Temple University Harrisburg

2023 – Version 3.1

TABLE OF CONTENTS

INTRODUCTION

The Office of Developmental Programs (ODP) supports Pennsylvanians with developmental disabilities to achieve greater independence, choice, and opportunity in their lives. As part of this mission, ODP is committed to providing the necessary tools and resources to conduct quality investigations into incidents of abuse, neglect, and other significant events that occur in the lives of individuals with developmental disabilities.

The purpose of the service system is to support people with intellectual disabilities and autism to have the same opportunities and experiences available to everyone in the community. People with disabilities want to be fully in control over everything about their lives; to have choice and control over things they do, to be healthy and safe, to fully participate in the life of the community, to have friends and family, to work, and to enjoy all the freedoms of citizenship.

With personal control, freedom, and opportunities for growth comes risk. The responsibility of those providing services is to listen, to respect each person's autonomy, to honor their decisions and to help them manage risk. The Administrative Review process is one method by which organizations can help people negotiate choice and mitigate risk.

The purpose of the Administrative Review is to ensure that each critical incident investigation results in meaningful changes that promote the health, safety, and rights of individuals. It does this by reviewing the competency and quality of each investigation for objectivity, speed, and thoroughness, weighing the evidence to make an investigation determination, and determining corrective actions to mitigate risk and decrease the chance of a future occurrence of a similar incident.

The work of the Administrative Review committee is critical to completing quality investigations, meeting the needs of victims, reducing risk to all individuals, and carrying out our unified mission to achieve greater independence, choice, and opportunity in the lives of the individuals we serve.

PURPOSE AND USE OF MANUAL

When an incident occurs, organizations are responsible for developing and implementing sound, competent investigatory and incident management practices to assure compliance with standards, policies, and procedures that are set forth by the Office of Developmental Programs (ODP) under the PA Department of Human Services. The purpose of this manual is to provide guidance to the Administrative Review committee in following the requirements and processes that are associated with the investigation of critical incidents.

This manual guides you through each item of the Provider Administrative Review section of the Enterprise Incident Management Incident Report. Enterprise Incident Management (EIM) is the platform into which all incidents must be reported and managed within the ODP service system. All items in the Provider Administrative Review need to be completed by the Administrative Review committee.

As you read through this section, you will note a few icons:

While all information in this manual is important to completing the Provider Administrative Review, this icon will note points of emphasis that need to be remembered during the Administrative Review process.

This icon notes items that could, and often should, trigger the development of a corrective action(s) to mitigate risk for individuals in the future.

A magnifying glass indicates a place to look within EIM for the information you may need in order to complete the Provider Administrative Review.

The floating arrow indicates the place where the Administrative Review committee must input relevant information to answer specified items in the Provider Administrative Review.

The web icon indicates a reference to a web page where additional information related to the Administrative Review process can be found.

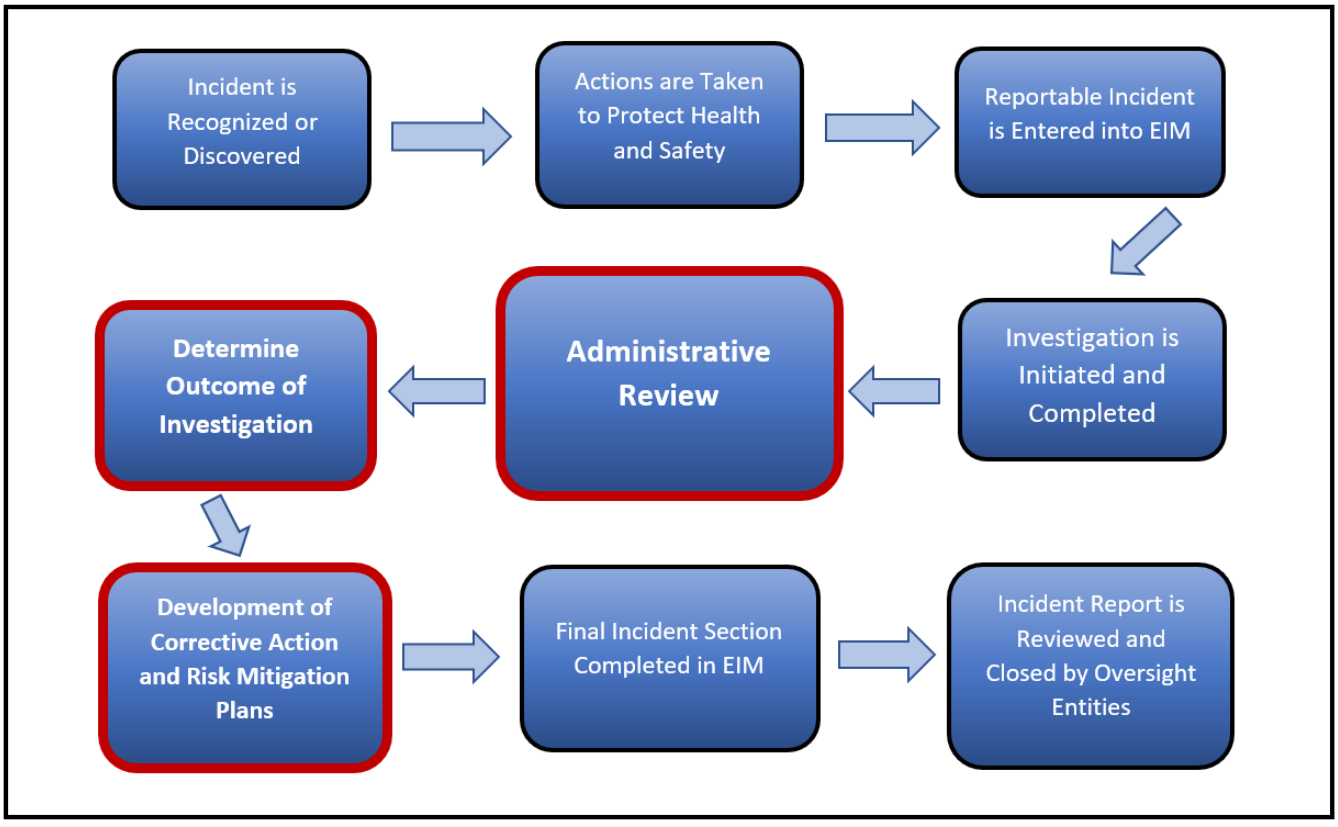
For the purposes of this manual, “organizations” refers to Providers, Supports Coordination Organizations and Administrative Entities.

THE CRITICAL INCIDENT INVESTIGATION PROCESS

An incident is an event with the potential to adversely impact an individual's health, safety, or rights. A critical incident is a type of incident that has been determined to be a sufficiently serious indicator of risk that it requires an investigation by a Department Certified Investigator. An investigation is the process of identifying, collecting, preserving, and assessing evidence from a reportable incident in a systematic manner. A chart showing the critical incident categories can be found in the appendices of this manual.

Critical Incident Life Cycle

The Administrative Review is an important part of the life cycle of a critical incident. It is during this process that the outcome of an investigation is determined, corrective actions are developed, and risk mitigation plans are created. When an organization submits the Incident Final Section in EIM, they are attesting that they have completed all parts of the EIM Incident Report as required.



The Investigation Structure

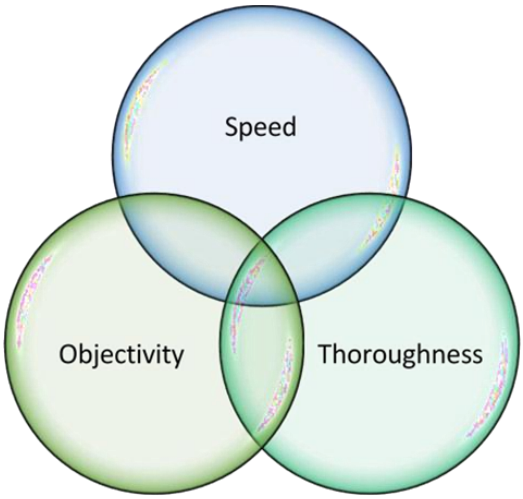
There are four stages of activities that occur in any investigation of a critical incident: intake and preservation of evidence, identification and collection of evidence, the analysis and documentation of the evidence collected, and Administrative Review, as shown in the chart below. Organizations providing services and supports to people with intellectual disabilities and autism are required to complete an Administrative Review as the fourth and final stage to every critical incident investigation. The process includes evaluating the competency and quality of the investigation, making the investigation determination, and developing corrective action(s) that will mitigate risk and help prevent future occurrence of incidents.

STAGE OF INVESTIGATION	RESPONSIBILITY	KEY TASKS AND ACTIVITIES
Stage 1 **INTAKE** **PRESERVE EVIDENCE**	Organization Point Person Site Supervisors Agency Management	Ensure safety and well-being of people; provide medical treatment as necessary. Separate target(s) from contact with individuals receiving services. Preserve relevant evidence and, if possible, keep it unaltered. Assign Certified Investigator.
Stage 2 **IDENTIFY** **COLLECT**	Certified Investigator	Create an investigative plan. Check on the safety and well-being of the victim. Review activities of intake and preservation with management. Review incident with Reporter. Identify and preserve physical evidence. Sort, classify and interview witnesses. Obtain written statements. Identify and collect documentary evidence.
Stage 3 **ANALYSIS** **DOCUMENTATION**	Certified Investigator	Review and assess collected evidence. Conduct background interviews when relevant. Conduct follow-up interviews when relevant. Conduct final reconciliation of evidence. Complete the Certified Investigator Report (CIR).
Stage 4 **ADMINISTRATIVE REVIEW**	Administrative Review Committee Note: The CI should be involved in Stage 4 as needed to answer the committee's questions about the investigation.	Review competency and quality of investigation. Make investigation determination: confirmed, not confirmed, or inconclusive. Determine corrective actions. Complete the Administrative Review section of the CIR.

Objectivity, Speed, and Thoroughness

Quality investigations are evaluated by the critical investigative elements of *Objectivity, Speed,* and *Thoroughness*. All three of these elements must be adhered to throughout the entire investigation process. If they are not, the quality of the investigation suffers, which can lead to a myriad of issues, including:

- The final determination made by the Administrative Review committee may not be based on complete, objective, or accurate information.
- Corrective Actions may not be made with all the information necessary to ensure that the actions will have the best chance of mitigating future risk.
- The quality and validity of the investigation and the resulting follow-up actions could be called into question when reviewed by others in the ODP system, in grievances of employment actions, or even in legal proceedings.



Objectivity is whether the investigation was conducted in an unbiased manner.

Speed refers to whether the timing of investigative tasks affected the quality of the investigation, including the validity of the evidence collected.

Thoroughness is determined by evaluating how exhaustively the CI investigated the incident, including their identification, collection, and analysis of all relevant evidence.

Additional information about the applications of the concepts of *Speed, Objectivity,* and *Thoroughness* in investigations can be found in the most current version of the ODP Certified Investigator's Manual, at www.myODP.org.

Professionals > Certified Investigators > CI Help & Resources > All Documents > Manuals

STRUCTURING THE ADMINISTRATIVE REVIEW PROCESS

Committee Membership

The Administrative Review process is best served utilizing a committee of individuals who will review the case, objectively evaluate the quality of the investigation, and determine the final outcomes of the investigation.

1. Agency management and administration
2. Incident and/or risk management committee members
3. Human Rights committee/team members
4. Agency Board of Directors members
5. CIs not assigned to the case
6. Incident point persons
7. Quality improvement staff

It is recommended to have two (2) to five (5) members on the Administrative Review committee. One member should be selected as the committee's final decision-maker when consensus cannot be reached. While Administrative Review committee members are not required to be CIs, they should be familiar with the most current CI Manual and incident management policies.

The CI who was assigned to and completed the investigation should not be considered as a member of the committee for the review of that investigation. However, the CI should be available to the Administrative Review committee to answer questions about the investigation.

Committee Meeting Frequency

Meetings must be held at a frequency that allows for all cases to be completed within the necessary timeframes. It is very important that committees with regularly scheduled meetings also have the ability to meet on an ad hoc basis, to adhere to investigative timeframes. The Administrative Review committee may consider having back-up members who may assist with the Administrative Review when members are unable to attend committee meetings.

All investigations must be completed within 30 days of the incident being discovered unless there is an investigative reason for a delay. The schedule of an Administrative Review committee is not an acceptable reason for an extension of this timeframe. In other words, Administrative Review committee meetings must be scheduled frequently enough that investigations are closed within 30 days.

Committee Responsibilities

The Administrative Review committee is responsible for the following:

1. Reviewing the Incident First Section of the EIM Incident Report to assess for adherence to requirements and standards as they directly relate to the investigation under review;
2. Assessing the Provider Certified Investigator Report and Provider Investigation File for adherence to recommended standards and protocols for identifying, collecting, preserving, and analyzing evidence;
3. Reviewing competency and quality of investigation for *Objectivity, Speed,* and *Thoroughness*;
4. Requesting the CI to complete additional investigative tasks when/if the investigation does not meet standards or does not provide adequate information to determine an outcome and develop effective corrective actions.
5. Weighing the evidence, using the *Preponderance of Evidence* standard, to make a final determination: *Confirmed, Not Confirmed*, or *Inconclusive*;
6. Determining necessary *Preventative* and *Additional* corrective action(s) based on the conclusions drawn from the investigation;
7. Completing the Provider Administrative Review portion of the EIM Incident Report;
8. Ensuring corrective action(s) are implemented and there is a plan for ongoing monitoring of all corrective actions; the Administrative Review committee must review the Initial Regional and County Management Reviews in EIM to determine if there are items that need to be addressed related to the incident; and
9. Reviewing and addressing concerns that may have been identified by the CI during the investigation.

COMPLETION OF THE PROVIDER ADMINISTRATIVE REVIEW

Documentation of the Administrative Review committee meeting must be completed through the Provider Administrative Review section of the EIM Incident Report. The Administrative Review committee is required to completely answer each question within the Provider Administrative Review section of the EIM Incident Report. If there are items in the Provider Administrative Review section of the EIM Incident Report that cannot be answered by the Administrative Review committee, the Administrative Review committee must provide clear and thorough reason(s) to explain why the item cannot be completed.

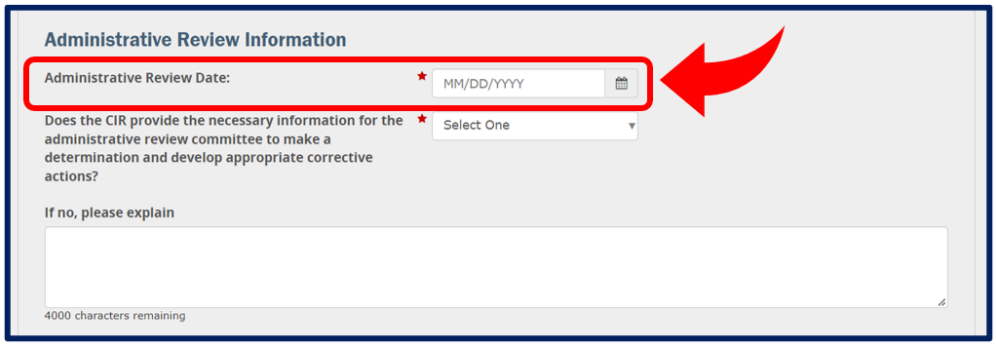
The Provider Administrative Review section of the EIM Incident Report should describe outcomes and not process. For example, the discussion regarding the determination is not recorded in terms of who stated what points but only what the determination is and the evidentiary support for it.

ADMINISTRATIVE REVIEW INFORMATION

At the initiation of the Provider Administrative Review, the Administrative Review committee is required to enter information that is specific to the Administrative Review that is being conducted. The following items must be completed to indicate when the Administrative Review is being conducted and whether the CI has presented enough information in the Provider Certified Investigator Report and Provider Investigation File to allow the Administrative Review committee to make a determination and develop appropriate corrective actions.

Item 1

Administrative Review Date:



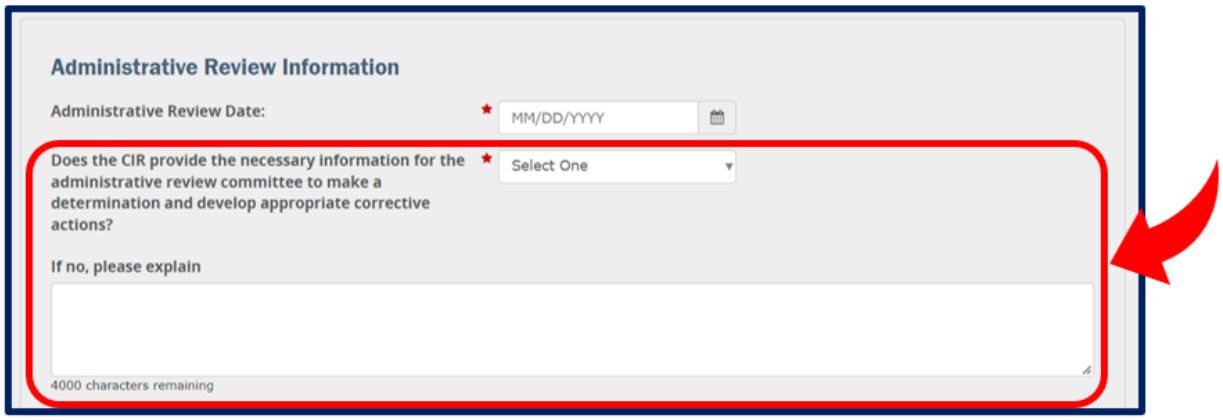
The Administrative Review committee is required to provide the date that the Provider Administrative Review is being completed. To satisfy the critical element of *Speed*, the entire investigation (including the Administrative Review) must be completed within 30 days of the date when the incident was recognized or discovered. If circumstances prevent the Administrative Review committee from completing the Provider Administrative Review within 30 days of the incident being recognized or discovered, the Administrative Review committee must review those circumstances to determine whether corrective actions should be implemented to prevent future delays.

Where to look: To determine whether the investigation is on track to be completed according to the required timeframe, the Administrative Review committee must review the Discovery Date and Time that is listed in the **Incident Classification** section of the Incident First Section of the EIM Incident Report.

Incident First Section:

Item 2

Does the CIR provide the necessary information for the Administrative Review Committee to make a determination and develop appropriate corrective actions?



The Administrative Review committee must decide whether the Provider Certified Investigator Report is complete and no additional information is needed to make an investigation determination. The Administrative Review committee must also decide if there are unanswered questions that would prevent the committee from making an investigation determination.

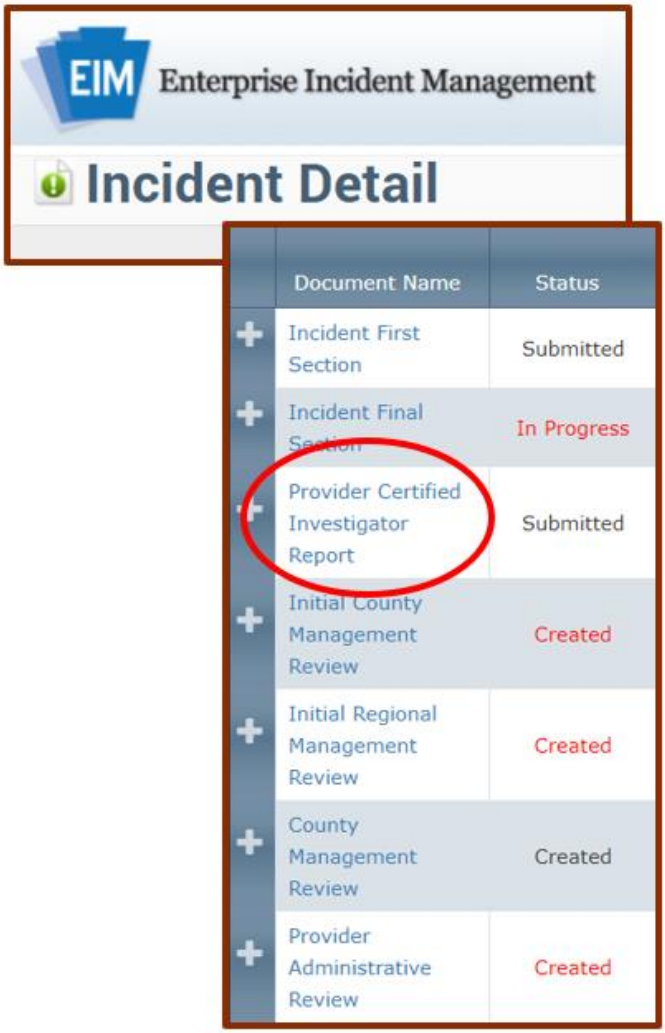
If the Administrative Review committee believes the Provider Certified Investigator Report is complete and provides the necessary information for a determination and appropriate corrective actions, the Administrative Review committee must select “Yes”. If the answer to this question is “Yes”, other pages of the Provider Administrative Review will appear, and the Provider Administrative Review can continue.

If the Provider Certified Investigator Report is incomplete and does not provide the information needed to conduct a thorough and accurate Administrative Review, the Administrative Review committee must select “No”. If the Administrative Review committee selects “No”, they must enter a clear and thorough explanation to communicate to the CI a request for additional information. If the answer to this question is “No”, no other pages of the Provider Administrative Review will appear, and the Provider Certified Investigator Report will be returned to the assigned CI for additional information.

The Administrative Review committee may decide that the CI would benefit from additional training, feedback, or guidance related to the reason(s) that this item was marked “No”. The need for additional training, feedback, or guidance must be listed in the Preventative or Additional corrective action section of the Provider Administrative Review.

Where to look: To determine whether the Provider Certified Investigator Report provides necessary information for an accurate determination and meaningful corrective actions, the Administrative Review committee must review the entire **Provider Certified Investigator Report**, and Provider Investigation File.

EIM Incident Report:

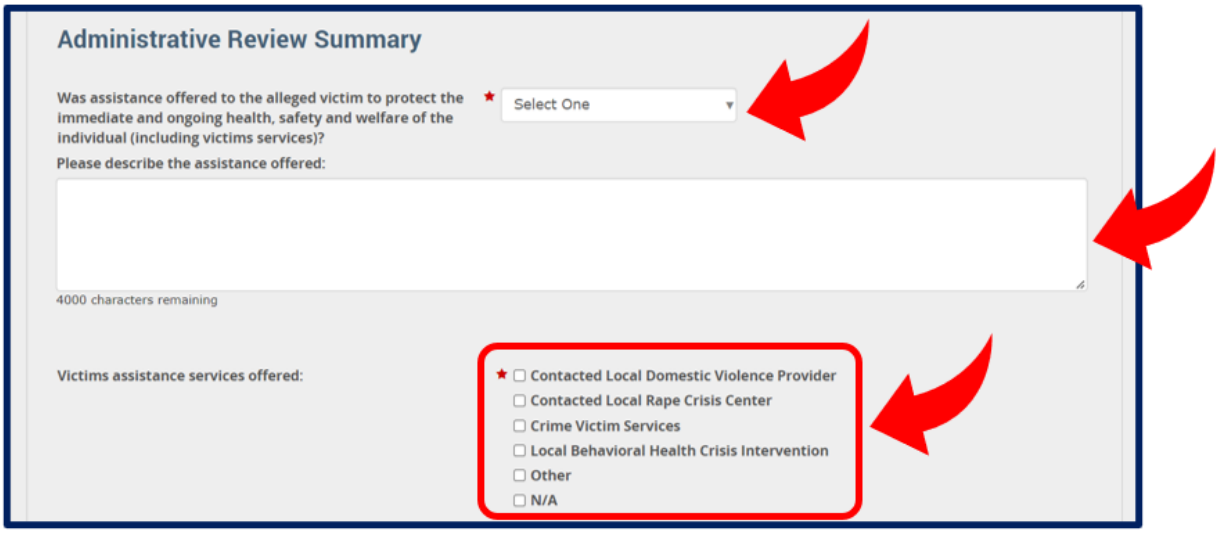


ADMINISTRATIVE REVIEW SUMMARY

The Administrative Review Summary allows reviewers to document important actions related to the management of an incident. This includes the immediate response, notifications, proper categorizations, and timeliness of an incident. The information provided captures the actions that were taken to protect the immediate and ongoing health, safety, and welfare of the individual who has been identified as the victim of the incident. The Administrative Review Summary requires specific details about victim's assistance services that were offered, the involved target(s), the treatment of any injuries, wounds, or illnesses, and appropriate contacts with the victim's representatives and law enforcement. The Administrative Review committee must use this section of the Provider Administrative Review to indicate whether the *Preponderance of Evidence* standard suggests the incident category is *Confirmed, Not Confirmed,* or *Inconclusive.*

Item 3

Was assistance offered to the alleged victim to protect the immediate and ongoing health, safety, and welfare of the individual (including victims services)?



Of utmost concern are the actions taken to protect the immediate health and safety of an individual, after an incident is discovered. Actions that were taken to protect health, safety, and rights must be taken (or planned) no later than 24 hours after the discovery/recognition of an incident and documented within the Incident First Section of the EIM Incident Report.

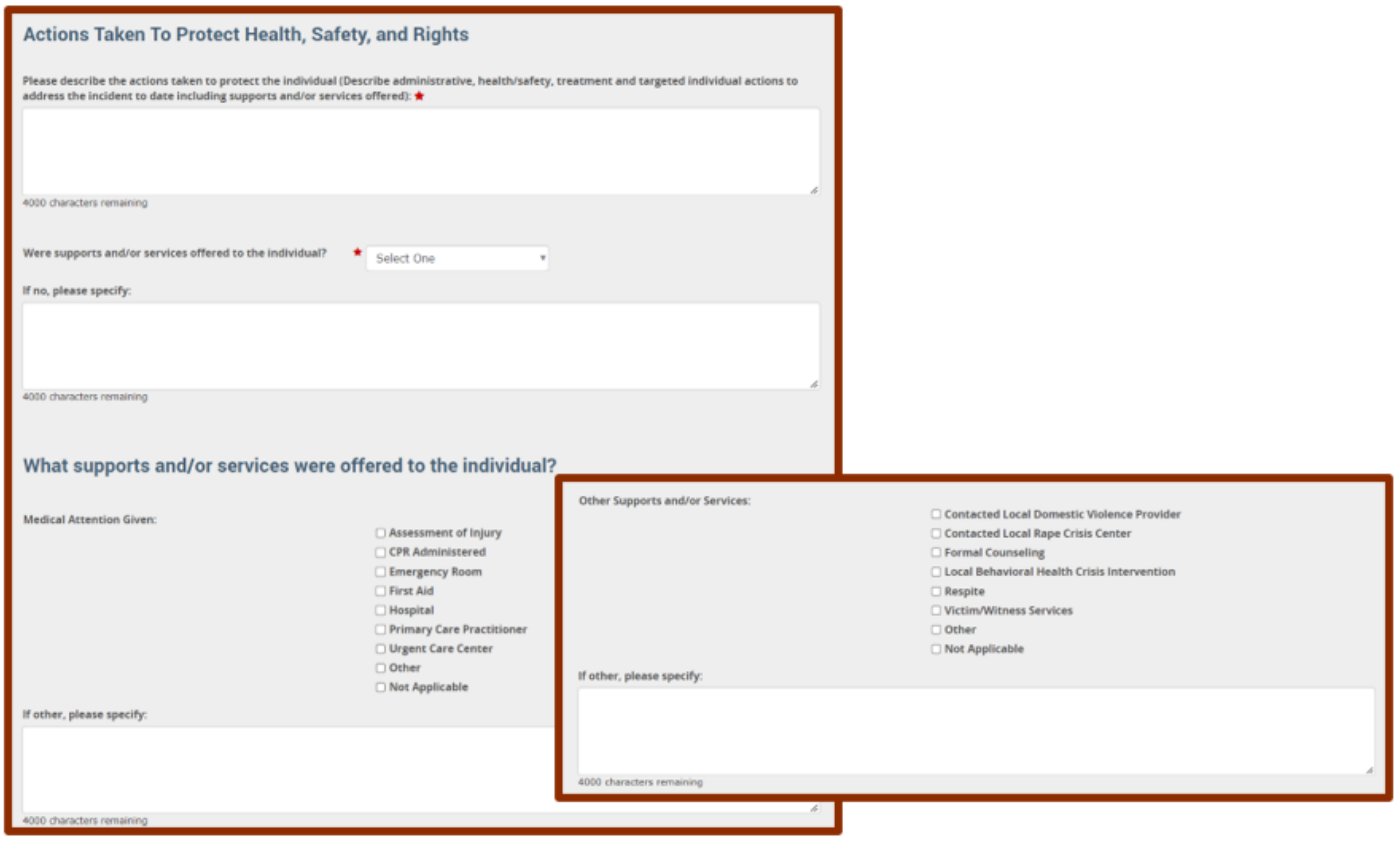
Organizations must be careful when referring to "planned" actions to protect health, safety, and rights. While immediate actions such as emergency medical care and the separation of targets cannot be planned for a future date, ongoing actions that include formal counseling or appointments at a rape crisis center can be planned and taken after 24 hours from the discovery/recognition of an incident. Documentation that

explains the details of actions that are being planned must be included in the Incident First Section of the EIM Incident Report.

The Administrative Review committee is required to review, evaluate, and determine whether the actions that were taken by the organization to protect the victim's health, safety, and welfare, including offering victim's assistance, were adequate and prompt. If prompt actions were taken to protect the immediate and ongoing health, safety, and welfare of the individual, the Administrative Review committee must select "Yes" and document all forms of assistance that were offered to the victim. If the Administrative Review committee determines appropriate actions were not taken to protect the immediate and ongoing health, safety, and welfare of the individual, "No" must be selected and the Administrative Review committee is required to provide a clear and thorough reason to explain why. Some incidents will not require prompt actions to protect the immediate and ongoing health, safety, and welfare of the individual. For incidents where this is the case the Administrative Review committee should select "N/A" and provide detailed, relevant information in the Provider Administrative Review to explain why prompt actions were not required.

Where to Look: To determine whether the organization took prompt, adequate actions to protect the immediate and ongoing health, safety, and welfare of the individual, the Administrative Review committee must review the action(s) listed in the **Actions Taken To Protect Health, Safety, and Rights** section of the Incident First Section of the EIM Incident Report.

Incident First Section:



More information on taking actions to protect health, safety, and rights can be found in the "Helpful Tips" section within the Appendices of this manual.

Corrective Actions for Protecting Health and Safety

The entire EIM Incident Report and other relevant documents must be reviewed to determine if there are items that need to be addressed related to actions taken to protect health and safety. If a review of the EIM Incident Report indicates issues with the actions taken to protect the victim's health, safety, and rights, corrective action(s) for assuring this occurs for future incidents must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

If the Administrative Review committee determines there are actions that are still needed to address health and safety, a plan must be immediately implemented to address the concern(s). For example, if someone did not get necessary treatment for their injury, the Administrative Review committee must immediately take action to have the person examined by physician or other appropriate medical professional, and additional corrective action(s) for assuring all actions to address health and safety for future incidents must be provided within the Preventative or Additional Corrective Action section of the Provider Administrative Review.

Victim's Assistance Services Offered:

The Administrative Review committee is responsible for verifying victim's assistance services were offered appropriately. Victim's assistance programs are resources available to physically, emotionally, financially, and/or legally assist victims of abuse, neglect, or crime. Victims may access many of the resources within the Commonwealth regardless of the intent to file criminal charges or proceed within the criminal justice system.

Victims have the right to access these services at any time. Support staff must offer victim's assistance directly to the individual. Directly means that the victim is present when options are discussed and offered.

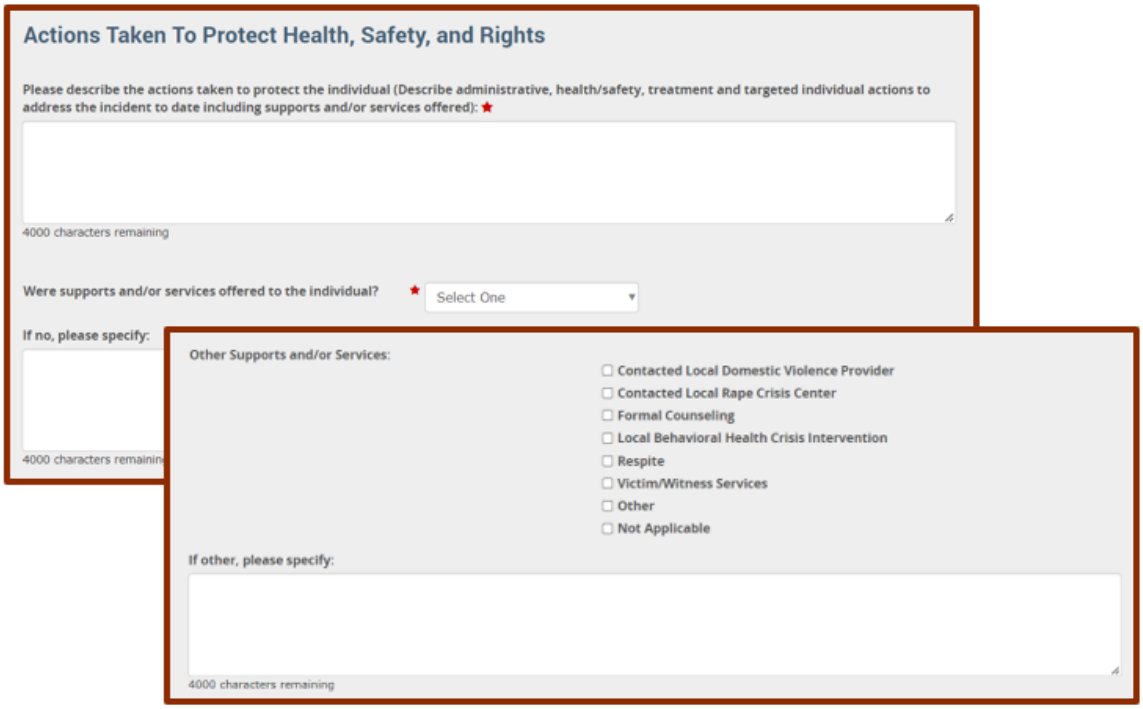
Victimization should not be taken lightly as any type of incident can cause emotional, psychological, physical, financial, and behavioral consequences for individuals. Signs of trauma from an incident may or may not be present immediately after an event. Victim's assistance should be offered more than once to ensure the individual has the opportunity to process an event and decide what support(s) they wish to access. If the victim declined victim's assistance services, the Incident First Section must provide detailed information about the specific services that were offered, how they were offered, and how many times

they were offered. When several actions are taken and many forms of assistance are offered to the individual, all applicable items that are listed in this section of the EIM Incident Report should be selected. If "Other" is selected, details of the assistance that was offered must be provided. For incidents where victim's assistance was not deemed necessary and not provided to the individual, the Administrative Review committee may select "N/A" and provide a clear and thorough reason to explain why.

A partial list of the types of services that may be offered to the victim can be found in the Appendices of this manual.

Where to Look: To determine whether victim's assistance services were offered to the victim, the Administrative Review committee must review the action(s) listed in the **Actions Taken To Protect Health, Safety, and Rights** section of the Incident First Section. The Administrative Review committee may need to examine additional sections of the Provider Certified Investigator Report and Provider Investigation File to determine the status of any victim's assistance programs for the individual.

Incident First Section:



Additional resources on supporting victims during and after an incident has occurred can be accessed at www.myODP.org.

Professionals > Certified Investigators > CI Help & Resources > Helpful Links

Corrective Actions for Timely and Adequate Victim Assistance

The Administrative Review committee must review the entire EIM Incident Report and other relevant documents to determine if there are items that need to be addressed related to actions taken to offer victim's assistance. If timely and adequate assistance was not offered, corrective actions to deliver these services as well as to make sure that services are offered for future incidents must be provided within the Preventative or Additional Corrective Action section of Provider Administrative Review.

If at the time of the Provider Administrative Review the committee determines there are victim's assistance services that are still needed to address the needs of the victim, a plan must be immediately implemented to address these need(s). For example, if the circumstances of the incident present the need for an opportunity for the victim to have contact with a local behavioral crisis intervention center and this was not offered, the Administrative Review committee must immediately take action to offer this choice. The description of this action must be provided within the Preventative or Additional Corrective Action section of the Provider Administrative Review.

Item 4

If the incident involved target(s), was the target separated from potential contact with all individuals receiving services until the incident investigation was completed?

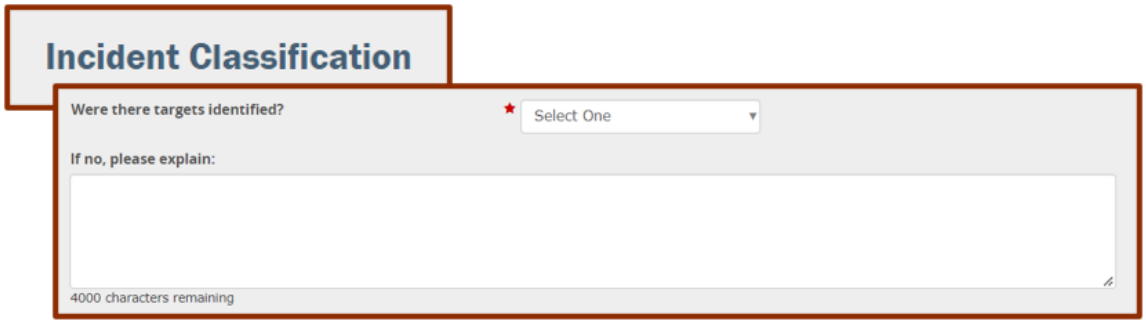
When an incident is discovered, the organization is required to ensure the target is separated from the victim of the incident and other individuals, as required. For incidents that involve abuse, suspected abuse, or alleged abuse, the target must be separated from the victim. The separation of the target is intended to provide a strong safeguard to supported individuals and promote a culture of safety and must be done immediately after an incident has been discovered. It is the responsibility of the Administrative Review committee to verify actions that were taken to ensure the appropriate separation of the target. The target must remain separated until the Administrative Review committee provides an investigation determination and relevant corrective action that suggests the target no longer needs to be separated.

If the incident involved target(s), and they were separated as required, the Administrative Review committee must select "Yes". If the incident involved target(s) that were not separated as required (including incidents in which the target could not be identified), the Administrative Review committee must select "No" and document a clear and thorough reason to explain why. For some incidents, including a death by natural causes or some accidental injuries, there is no person or entity that caused the incident to occur (no targets). When such incidents occur, the Administrative Review committee may select "N/A" and provide a clear and thorough reason to explain why.

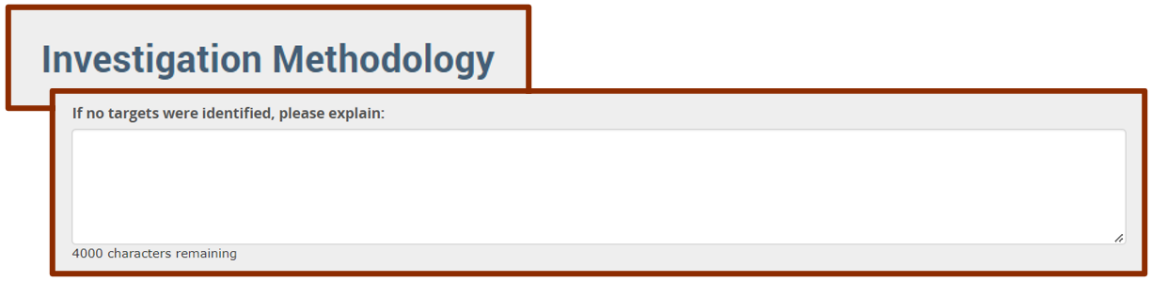
If a target(s) was discovered or the identity of a target changes during an investigation, organizations are to take immediate actions to separate the target, as required in addition, the organization must ensure that accurate target information is in the EIM Incident Report.

Where to Look: To determine whether target(s) were identified during the investigation, the Administrative Review committee must review the **Incident Classification** in the Incident First Section and the **Investigation Methodology** in the Provider Certified Investigator Report section of the EIM Incident Report. To determine whether target(s) were separated as required, the Administrative Review committee must review the **Actions Taken to Protect Health, Safety, and Rights** section of the EIM Incident Report and the recommended MyODP trainings.

Incident First Section:



Provider Certified Investigator Report:



Corrective Actions for Separation of Target

The Administrative Review committee must review the entire EIM Incident Report to determine if there are items that need to be addressed related to the target(s) of an incident. If it is determined that the target was not separated as required, corrective action(s) for making sure targets are immediately separated, as required, in future incidents must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

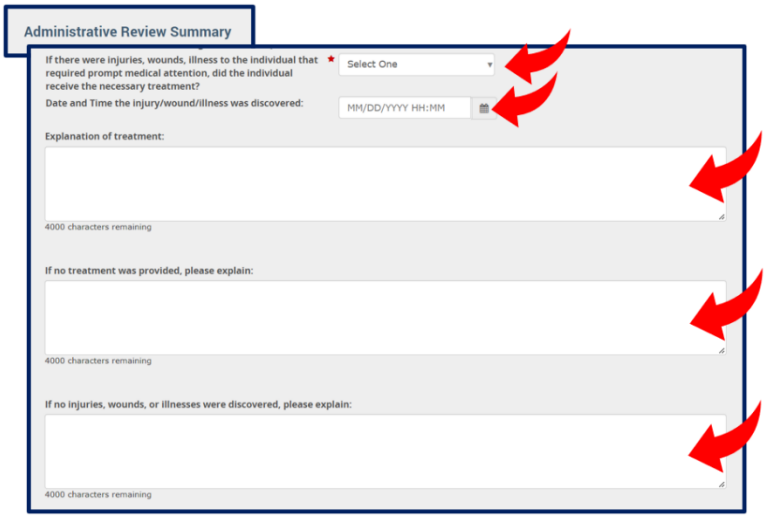
Common situations that require corrective actions related to separating a target:

- The incident is recognized, and target(s) is known at the onset of the incident and the organization either failed to separate the target as required or failed to document the separation in the Incident First Section.
- The initial Regional or County Management Review indicates issues related to the target of an incident.
- A target(s) is discovered or the identity of an alleged target changes during the course of an investigation and the organization either failed to separate the target as required or failed to document the separation.

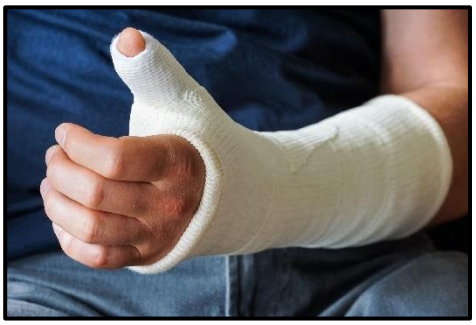
Additional training materials on separating the target during an incident, including requirements by Incident Management Bulletin 00-21-02, can be accessed at www.myODP.org.

Item 5

If there were injuries, wounds, or illnesses to the individual that required prompt medical attention, did the individual receive the necessary treatment?

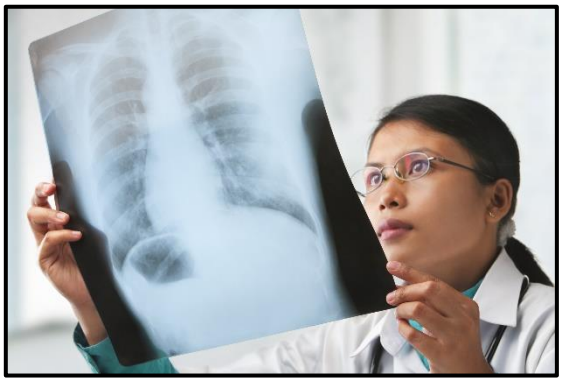


During an incident, the individual may sustain an injury, wound, or illness that could require medical attention. If the individual experienced any injuries, wounds, or illnesses, the Administrative Review committee is responsible for documenting them in the Provider Administrative Review. In addition to documenting each injury, wound, or illness, the Administrative Review committee is responsible for indicating whether the necessary level of medical attention was provided to the individual. The necessity of medical attention is dependent on the nature of the individual's injury, wound, or illness, not the incident category. Although medical attention refers to an examination or treatment that is provided by a qualified medical professional, acts of basic first aid can be listed as medical attention within the EIM Incident Report. Depending on the nature of the injury, or wound, it may be necessary to provide a level of medical attention that exceeds first aid. All medical treatment must be promptly provided to the individual.



If the incident caused a wound, illness, or injury and the individual received necessary medical treatment, the Administrative Review committee must select "Yes" and provide the date and time the injury or illness was discovered. A thorough explanation of the medical treatment the individual received must be included in the report. Initial emergency room treatment, PCP appointments, referrals to specialty doctors, and other follow-up medical treatments must be noted in this section of the Provider Administrative Review. If the individual sustained an injury, wound, or illness during or as a result of the incident and did not receive necessary medical attention, the Administrative Review committee is required to select "No", provide the date and time the injury or illness was discovered, and document a clear and thorough reason to explain why necessary medical treatment was not provided to the individual. If the individual received medical treatment that was not provided promptly, the Administrative Review committee must select "No," provide a clear and thorough explanation of the delay in providing medical treatment to the individual and describe the medical treatment that was eventually provided. Some incidents will not involve an injury, wound, or illness that requires medical attention. For incidents where this is the case, the Administrative Review committee should select "N/A" and provide detailed, relevant information in the Provider Administrative Review to explain why there were no injuries, wounds, or illnesses discovered in association with the incident.

When reviewing evidence that is related to medical care, the Administrative Review committee should consider the following:



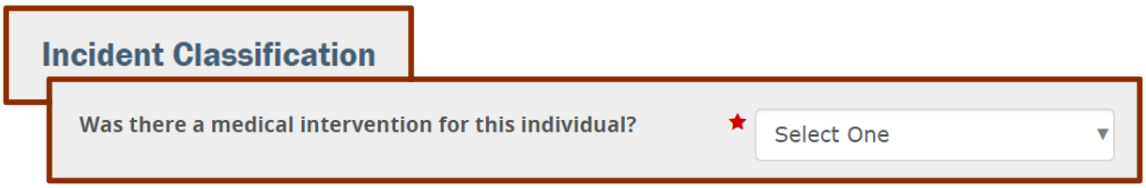
- Did the staff person(s), caregiver(s) or other responsible person(s) recognize symptoms of illness or injury and seek treatment promptly?
- Were there unnecessary delays in calling emergency services?
    - Unnecessary delays could include calls to programs supervisors, nursing staff, or family before 911.
- Was there a failure to acknowledge/recognize symptoms of an illness/injury?
    - The individual displays signs or symptoms that were not acknowledged/recognized, causing a delay

in prompt medical treatment.

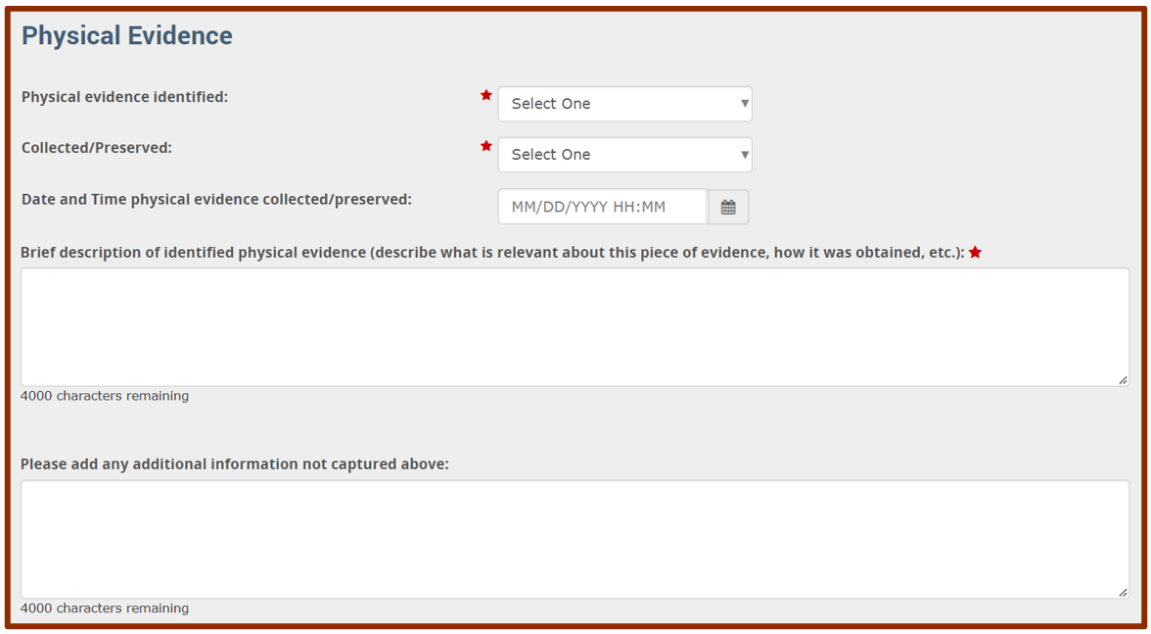
- Was CPR, First Aid, etc. provided appropriately and in a prompt manner?
  - Was CPR initiated when necessary?
  - Was First-Aid applied correctly?
- Were all person-centered health care protocols followed?

Where to Look: Although injuries, wounds, and illnesses can range in severity, it is required that each injury, wound, and illness receive necessary treatment and be documented. To determine whether necessary medical treatment was promptly provided to the victim, the Administrative Review committee must review the entire EIM Incident Report, including the **Incident Classification** and **Action Taken to Protect Health, Safety and Rights** sections of the Incident First Section. All injuries, wounds, or illnesses that were identified and/or documented by the CI must also be listed in the **Physical Evidence** section of the Provider Certified Investigator Report. A review of the entire EIM Incident Report will help the Administrative Review committee determine whether medical assistance was provided, as necessary, for each wound, injury, or illness that the victim may have experienced during the incident.

EIM Incident Report First Section:



Provider Certified Investigator Report:



Additional information on assessing prompt, adequate actions and the documentation of actions can be found within the "Helpful Tips" section of this manual's appendices.

Corrective Actions for Failures to Provide Medical Care

The Administrative Review committee must review the entire EIM Incident Report to determine if there are items related to the medical care of the victim that need to be addressed. Failures to provide appropriate medical care must be addressed with corrective action(s) in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

Medical care includes all follow-up medical treatment that may be necessary to ensure health and safety over time. An individual may be required to see a specialty medical professional as a result of a visit to their Primary Care Physician or an Emergency Room. If follow-up treatment was required but not completed, corrective actions to address failures to carry out follow-up treatment must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

If the Administrative Review committee determines medical attention is still required for the individual at the time of the Administrative Review, a plan must be immediately implemented to address the concern(s). For example, if someone did not get necessary treatment for their injury or additional appointments that were required for treatment were not scheduled or attended the Administrative Review committee must immediately take action to provide all necessary medical treatment and document the actions taken as

corrective actions in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

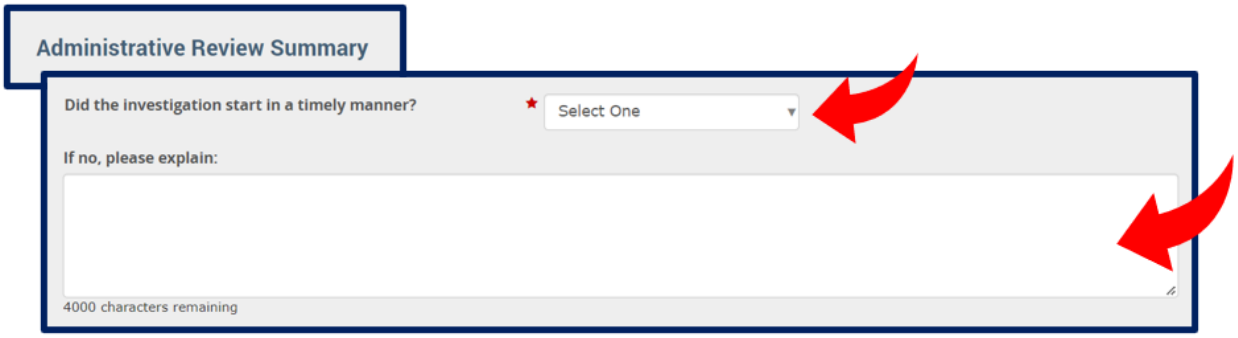
Medical care that was provided as a result of the incident should be documented by the CI in the Provider Certified Investigator Report. Medical attention that was provided within 24 hours of the discovery of an incident can also be found within the Incident First Section.

Additional information on identifying and documenting the presence and/or absence of wounds and other injuries can be found in the most current version of the ODP Certified Investigators Manual, at www.MyODP.org

Professionals > Certified Investigators > CI Help & Resources > All Documents > Manuals

Item 6

Did the investigation start in a timely manner?



There are two concrete timeframes to measure the critical element of *Speed* at the onset of the investigation process.

1. The investigation must be assigned to the CI within 24-hours of the discovery date/time of the incident.
2. The investigation must start within 24-hours of the CI being assigned to the case.

Being mindful of the importance of the critical element of *Speed*, these timeframes should be viewed only as the maximum allowed, not the ideal standard. This means that 24-hours is the most time we should take for each of these two actions. Investigations must be done in a timely manner and begin sooner than the 24-hour maximum timeframe whenever possible.

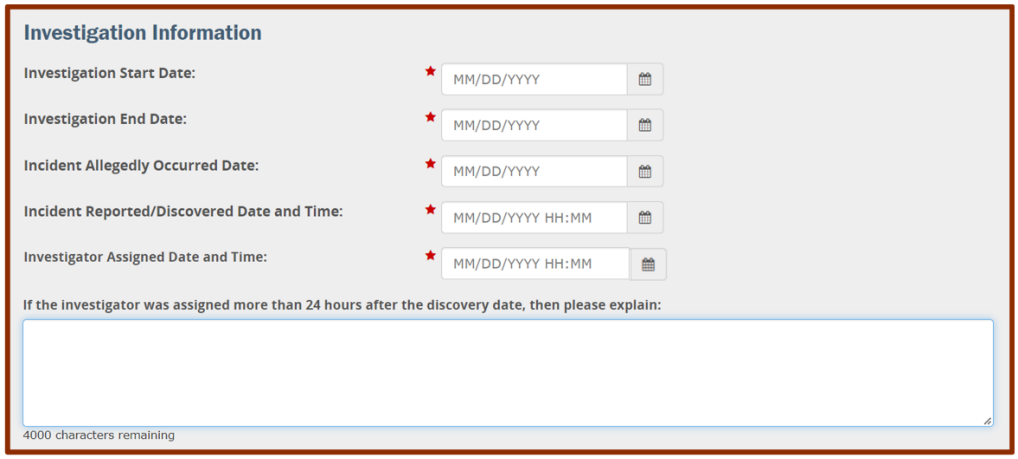
The timeliness of an investigation must be measured by the amount of time that passes between when the CI is assigned to the investigation and when they conduct the first interview of the investigation process. For the investigation to have started timely, the CI ***must*** have interviewed their first witness within 24 hours of assignment, or documented a valid attempt to complete their first interview within the suggested time frame.

The Administrative Review committee is required to review, evaluate, and determine whether the investigation started in a timely manner, according to when the CI was assigned to the investigation and the first interview was conducted. If the investigation started in a timely manner, the Administrative Review committee must select "Yes". If the investigation did not start in a timely manner, the Administrative Review committee must select "No" and provide a clear and thorough reason to explain why.

Where to Look: To determine whether the investigation started in a timely manner, the Administrative Review committee must review the **Investigation Information** and **Testimonial Evidence** sections of the Provider Certified Investigator Report. The date and time of the first interview, as documented in the Testimonial evidence section, should be no more than 24 hours after the Investigator Assigned Date and Time, as documented in the Investigation Information section.

EIM Incident Report First Section:

Provider Certified Investigator Report:



Testimonial Evidence

Relationship to the individual - Testimonial Evidence	Witness First Name - Testimonial Evidence	Witness Last Name - Testimonial Evidence	Witness Identifier (in an effort to protect identity)- Testimonial Evidence	Agency Title (or Family Role) - Testimonial Evidence	Type of Interview - Testimonial Evidence	Interview Date and Time - Testimonial Evidence

Additional information on assessing the speed of investigations can be found in the "Helpful Tips" section within the Appendices of this manual.

Corrective Action for Speed of an Investigation

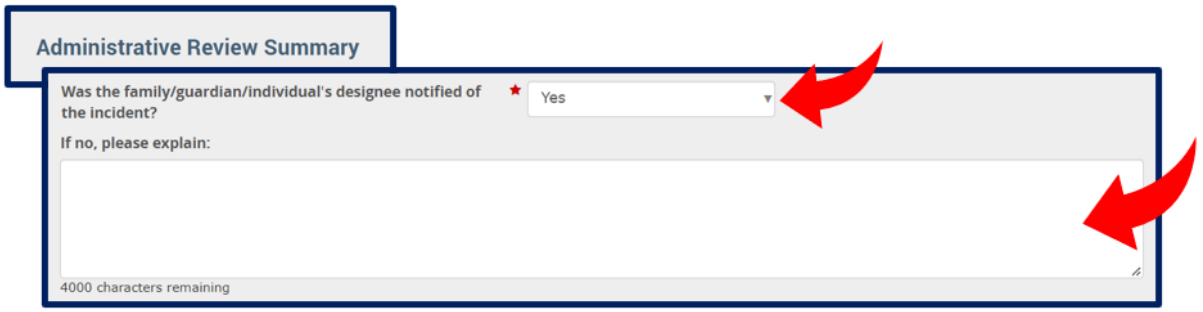
The Administrative Review committee must review the entire EIM Incident Report to determine if there are items related to the speed of an investigation that need to be addressed. If the Reviewer finds that the organization assigned the investigator more than 24 hours after the discovery date of the incident and/or the CI did not conduct their first witness interview within 24 hours of being assigned to the case, corrective action(s) for assuring these timeframes are met for future incidents must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

Additionally, the Administrative Review committee needs to determine if there was a delay in any aspect of the investigation which may have impacted or affected the physical, testimonial, or documentary evidence that was available for the incident. *Speed* is a critical element of the investigation process as specific forms of evidence may change or be altered over time when an investigation experiences a delay. If the Administrative Review committee indicates issues that need to be addressed, corrective action(s) to assure that future investigations begin and/or proceed in a timely manner must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

It is important to note that the CI must make every effort to conduct a witness interview within 24 hours of their assignment. If the person they had planned to interview first is not available within the first 24 hours of the CI's assignment, then the CI should try to interview the next person. If the time between the investigation assignment and the first witness interview exceeds 24-hours, the CI must provide a valid investigative reason to explain why they could not interview any witness within the first 24 hours of their assignment. The reason for the delay must be a circumstance **beyond the control of the CI** and must be documented in the Provider Certified Investigator Report.

Item 7

Was the family/guardian/individual's designee notified of the incident?



Notifications to family, guardian, or the individual's designee is a critical step needed to assure the present and future safety of individuals. Notification of incident management activities must be made as indicated in the individual's Individual Support Plan.

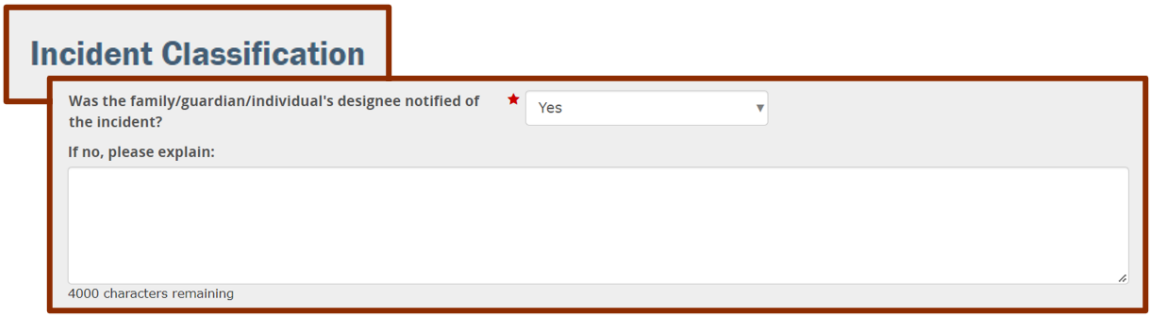
The Administrative Review committee is required to review, evaluate, and determine whether actions were taken to ensure proper notifications to the individual's family, guardian, or designee. If proper notifications about the incident were made to the individual's family, guardian, or designee, the Administrative Review committee must select "Yes". If the individual's family, guardian, or designee was not properly notified about the incident, the Administrative Review committee must select "No" and provide a clear and thorough reason to explain why.

Information concerning the role of a Guardian and their role when an individual has been named a victim of an incident can be accessed at www.myODP.org.

Professionals > Certified Investigators > CI Help & Resources > Helpful Links

Where to Look: Documented notifications that were made to the individual's family, guardian, or designee should be entered into the **Incident First section** of the EIM Incident Report. Notifications entered in that section of the report will be copied into the appropriate sections of the Provider Administrative Review. The Administrative Review committee is required to ensure the notifications provided in the EIM Incident Report correspond with the proper notifications that may be listed in the individual's Individual Support Plan, emergency contact sheet, or other relevant records.

Incident First Section:



Corrective Action for Notification of Family, Guardian, or Other Designee

The Administrative Review committee must review the entire EIM Incident Report to determine whether there are issues related to the notification of the individual's family, guardian, or designee that need to be addressed. If the Administrative Review committee indicates issues with notifying the individual's family, guardian, or designee about the incident, corrective action(s) assuring that the individual's family, guardian, or other designees are notified of future incidents (as indicated in the individual's ISP or other care protocols) must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

If the Administrative Review committee determines the individual's family, guardian, or designee still needs to be notified of the incident at the time of the Administrative Review, a plan must be immediately implemented to address this area of concern. For example, if an individual has a legal guardian and the terms of the guardianship specify that the legal guardian must be notified of incidents, and they were not notified, the Administrative Review committee must immediately take action and notify the appropriate contact person. Corrective action(s) for assuring the completion of notifications to the individual's family, guardian, or designee for future incidents must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

Item 8

Was the appropriate notification made related to the Adult Protective Services Act, Older Adult Protective Services Act and Child Line Protective Services Law?

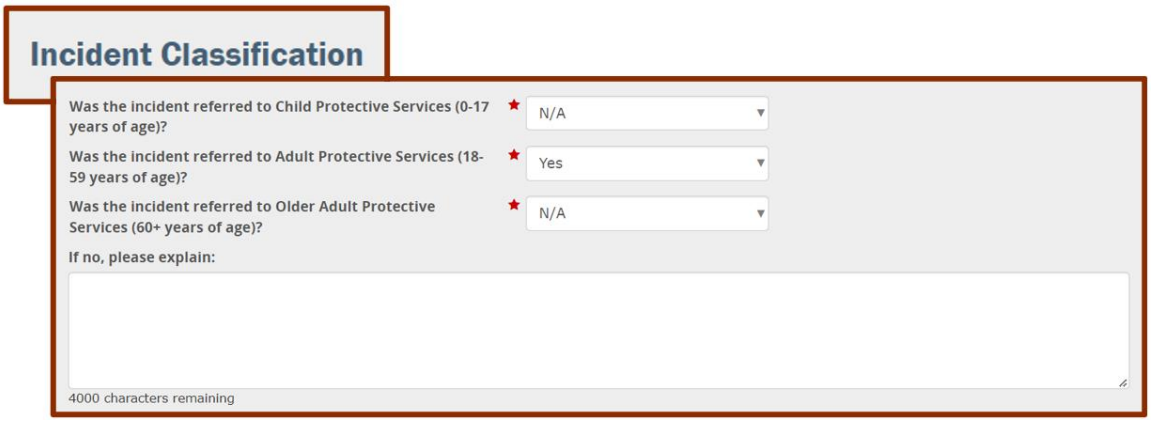
The organization is responsible for reporting and managing incidents in accordance with the Adult Protective Service Act, Older Adult Protective Services Act, and Child Line Protective Services Law. Notifications to protective services is law and appropriate notifications must be made for incidents involving abuse, suspected abuse, or alleged abuse. Incidents should be reported to protective services according to the laws that govern each protective service entity. Organizations are responsible for reviewing protective service laws according to their relevance of the individuals being serviced by that organization. The Administrative Review committee should be familiar with protective services laws and is responsible for verifying that proper notifications were made.

The Administrative Review committee is required to review, evaluate, and determine whether actions were taken by the organization to notify the appropriate protective service entity about a particular incident.

If appropriate notifications to protective services were made by the organization, the Administrative Review committee must select “Yes”. If protective services were not appropriately notified, the Administrative Review committee should select "No" and provide a clear and thorough reason to explain why the proper agency was not notified. The Administrative Review committee may select “N/A” if the incident did not require a notification to a protective services entity. If “N/A” is selected, a clear and thorough reason must be provided to explain why a notification to protective services was deemed unnecessary.

Where to Look: To determine whether a protective service entity was contacted at the time of the incident's discovery/recognition, the Administrative Review committee must review the **Incident Classification** section of the Incident First Section within the EIM Incident Report.

Incident First Section:



The Adult Protective Service (APS) Law (Act 70 of 2010) and other guidelines for reporting incidents to Protective Services can be found on the PA Department of Human Services website (www.dhs.pa.gov).

Additional resources concerning notifications to protective services, including requirements by Incident Management Bulletin 00-21-02, can be accessed at www.myODP.org.

Corrective Actions for Notification of Protective Services

The Administrative Review committee must review the Incident First Section to determine whether notifications were made to a protective service entity upon the recognition or discovery of the incident. If a notification should have occurred and it did not, corrective action(s) for assuring that notifications are made for future incidents at the time of discovery/recognition must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

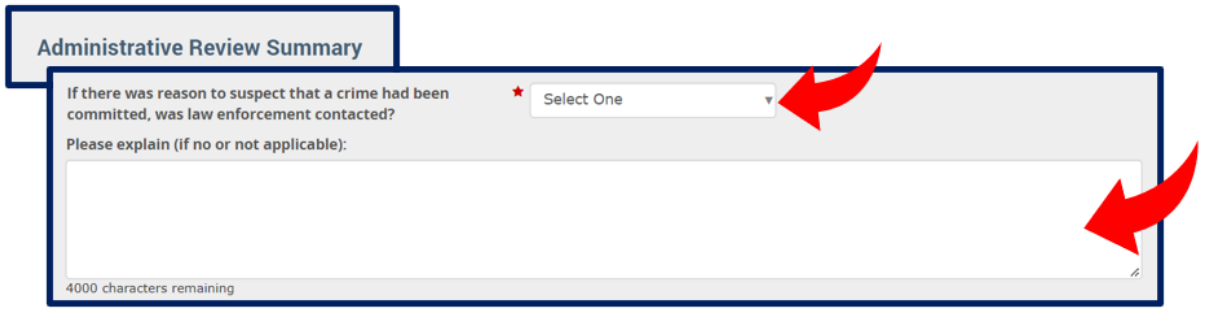
If the need to notify a protective service entity was not known until the investigation began, the Administrative Review committee must determine whether the notification was done immediately upon discovery of the need for a protective service notification. If notification of a protective service entity did not happen by the time the Administrative Review was completed, notification must be done immediately, and additional corrective action(s) to assure notifications to protective services are made for future incidents must be provided in the Preventative or Additional Corrective Action section of the Provider Administrative Review.

The Administrative Review committee may decide there is a need for additional training, feedback, or

guidance pertaining to appropriate notifications to protective service entities. The need for additional training, feedback, or guidance must be listed as a Preventative or Additional Corrective Action within the corrective action section of the Provider Administrative Review.

Item 9

If there was reason to suspect that a crime had been committed, was law enforcement contacted?



There will be times when an incident occurs and requires assistance from law enforcement to ensure the safety of the individual, staff, and/or other parties who may be involved with the incident. Organizations are responsible for ensuring management and staff are aware of when law enforcement should be contacted.

Law enforcement must be contacted by the organization anytime there is reasonable cause to suspect:

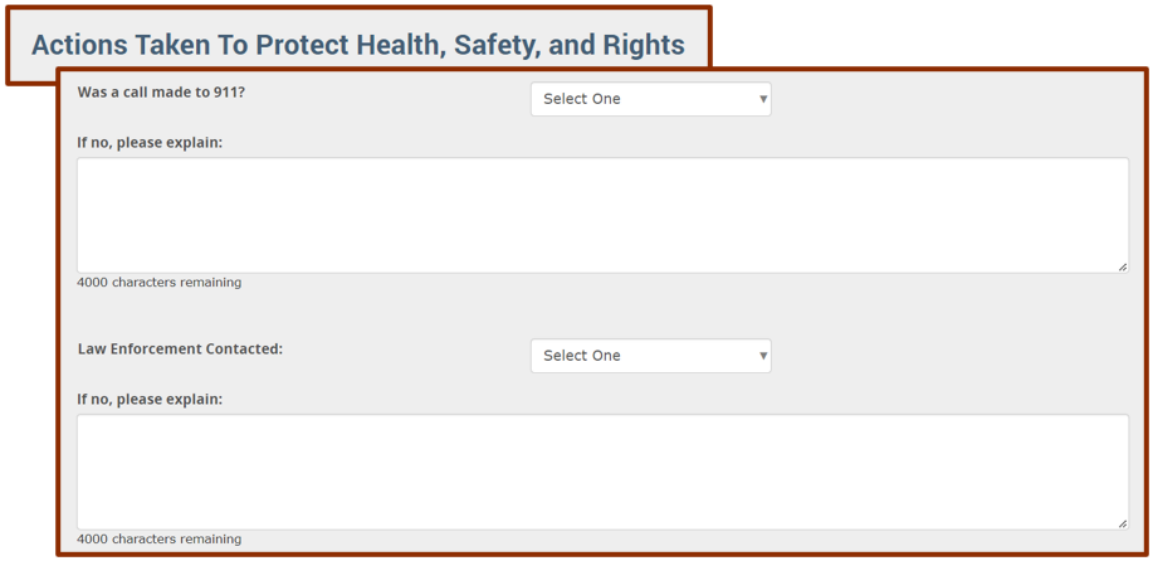
- The individual is an alleged victim of sexual abuse.
- The individual is considered a missing person whose health and safety may be compromised.
- The individual is a victim of serious bodily injury.
- The individual is deceased, and the circumstances of the death are suspicious.
- A crime has been committed.

It is important to keep in mind that individuals have the right to contact law enforcement whenever they desire. This includes the right to have support to contact law enforcement. In certain situations, law enforcement may determine that they have insufficient evidence to pursue a case further or even refuse to investigate a case. However, the criminal justice system utilizes a beyond a reasonable doubt standard of evidence, which is far higher than the *Preponderance of Evidence* standard used in critical incident investigations. The CI's role is not to find "the truth" or know what happened "for sure". The CI's role is to collect evidence that will tell the story and help the Administrative Review committee make an investigation determination, according to ODP's standard of investigations.

The Administrative Review committee is required to review, evaluate, and determine whether law enforcement was appropriately contacted. If there was a need and law enforcement was contacted, the Administrative Review committee must select "Yes". If law enforcement was needed, but never contacted by the organization, the Administrative Review committee must select "No" and explain why. "N/A" can be selected by the Administrative Review committee if contacting law enforcement was deemed unnecessary. If contacting law enforcement was not required, the Administrative Review committee must provide a clear and thorough reason to explain why.

Where to Look: To determine whether law enforcement was contacted for an incident, the Administrative Review committee must review the **Actions Taken To Protect Health, Safety and Rights** section of the Incident First Section. Additional information concerning notifications to law enforcement can be found in the IM Bulletin.

Incident First Section:



Additional information on assessing prompt, adequate actions and the documentation of actions can be found within the "Helpful Tips" section of this manual's appendices.

Corrective Actions for Contacting Law Enforcement

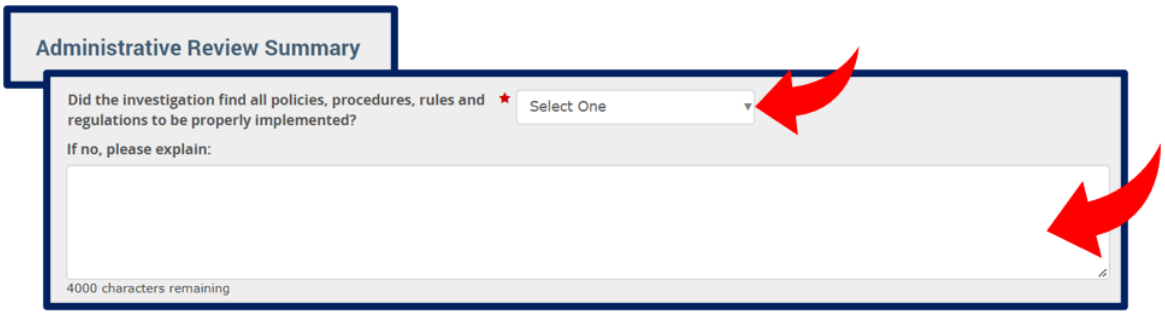
The Administrative Review committee must review the Incident First Section to determine if there are items related to law enforcement contact upon recognition or discovery of the incident that need to be addressed. If contact should have been made and was not, corrective action(s) for assuring that contact is made for future incidents at the time of discovery/recognition of the incident must be provided in the Additional Corrective Action section of the Provider Administrative Review.

If the need to contact law enforcement was not known until the investigation began, the Administrative Review committee must determine whether the contact was made immediately upon discovery of the need for such contact. If law enforcement contact did not happen by the time the Administrative Review was completed, contact must be made immediately, and additional corrective action(s) to assure that law enforcement contact is made for future incidents must be provided in the Additional Corrective Action section of the Provider Administrative Review.

The Administrative Review committee may decide there is a need for additional training, feedback, or guidance pertaining to contacting law enforcement. The need for additional training, feedback, or guidance must be listed as an Additional Corrective Action within the appropriate section of the Provider Administrative Review.

Item 10

Did the investigation find all policies, procedures, rules, and regulations to be properly implemented?

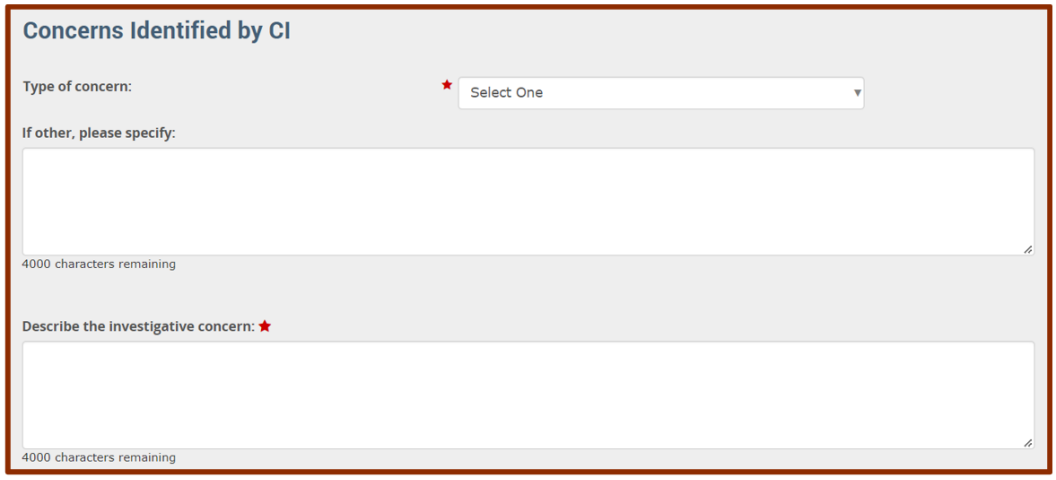


To measure the implementation of all policies, procedures, rules, and regulations, the Administrative Review committee must be familiar with all policies, procedures, rules, and regulations that are relevant to that specific organization. This includes both internal and external policies, procedures, rules, and regulations that the organization may be required to follow. All policies, procedures, rules, and regulations that may be relevant to the individual and/or the incident should be reviewed and considered during the completion of the Provider Administrative Review.

The Administrative Review committee is required to review, evaluate, and determine whether actions were taken by the organization to ensure all policies, procedures, rules, and regulations were properly implemented as a response to the incident. If all policies, procedures, rules, and regulations were properly implemented, the Administrative Review committee must select "Yes". If all policies, procedures, rules, and regulations were not properly implemented, the Administrative Review committee must select "No" and provide a clear and thorough reason to explain why. All violations of internal and external policies, procedures, rules, and regulations must be explained within the EIM Incident Report.

Where to Look: To help determine whether agency policies, procedures, rules, and regulations were properly implemented, the Administrative Review committee must review the Provider Investigation File and the **Concerns Identified by CI** section of the Provider Certified Investigator Report. This section may identify agency violations that may have occurred and led to the initiation of the incident. In addition, the Administrative Review committee must review the entirety of the **Incident First Section** to determine if the report included indicators of violations that could be addressed through Preventative or Additional Corrective Action(s).

Provider Certified Investigator Report:



Corrective Actions for Policies, Procedures, Rules, Regulations

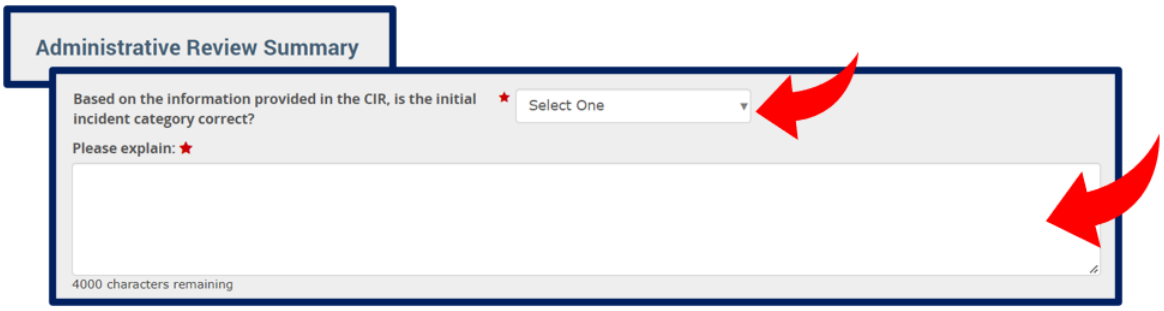
The Administrative Review committee must review the entire EIM Incident Report and the Provider Investigation File to determine whether agency/facility policies, procedures, rules, and regulations were implemented appropriately. It is important to note that the CI may discover violations of policy that may or may not be directly related to the incident. The CI may document this information in the Concerns Identified by CI section of the Provider Certified Investigator Report. Concerns may also be found in other sections of the Provider Certified Investigator Report and the Provider Investigation File. The Administrative Review committee must ensure corrective actions are created, implemented, and monitored for any issues that were discovered during the investigation process.

If violations of policies, procedures, rules, or regulations occurred related to the incident or investigation, corrective actions for addressing each specific area of concern must be provided in the Additional Corrective Action section of the Provider Administrative Review. If the Administrative Review committee determines violations occurred, the need for additional training, feedback, or guidance must also be listed as an Additional Corrective Action within the appropriate section of the Provider Administrative Review.

The Administrative Review committee should view every investigation as an opportunity to examine the overall quality of the policies and procedures that are related to the incident. An analysis of the need to revise a policy, procedure, rule, and regulation based on investigation findings, should also be considered as part of this activity. Additional corrective action(s) to prevent future violations of policies, procedures, rules, or regulations must be provided in the Additional Corrective Action section of the Provider Administrative Review.

Item 11

Based on the information provided in the CIR, is the initial incident category correct?



When an incident is entered into the EIM system, it must be classified according to the nature of the events that took place during the incident. Incidents that have been deemed critical, according to the categorization that had been applied, require an investigation to ensure proper measures are taken to minimize future risk to the individual(s) involved. Incidents are generally classified based on two criteria:

1. Type of Incident (e.g., injury, medication error, abuse, neglect, restraints, death etc.)
2. Severity of harm (or potential harm) experienced by the individual(s)

The Incident Management Bulletin 00-21-02 identifies eight primary categories of critical incidents:

- Abuse
- Death
- Exploitation
- Neglect
- Rights Violation
- Serious Injury
- Sexual Abuse
- Suicide Attempt

Primary Category	Secondary Category	Entity Responsible to Ensure Investigation
Abuse	All	Provider
	Misapplication/Unauthorized use of restraint (injury)	Provider and County ID Program/AE
Death	Natural Causes – Services Provided	Provider
	Unexpected – Services Provided	Provider
Exploitation	All	Provider
	Medical Responsibilities/Resources	Provider and County ID Program/AE
	Room and Board	Provider and County ID Program/AE
	Unpaid labor	Provider and County ID Program/AE
Neglect[1]	All	Provider
Rights Violation	All	Provider
	Unauthorized Restrictive Procedure	Provider and County ID Program/AE
Serious Injury	Injury Accidental	Provider
	Injury Unexplained	Provider
	Choking	Provider
	Pressure Injury (Decubiti, Pressure Ulcer, Pressure Sore, Bedsore)	Provider
Sexual Abuse	All	Provider
Suicide Attempt	All	Provider

[1] This does not include incidents of Passive-Neglect and Self-Neglect

Incident classifications depend heavily on the information provided in the Incident Description portion of the Incident First Section of the EIM Incident Report. After the initial reporter witnesses or becomes aware of a reportable incident, the details of the incident are communicated to the organization's Point Person. The Point Person enters that information into the EIM Incident Report and selects the appropriate category. Initially, the incident category is based on the Incident Description. After the CI's investigation is complete, the category should be consistent with the findings of what happened in the incident as described in the Summary of CI's Findings section of the Provider Certified Investigator Report.

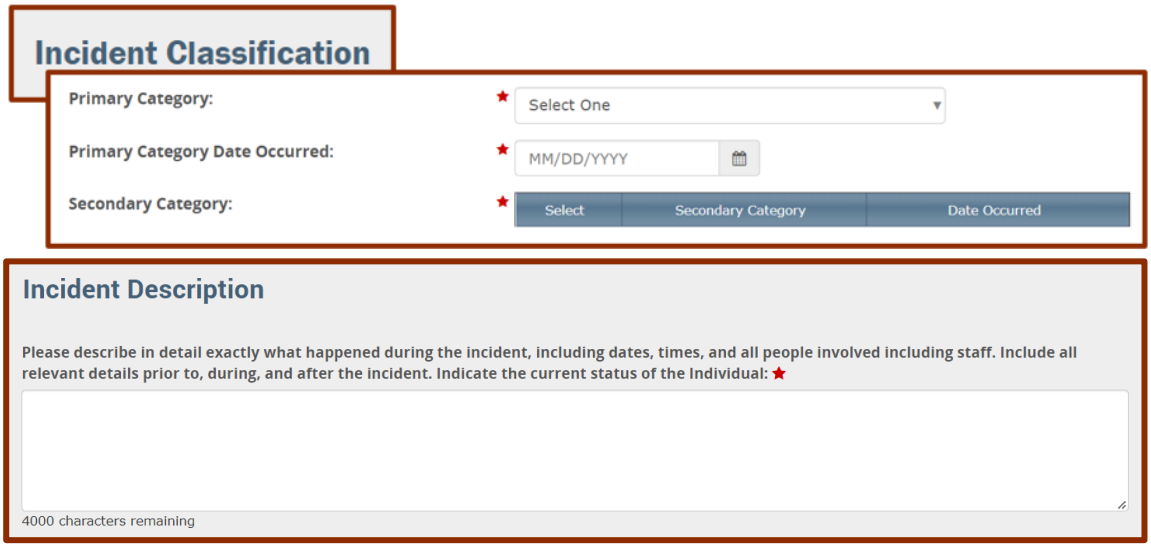
The Administrative Review committee is required to review and evaluate the Incident Description and the Provider Certified Investigator Report to determine whether the initial categorization of the incident is correct. Among the factors the Administrative Review committee should consider are:

- Did the investigation align with the reported incident?
- Did the CI learn new information that would cause the incident category to need to be changed?

If the initial incident categorization in the Incident First Section of the EIM Incident Report is correct, the Administrative Review committee must select "Yes" and provide a clear and thorough reason to explain why the incident category applies to the incident. If the initial incident category is not correct according to the details that were provided in EIM Incident Report, the Administrative Review committee must select "No" and provide a clear and through reason to explain why the incident category does not apply to the incident. In both cases, the Administrative Review committee must explain their selection.

Where to look: To determine whether the initial incident classification is correct, the Administrative Review committee must compare the Initial Classification entered in the **Incident First Section** with the Incident Description in the **Incident First Section** and the **Summary of CI's Findings** section in the Provider Certified Investigator Report to ensure there are no discrepancies:

Incident First Section:



Provider Certified Investigator Report:

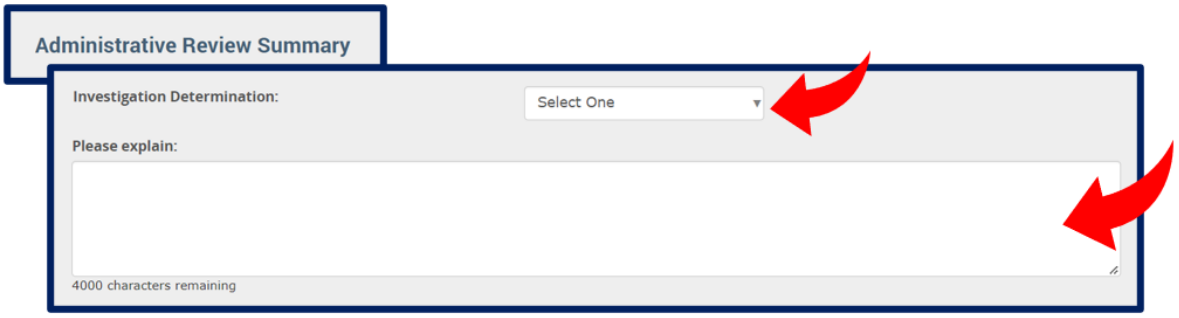
Corrective Actions for Identifying the Incident Category

The Administrative Review committee must review the Incident First Section of the EIM Incident Report to determine whether the incident category appropriately describes the allegation or circumstance as it was provided to the Initial Reporter. If the incident includes multiple factors, the category that fits the incident best must be selected. It should be noted that if multiple incident categories are needed to describe the incident, the Administrative Review committee may have to consider the necessity of creating separate incident reports. If there is

evidence that the incident category was not properly selected, the Administrative Review committee is required to provide corrective actions in the Preventative or Additional Corrective Action section of the Provider Administrative Review to ensure accurate categorizations of future incidents.

Item 12

Investigation Determination:



The Administrative Review committee is responsible for making the Investigation Determination of *Confirmed, Not Confirmed* or *Inconclusive* in the Provider Administrative Review, based on their review of the Provider Certified Investigator Report and the Provider Investigation File. After the Administrative Review committee has selected the Investigation Determination, the Administrative Review committee must provide a detailed explanation to support their determination that is based on their final analysis of the evidence.

To make the Investigation Determination for the incident, the Administrative Review committee uses the *Preponderance of Evidence* standard. This standard of evidence requires that the determination be based on the overall weight of the evidence that was collected, analyzed, and presented by the CI within the Provider Certified Investigator Report. The Administrative Review committee must make a determination that is based on what is *"more likely than not"* to have occurred; in other words, what 51% or more of the evidence supports. The investigation determination should be consistent with the information entered by the CI in the Provider Certified Investigator Report and in the Provider Investigation File.

The final determination depends on the evidence presented in the Provider Certified Investigator Report and how it supports the primary and secondary categories of the incident. There are three determinations that the Administrative Review committee must choose from:

1. **Confirmed**: If there is a majority of evidence (51% or more) that the allegation more than likely occurred, according to the specifics of the allegation in the primary and secondary categories, the Investigation Determination is *Confirmed*.

2. **Not Confirmed**: If there is not a majority of evidence (49% or less) that the allegation more than likely occurred, according to the specifics of the allegation in the primary and secondary categories, the Investigation Determination is *Not Confirmed*.

3. **Inconclusive**: If there is exactly equal evidence supporting the allegation as occurring and not occurring according to the specifics of the allegation in the primary and secondary categories, the Investigation Determination is *Inconclusive*.

An *Inconclusive* determination should be used less often than the other two categories. It is quite rare in an investigation that you have exactly 50% of evidence supporting that the allegation occurred and 50% of evidence supporting that it did not.

The determination of *Inconclusive* should not be used in cases where the Administrative Review committee is not certain about what happened. Being certain of what happened is not required with the *Preponderance Evidence* standard. In fact, there is no standard of evidence used in a legal framework within the United States that demands that we know with certainty what occurred. The findings of *Confirmed, Not Confirmed* and *Inconclusive* are defined by the weight of the evidence collected and reconciled in the Provider Certified Investigator Report and the Provider Investigation File. For example, if there is just the slightest weight of evidence that the allegation is more likely than not to have occurred, then the Administrative Review committee must make an Investigation Determination of *Confirmed*.

A determination of *Inconclusive* may be an indication that the CI did not collect sufficient evidence for the Administrative Review committee to reach a determination. It may be necessary for the Administrative Review committee to instruct the CI to collect additional evidence so that the Administrative Review committee can have a full understanding of the incident and make an accurate determination.

The determination is the sole responsibility of the Administrative Review committee. If the CI discusses an investigation determination of *Confirmed, Not Confirmed*, or *Inconclusive* in any section of the Provider Certified Investigator Report, the Administrative Review committee must ensure the report is corrected, and that objectivity was not compromised by this error. If objectivity was compromised, the organization must determine if the report should be returned to the CI for further investigation or if a new CI needs to be assigned to the investigation.

Where to Look: When providing an explanation for a determination, the Administrative Review committee must review the **Summary of CI's Findings** section in the Provider Certified Investigator Report, to weigh the *Preponderance of Evidence* standard. Additionally, the Administrative Review committee must review all relevant evidence that was collected by the CI throughout the investigation and included in the Provider Investigation File.

Provider Certified Investigator Report:

Additional information on collecting and reconciling evidence during the investigation process can be found in the most current version of the ODP Certified Investigators Manual, at www.MyODP.org

Professionals > Certified Investigators > CI Help & Resources > All Documents > Manuals

Corrective Actions Overview

At this point in the life cycle of the incident, the Administrative Review committee must begin to develop and document corrective actions. Corrective Actions are an essential element of preventing recurrence of incidents and mitigating future risk factors. They are developed by providers and SCOs to demonstrate that actions will or have already been completed to mitigate risk for the individual(s). Corrective actions can be grouped into two separate categories in the EIM Incident Report: Preventative and Additional.

- A **Preventative Corrective Action** is the single immediate action that must be implemented in order to prevent future incidents that are similar in nature. A preventative corrective action demonstrates that remediation has been implemented prior to finalization of an incident.
- Similar to Preventative Corrective Action, **Additional Corrective Actions** are implemented to prevent future incidents similar in nature. Additional Corrective Actions afford the reporting entity the opportunity to plan remediation activities and do not have to be implemented prior to finalization of an incident.

Preventative and Additional Corrective Actions are covered in detail in the next sections of this manual.

The Administrative Review committee needs to keep in mind that the individual must be involved as much as possible in the development and implementation of corrective actions. Some corrective actions may involve limiting the individual's exposure to a risk. In these situations, the corrective actions must respect the individual's right to make choices, while mitigating the risk. This means helping the individual recognize the risky situation, understand the risk(s) associated with the situation, and identify possible consequences of taking that risk. This enables the individual to make informed choices about navigating potential risks in their Everyday Lives.

The graphic illustrates the basic cycle of mitigating risk. It is important to understand that while it appears that the steps happen sequentially, the process can be very fluid, sometimes with things happening out of order or at the same time. The Administrative Review committee is responsible for developing,

documenting, ensuring implementation of, and monitoring corrective actions that result from an incident. This includes ensuring documentation of corrective actions that have been implemented prior to the Provider Administrative Review of the investigation. It is important to recognize that some risks represent a significant danger to health, safety, and rights, and organizations cannot wait until the conclusion of an investigation to implement strategies to protect a person from harm.

Corrective Actions are derived from risk mitigation strategies. There are several common approaches to risk mitigation. Many risk mitigation strategies and plans include one or more of the following methods of mitigation:

1. Removal of exposure to a risk factor.
2. Transfer one risk factor for another less "risky" option.
3. Isolate the person from the risk factor - This is a common approach for risk factors that cannot be easily avoided because exposure to some risk factors is necessary to live an Everyday Life.
4. Train or inform the person how to more safely be exposed to the risk factor.

Root Cause Analysis:

Root Cause Analysis (RCA) is a specific risk mitigation strategy that provides recommendations on how to improve how we learn from incidents and the manner in which we address those incidents to prevent future occurrences.

To effectively implement relevant corrective actions for an incident that has occurred, the responding organization must be able to:

1. Recognize the incident,
2. Analyze why the incident occurred,
3. Understand the actions needed to prevent the incident from reoccurring,
4. Develop and implement corrective actions that can prevent future risk,
5. Measure the effectiveness of those corrective actions, and
6. Evaluate and determine the need, if any, for additional corrective actions that may assist in mitigating future risk.

Using the RCA strategy requires that members of the Administrative Review committee have an understanding of the risks that need to be addressed and the ability to evaluate those needs for the purpose of identifying both, the needs of the individual(s) involved with the incident and systematic vulnerabilities that may have led to the events of the incident.

When developing corrective actions, the Administrative Review committee should place their focus less on

individual persons "who" may have taken part in the incident and more on "why" the incident occurred. It is easy to direct corrective actions towards staff by placing them on leave, providing individual trainings, or reiterating policies and procedures. Although those steps may be important to mitigating future risk, implementing corrective actions that address the need for systematic improvements could provide more tangible results that prove the organization is taking steps towards ensuring the health, safety, and well-being of individuals.

The main goal of RCA strategies is to decrease the risk of mishap. Discovering the true root of why the incident occurred and other factors that may have contributed to the events of the incident can assist the Administrative Review committee through the process of ensuring relevant, effective corrective actions are included in the appropriate sections of the Provider Administrative Review.

Additional information on risk mitigation strategies can be found www.myodp.org.

Topics > Incident Management/Risk Management > Risk Mitigation > Foundations of Recognizing and Mitigating Risk

Professionals > Certified Investigators > CI Help & Resources > Helpful Links

In addition to risk mitigation strategies, the Administrative Review committee should consider other quality improvement measures when developing corrective actions. Types of corrective actions that should be considered for all incidents are:

- Actions that increase protection to the individual and other individuals from similar incidents in the future;
- Actions that raise the overall quality level of care and services provided by the organization;
- Actions that can improve timely, objective, and thorough investigations; and/or
- Actions that assure regulatory requirements are consistently met by the organization.

In addition to the information gathered during the investigation, it may be helpful for the Administrative Review committee to refer to Appendix E in this manual, *Suggested Preventive and Additional Corrective Actions*, to help develop appropriate corrective action(s) during the Provider Administrative Review.

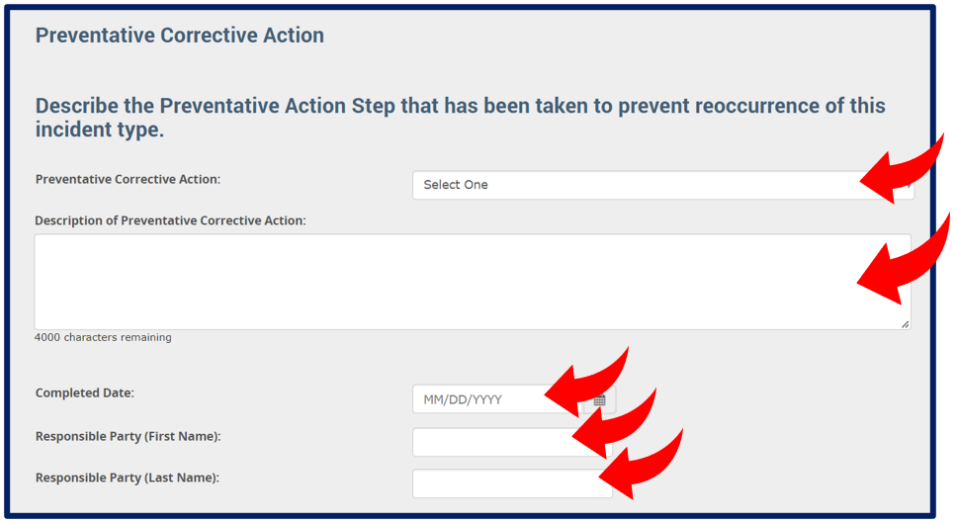
The Administrative Review committee should remember throughout the Administrative Review process that corrective actions are not necessarily negative actions. Corrective actions may require steps that are serious in nature, but they should always be developed for the purpose of producing positive, quality improvements that will help support individuals with developmental disabilities to be safe and achieve greater independence, choice, and opportunity in their lives.

Preventative Corrective Action

If the incident is categorized as Abuse, Sexual Abuse, Neglect, Rights Violation, or Exploitation, and the Investigation Determination is *Confirmed*, a Preventative Corrective Action is mandatory.

Item 13

Preventative Corrective Action:



A **Preventative Corrective Action** is a single immediate action that is implemented to prevent future incidents similar in nature. A Preventative Corrective Action is a remediation that is focused on the prevention of future incidents that may be similar in nature and has been implemented prior to finalization of an incident.

The Preventative Corrective Action:

- Must be person-centered.
- Must be related to the underlying cause(s) of the incident.
- Are usually a part of a long-term risk mitigation strategy to decrease the likelihood of a similar incident occurring in the future.
- Can be linked to the specific incident or related to an organizational change to prevent similar incidents involving all individuals.

The Preventative Corrective Action should be implemented prior to the Administrative Review committee's review of the Provider Certified Investigator Report. The Preventative Corrective Action may be

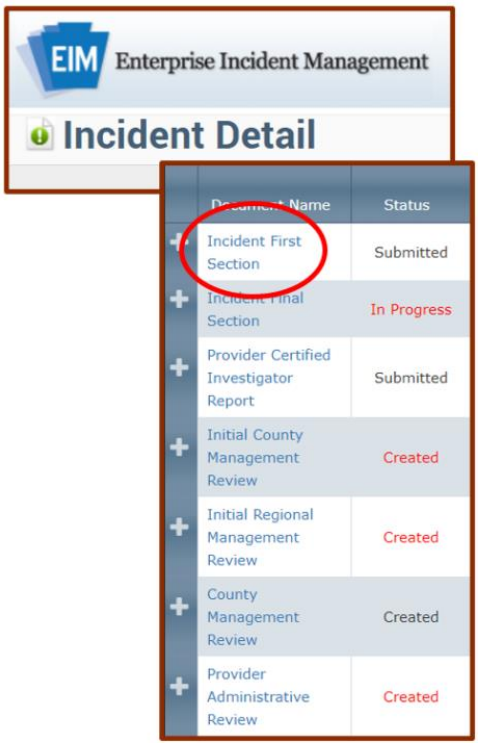
documented anywhere in the Incident First Section. Therefore, the Administrative Review committee must review the entire Incident First Section to determine whether a Preventative Corrective Action was implemented and adequate. If the Preventative Corrective Action was not adequate for the situation presented in the EIM Incident Report, the Administrative Review committee must ensure an appropriate Preventative Corrective Action is identified, developed, and implemented.

To document a Preventative Corrective Action that has been identified, developed, and implemented, the Administrative Review committee must select the type of Preventative Corrective Action from the dropdown list. Then, the Administrative Review committee must describe the Preventative Corrective Action that has been taken to prevent the reoccurrence of this incident type. The Administrative Review committee must select the date when the action was completed. A future date cannot be entered into this field because the action must be completed before the Final Section of the incident can be submitted. The Administrative Review committee must also enter the first and last names of the person who was responsible for performing the Preventative Corrective Action.

After the Provider Administrative Review is submitted, any Preventative Corrective Action that was entered into this section of the EIM Incident Report will automatically appear in the Preventative Corrective Action Page in the Final Section of the EIM Incident Report and override Preventative Corrective Actions that were previously entered. If the Administrative Review committee determines previously submitted Preventative Corrective Actions should be changed or removed from the report, such changes can be made in the Provider Administrative Review section of the report. The Preventative Corrective Action that is submitted in the Provider Administrative Review cannot be edited in the Incident Final Section of the EIM Incident Report.

<u>Where to Look:</u> The Administrative Review committee must read the entirety of the **Incident First Section** and communicate with the Point Person and/or others who were responsible for taking actions to ensure health, safety, and rights, to determine whether a Preventative Corrective Action may have already been taken to mitigate risk. The Administrative Review committee should also look for evidence within the Provider Investigation File and the entire EIM Incident Report to ensure the Preventative Corrective Action that was listed in this section of the report was completed as documented.

EIM Incident Report:

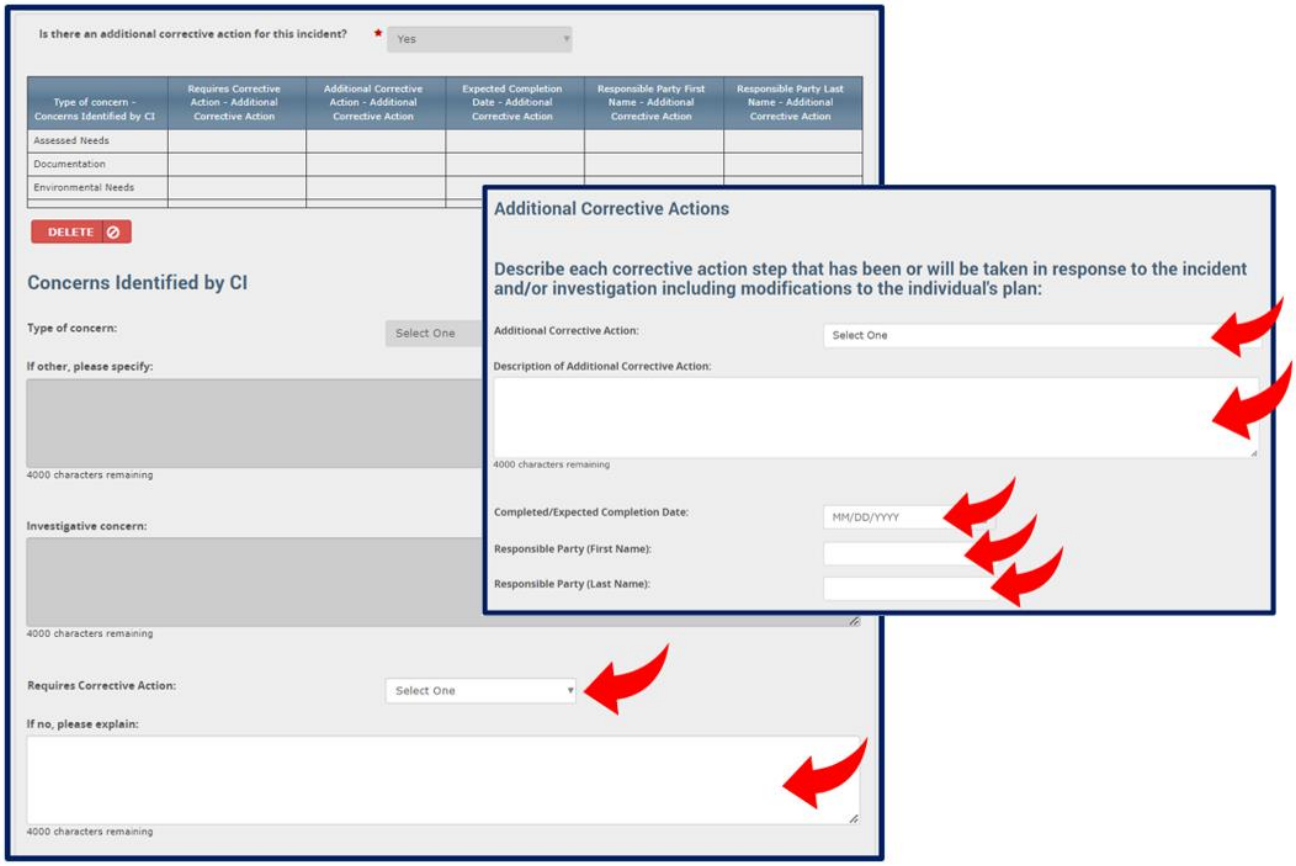


Additional Corrective Actions

In addition to the Preventative Corrective Action, some incidents may require Additional Corrective Actions to prevent future similar incidents from occurring. All needed corrective actions that are additional to the Preventative Corrective Action should be documented in the Additional Corrective Actions section.

Item 14

Concerns Identified by CI:



Throughout the course of the investigation, the CI may recognize concerns that may have contributed to the incident and could have a negative impact on the individual if not appropriately addressed. Concerns could be related to internal and external practices, policies, or procedures, including individual care protocols, staff's failure to adhere to specific processes, or other relevant actions that could increase the risks of similar incidents. The CI may also recognize concerns that are unrelated to the incident. The Concerns Identified by CI section of the Provider Certified Investigator Report allows the CI to document all concerns that were discovered during the investigation. The purpose of documenting a concern in the Provider Certified Investigator Report is to alert the organization to a situation that may require corrective

action(s). Therefore, the Administrative Review committee must complete a thorough review of each concern that was documented by the CI and determine which concerns require development of an Additional Corrective Action.

It should be noted that the CI may identify a concern that is outside the scope of the organization and that may need to be addressed by an outside entity. In those cases, the Administrative Review committee is responsible for elevating those concerns outside of the organization. The CI must document all concerns, even if it is apparent that the concern is not within the scope of the investigating organization to implement corrective action(s). A chart that explains the several categories of concerns that can be identified by the CI can be found in the Appendices of this manual.

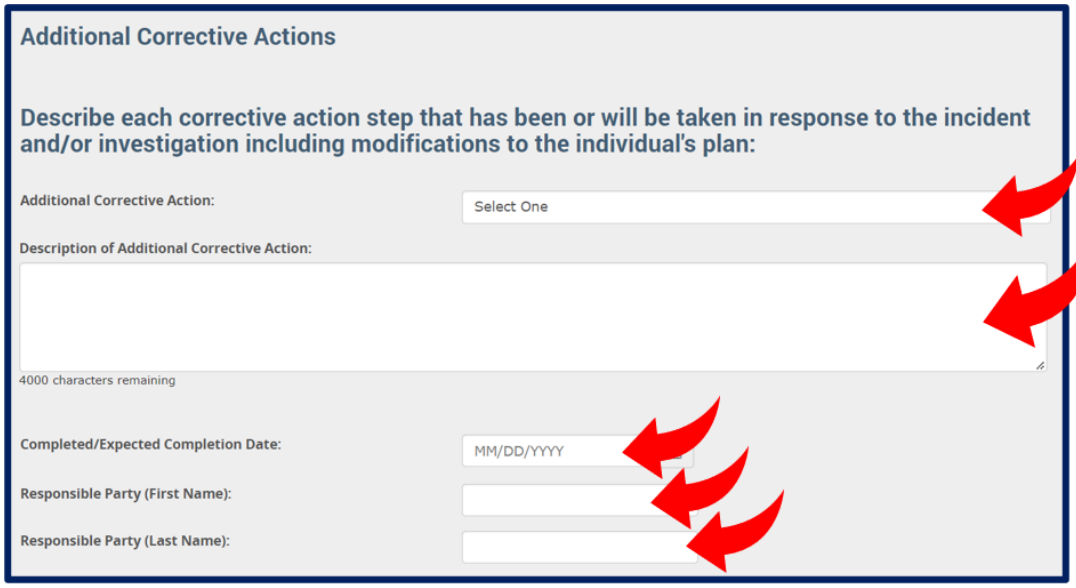
The type and description of each concern identified by the CI will prepopulate from the Provider Certified Investigator Report into a table in the Concerns Identified by CI area of the Additional Corrective Actions page of the Provider Administrative Review. If the CI identified concerns during the investigation, the Administrative Review committee must address each concern within the Provider Administrative Review. The Administrative Review committee is responsible for determining whether each identified concern requires corrective action(s). The Concerns Identified by CI section of the Provider Administrative Review will only appear if the CI identified concerns in the Provider Certified Investigator Report section of the EIM Incident Report.

If it is determined that corrective action(s) is needed for an identified concern, the Administrative Review committee must select "Yes" for the ***Requires Corrective Action*** item. The Administrative Review committee is then required to document all additional corrective actions developed to address those specific concerns. This is done in the Additional Corrective Actions section of the Provider Administrative Review, which is described in **Item 15** in this manual. For any concerns that do not require corrective action, the Administrative Review committee must select "No." The Administrative Review committee is required to provide an explanation for their decision.

It is important to note the CI may identify a concern about practice, policy, and/or procedure during an investigation. The purpose of documenting a concern in the Provider Certified Investigator Report is to alert the organization to a situation that may require corrective action(s). If the CI feels the identified concern(s) has the potential for needing corrective action(s), the concern must be documented in the Provider Certified Investigator Report. **The CI should never wait to alert an organization about an immediate concern for health, safety, or rights.**

Item 15

Additional Corrective Actions:



The Administrative Review committee is responsible for ensuring every factor that contributed to the occurrence of the incident is addressed. This is true whether or not the CI identified concerns in the Provider Certified Investigator Report.

Additional Corrective Actions are implemented to prevent future incidents that are similar in nature. Additional Corrective Actions afford the reporting entity the opportunity to plan remediation activities and do not have to be implemented prior to finalization of an incident.

Additional Corrective Actions:

- Must be person centered and must consider the unique strengths and needs of the individual.
- Must reduce the risk, impact, severity, and probability of reoccurrence.
- Should focus not only on the current situation but also the future.

  This means the actions should include a mixture of
- What the individual can do to mitigate the risk.
- What the support team can do to mitigate the risk.
- Should go beyond corrective actions that solely relate back to what the provider, staff etc. are going to do.

For example: If the only corrective action created by the Administrative Review committee states that the Point Person will set a reminder in their calendar so they do not miss finalization deadlines, the committee

should review the incident again to ensure they are not missing opportunities for quality improvement.

Additional Corrective Actions can be linked to the specific incident or related to an organizational change to prevent similar incidents to all individuals.

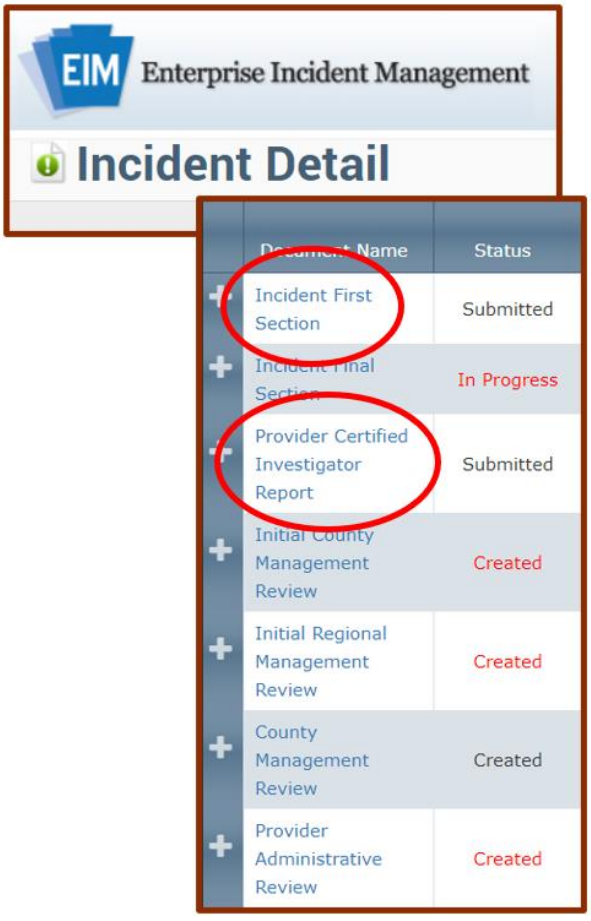
If the Administrative Review committee did identify corrective actions as a result of the investigation, the Administrative Review committee must select "Yes" and enter the corresponding information into the appropriate section for additional corrective actions in the Provider Administrative Review.

If the need for additional corrective actions were not identified by the Administrative Review committee, the Administrative Review committee must select "No".

It is important to note that corrective actions may be identified at any point during the life cycle of the incident. The Administrative Review committee is responsible to ensure that all of these corrective actions are documented in the Preventative and Additional Corrective Actions sections of the Provider Administrative Review. The Administrative Review must also document any needed corrective actions that have not already been identified by others based on their review of the EIM Incident Report. The Administrative Review committee may also develop corrective actions from issues they documented in the Administrative Review Summary.

Where to Look: This step of the Administrative Review requires the Administrative Review committee to review all sections of the EIM Incident Report (including but not limited to the **Incident First Section**, **Provider Certified Investigator Report**, and **Provider Investigation File**) to determine the need for Additional Corrective Actions.

EIM Incident Report:

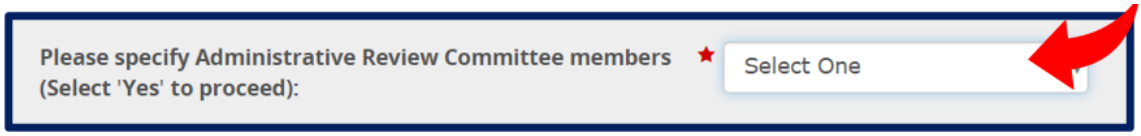


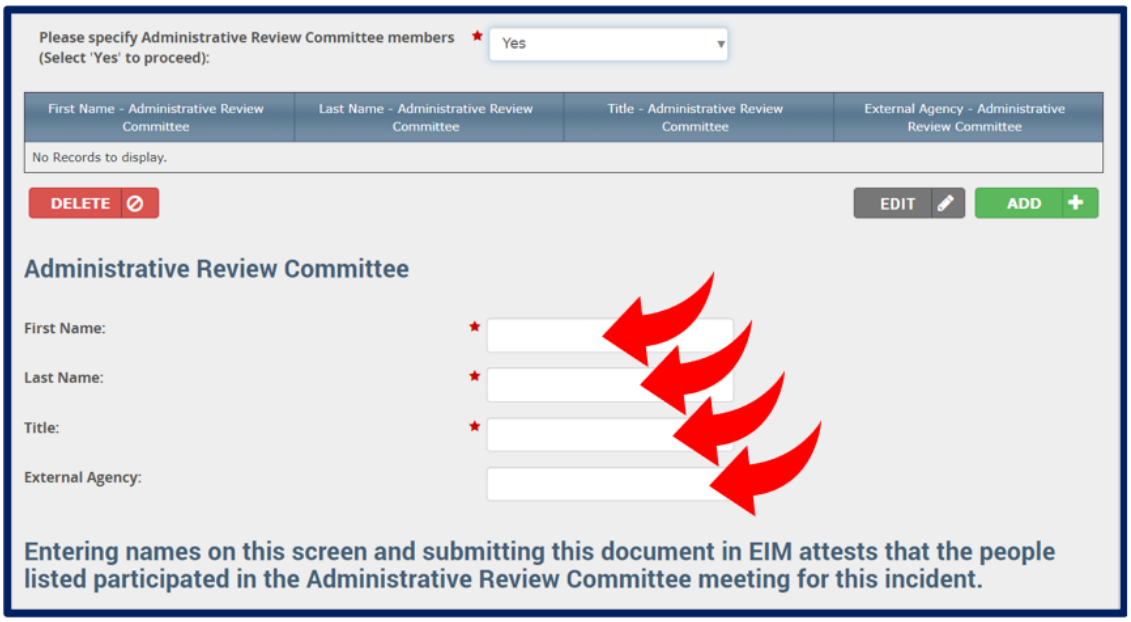
Administrative Review Committee

After the Administrative Review committee has reviewed the Provider Investigation File, Provider Certified Investigator Report, and completed the Provider Administrative Review, a notation of each member who participated in the Provider Administrative Review must be made.

Item 16

Administrative Review Committee:





To list each member of the Administrative Review committee, select “yes.” Then provide the full name and title of each member, and name of the agency each member represents, if external. At least two names must be entered in this item in order for the page to be saved and for this section to be submitted. It is recommended that the Administrative Review committee have two (2) to five (5) members.

The organization should collect a physical document to reflect the members who participated in the Provider Administrative Review. That document should contain the printed name and title of each member, as well as each member’s signature when possible.

SUMMARY

Thank you for your work in assuring the health and safety of all individuals through the Administrative Review process. This process is a cornerstone of the work we do and a vital part of a complete investigation. By reading this manual, you now have the knowledge and tools to effectively establish an Administrative Review committee and complete the Administrative Review process. If you need further assistance or have questions about the process, please contact:

- Your ODP Regional Office's Incident Manager: https://palms-awss3-repository.s3.us-west-2.amazonaws.com/Certified_Investigators_Program/CI+Resources/ODP+Incident+Management+Contacts+1-19-22.pdf
- The Temple University Harrisburg Certified Investigator Program team: https://www.myodp.org/mod/page/view.php?id=35594

APPENDICES

Appendix A

Helpful Tips

What is Documentation?

The Administrative Review committee is responsible to ensure that everything that was done in response to the incident and everything that was learned through the investigation process is documented in the EIM Incident Report. The EIM Incident Report needs to be complete enough so that anyone with a reasonable knowledge of the intellectual disability and autism service system is able to read the report and get an accurate account of the situation. In other words, any reviewing entity should be able to read through the EIM Incident Report and have a clear understanding of the entire incident and the initial response to it, including Preventative and Additional Corrective Actions.

The Administrative Review committee needs to determine whether all actions taken to protect health and safety were documented in the EIM Incident Report. If not, as part of the corrective action plan, the Administrative Review committee must ensure that the actions are documented in the Provider Administrative Review and implement a plan to ensure that future documentation meets quality standards.

Assessing Prompt and Adequate Actions

What are prompt actions?

In general, actions to protect health, safety and rights are completed immediately upon discovery/recognition of the incident and documented in the Incident First Section.

The supports and services that are needed should be determined by the individual, guardian, and team. Individuals do have the right to refuse supports, but documentation of efforts to encourage the understanding and acceptance of supports must be present**.** If the individual is unwilling or unable to advocate on their own behalf, the report must indicate this and show that the actions taken in response to the incident are in the best interest of the individual. If needed the Provider, SCO, or AE must obtain an outside advocate to help the individual with the decision.

What are adequate actions?

Adequate actions vary depending on the nature of the incident. Common actions to protect health, safety and rights may include:

- Medical interventions
- Counseling
- Target separation
- Protection of property
- Contact with protective service agencies
- Contact with law enforcement
- Victim's assistance
- Alternate housing arrangements

How to address refusal of supports?

When there is a refusal of supports or alternate housing indicated in the EIM Incident Report, the Administrative Review committee must determine if the refusal is based on a choice by the individual. If this choice may put the individual at imminent risk of harm, there must be evidence in the EIM Incident Report that this was recognized and that other actions were explored and implemented to mitigate the risk.

Types of Victim's Services

There are a variety of locally available resources across the Commonwealth. The most common sources of Victim's assistance are local Rape Crisis Centers, Domestic Violence Centers, and the Office of Victim's Services.

Many of the supports available involve an advocate. Victim's assistance programs employ specialized advocates to carry out the functions related to their organization. It should be noted that a person seeking supports may find themselves working with multiple advocates depending on identified needs. The most common supports/resources that are available include:

Accompaniment: An advocate accompanies the victim to any and all court proceedings, meetings and interviews with law enforcement, meetings with prosecutors etc.

Advocacy: Advocates help victims have their voice heard on issues that are important to them; defend and safeguard their rights and have the victim's views and wishes genuinely considered when decisions are being made about their lives.

Assistance with Victim Impact Statements: Victims have the right to tell the judge who will be sentencing the offender how the crime changed their life. The victim can explain any concerns or fears that may exist about safety. The victim impact statement will also help the judge decide how to best hold the offender

accountable for the harm they have caused.

Case Status Update: Victims receive updates of every action that occurs during a case using the victims chosen support and communication method.

Communication Support: Victims have the right to effective communication, including access to communication supports such as: Interpreter Service, Language Line, Sign Language Interpreters, agencies with TTY Capabilities, Augmentative and Alternative communication.

Courtroom Orientation: An advocate can give information about the courtroom experience and what to expect when participating in that process.

Crisis Intervention: Hotlines are available in most areas for victims to call in times of crisis.

Child Care: In some areas across the Commonwealth, there are groups to assist with childcare needs during your time at court when you are unable to find alternative means.

Economic Support: Information and help navigating the support systems available across the Commonwealth that are related to assistance, job placement and training.

Information & Referral: Many groups across the Commonwealth can provide basic information and referral to help you understand and find supports.

Medical Advocacy and Accompaniment: An advocate will explain to a victim what to expect from medical exams and will stay with a victim during exams if requested.

Shelter: A variety of shelter options exist depending on the needs of the victim.

Supportive Counseling: Counseling specific to a victims' needs. This can include individual and group counseling.

Victims Compensation: Helps victims and their families through the emotional and physical aftermath of a crime by easing the financial impact placed upon them by the crime.

Victim's Rights Information: Many groups across the Commonwealth can provide information about your rights as a victim.

Victim Witness Intimidation Supports: If a person is being intimidated because of involvement in the criminal justice system there are supports to help keep them safe.

Understanding Post Sentencing-Dispositions: After a case concludes there may be questions or concerns about appeals, restitution, victim's compensation, probation or parole or other matters related to the conclusion of the case.

For Information related to Victim's Assistance, the following resources can be accessed at www.myODP.org:

Professionals > Certified Investigators > CI Help & Resources > Helpful Links

Assessing the Speed of Investigations

Quality investigations are judged by the critical element of *Speed* throughout the investigation process. This critical element exists in part because all evidence changes character over time. The more time that passes, the more opportunity there is for any specific piece of evidence to change or be altered. The properties, characteristics, and conditions that a piece of evidence has today may become different tomorrow.

Speed in an investigation is critical for physical evidence. Delaying the observation of physical evidence and preservation through photographs can result in the evidence changing or disappearing. For example, liquid spilled on the floor may change shape, be cleaned up, or evaporate before the CI observes it if the CI does not adhere to the critical element of *Speed*.

Another example of the critical element of *Speed* relating to physical evidence is the potential that individuals may deliberately alter or destroy physical evidence to redirect blame or to protect another person(s). The more an investigation is delayed, the more opportunity there is for this type of behavior to occur.

Witness testimony may also be altered or lost when investigations are delayed. Witness memories change or fade over time. As humans, we often replay memories in our minds. When we do, those memories of the actual experiences/observations may inadvertently change. Discussing the incident with others can also inadvertently cause memories to change. Witnesses may also intentionally collude with others to "get the stories straight." Collusion is the secret agreement between two or more people for a fraudulent, illegal, or deceitful purpose. Because of these factors, it is critical for the CI to initiate witness interviews as close to the time of assignment as possible.

Some critical incident investigations identify problems related to clinical or direct support staff failure to document information such as progress notes, shift logs, behavioral data, etc. The failure of staff or a consultant to perform their jobs correctly contributes to (or may actually cause) the incident under investigation to occur. Delays in gathering documentary evidence give people the opportunity to create necessary documents after the fact that should have existed at the time of the incident. This makes it appear that the documents existed at the time of the incident, when in actuality they did not. Delaying an investigation also provides opportunities for documents to disappear or to be altered.

In an investigation, one cannot predict with certainty that any of the above will occur. Yet the consequences have the potential to be significant when delays happen. Allowing the question to be raised about whether

evidence may have been altered or changed because of delays in the investigation creates more uncertainty about the integrity of the investigation than an investigation initiated and completed within reasonable time frames.

Classification and Reclassification of an Incident

Is this a report of a *singular* event that can be captured accurately within one incident report?

Singular events are when an individual experiences one event that could have multiple incident categories. In these cases, the incident must be categorized using the most appropriate classification, per the Incident Management Bulletin 00-21-02 and entered into EIM as one incident. The event could result in other actions, which on their own might be reportable incidents, but are all related back to the singular event and would be included in a single investigation (if applicable) of the incident.

For example: An individual alleges that their wallet was stolen, and they were sexually assaulted by a community member. Staff immediately called 911 and noticed that the individual has bruising on their upper arms. 911 sends both EMS and the police. The individual is transported to the local hospital, assessed for injuries, and receives a rape kit and provided a statement regarding her stolen wallet. Although the individual did receive treatment for **serious injuries** and law enforcement activity did occur, these were actions taken to protect health, safety, and well-being of the individual – not separate reportable incidents. Additionally, the individual was the victim of both psychological and physical **abuse** and had their **rights violated** as part of the occurrence of this horrific singular incident. In this case, the singular incident to be reported is **sexual abuse.**

Multiple reportable events - separate incidents involving the same person, not linked to each other, and would not be adequately addressed or resolved through the same investigation. This circumstance would require multiple reports.

For example: An individual reports the following to their Supports Coordinator during the annual discussion about the Right to be Free From Abuse:

1. That they do not have access to food in their home whenever they desire.
2. That a staff person locked them in the laundry room.
3. That a staff person has been buying clothing for her boyfriend using money from the lockbox that the individual uses to keep their money safe.

This example represents three separate events that are alleged to have happened to the individual. They should not be grouped together as they do not represent a *singular* event. The allegations are not directly linked, do not represent elements of the same incident and cannot be resolved with a single investigation.

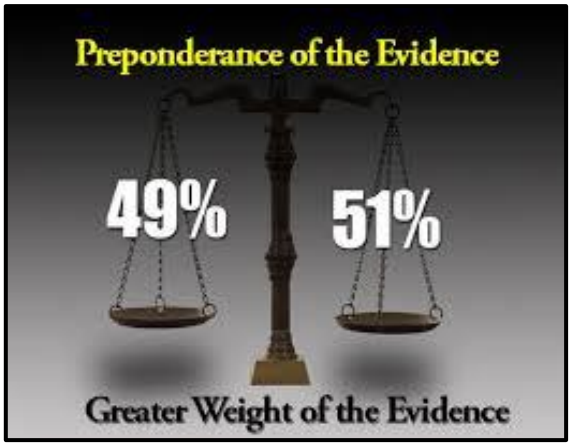
If the Administrative Review committee finds a situation where multiple reportable incidents appear in one report, it is important to ensure that each incident is entered into EIM separately and an investigation occurs as appropriate.

When in doubt about how to classify or re-classify an incident, refer to Incident Management Bulletin 00-21-02 and/or reach out to the appropriate AE or ODP Regional Office for assistance.

Legal Standards of Burden of Proof

In order to complete the Investigation Determination section of the Provider Administrative Review, the Administrative Review committee must understand *legal standards of burden of proof* and how they are used to weigh evidence in order to make a determination.

Legal standards of burden of proof define the level of evidence necessary to prove an assertion, or in the case of an investigation, an allegation**.** Critical incident investigations utilize the *Preponderance of Evidence* standard when conducting investigations. This standard of evidence generally applies to civil or administrative proceedings requiring that conclusions of fact be based on the weight of the evidence. The *Preponderance of Evidence* standard means the Administrative Review committee finds that the chosen determination is "more likely than not," or that 51% or more of the evidence supports one conclusion of fact over another.



A second legal standard of burden of proof to understand is the Beyond a Reasonable Doubt standard. This is the burden of proof that needs to be satisfied in criminal proceedings to determine a defendant's guilt. It is generally defined to mean no "reasonable doubt" can exist in the mind of a reasonable person that the defendant is guilty. Doubt can still exist, but only to the extent that it does not affect a reasonable person's belief that the defendant is guilty.

The critical incident investigation process does **NOT** utilize the use of a Beyond a Reasonable Doubt standard. It is important, though, to understand this standard for cases that involve law enforcement. The Administrative Review committee should be careful about making any determinations based on law enforcement's findings or their decision to investigate. It is critical to remember that the criminal justice system utilizes a beyond a reasonable doubt standard of evidence which is far higher than the *Preponderance of Evidence* standard that is used in investigations that are completed by ODP's CIs. Law enforcement may determine that they have insufficient evidence to pursue a case further or may even refuse to investigate a case that could be confirmed to a *Preponderance of Evidence* standard through an investigation completed by a CI.

Additionally, the determination should not be based on the determination of other investigating agencies such as Older Adult Protective Services, Adult Protective Services, and Child Protective Services. While it is always in the best interest of all involved to collaborate during an investigation, the critical incident investigation process has a distinct purpose that is different from other investigating agencies.

Appendix B

Incidents Requiring Investigation

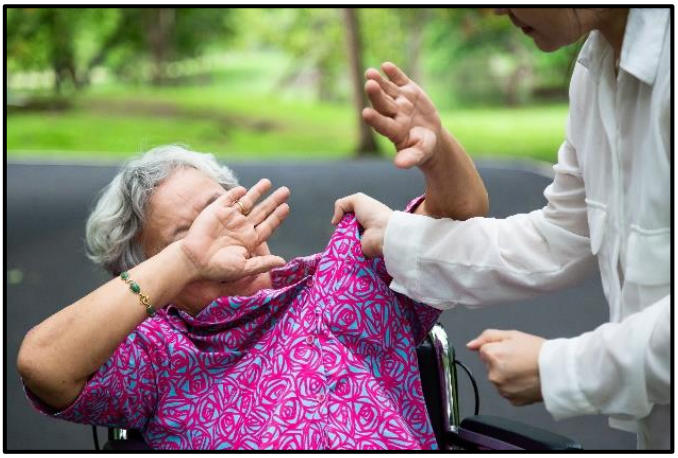
ODP Incident Management Bulletin 00-21-02 identifies the types of incidents requiring investigations, as shown in the following chart.

Primary Category	Secondary Category	Entity Responsible to Ensure Investigation
Abuse	**All**	**Provider**
	Misapplication/Unauthorized use of restraint (injury)	**Provider and County ID Program/AE**
Death	**Natural Causes – Services Provided**	**Provider**
	Unexpected – Services Provided	**Provider**
Exploitation	**All**	**Provider**
	Medical Responsibilities/Resources	**Provider and County ID Program/AE**
	Room and Board	**Provider and County ID Program/AE**
	Unpaid labor	**Provider and County ID Program/AE**
Neglect[1]	**All**	**Provider**
Rights Violation	**All**	**Provider**
	Unauthorized Restrictive Procedure	**Provider and County ID Program/AE**
Serious Injury	**Injury Accidental**	**Provider**
	Injury Unexplained	**Provider**
	Choking	**Provider**
	Pressure Injury (Decubiti, Pressure Ulcer, Pressure Sore, Bedsore)	**Provider**
Sexual Abuse	**All**	**Provider**
Suicide Attempt	**All**	**Provider**

[1] This does not include incidents of Passive-Neglect and Self-Neglect

Appendix C

Indicators of Abuse and Neglect



It may be difficult to determine if abuse or neglect is an element of an incident. While there is not a resource that can possibly list all potential signs of abuse or neglect, this Appendix contains information related to indicators of abuse and neglect. The Administrative Review committee should use this resource to help begin to assess the evidence and analysis presented in the Provider Certified Investigator Report.

It is important to recognize that often signs of abuse or neglect may be interpreted as behavioral problems and therefore the abuse or neglect may go unnoticed over long periods of time. In order to limit the chances of this occurring, the Administrative Review committee must ensure the Provider Certified Investigator Report contains evidence related to behaviors, day to day observations of caregivers etc.

When assessing the person's behavior, it is important to take the following steps:

- Examine the history of the behavior
- Obtain a behavioral baseline
- Determine whether there has been a clear behavior change that has taken place during the time frame in question. This may require a review of records that are “outside” the perceived scope of the investigation timeline
- Consider any changes in the intensity and duration of behaviors

A common situation that an Administrative Review committee will encounter is determining if an injury or wound is the result of an accident, self-inflicted or if abuse/neglect played a role in the situation. The analysis presented by the Summary of CI’s Findings section of the Provider Certified Investigator Report will help guide the Administrative Review committee in their decision of whether abuse or neglect may have occurred. Below are some additional considerations when reviewing an injury.

Location of the injury or wound:

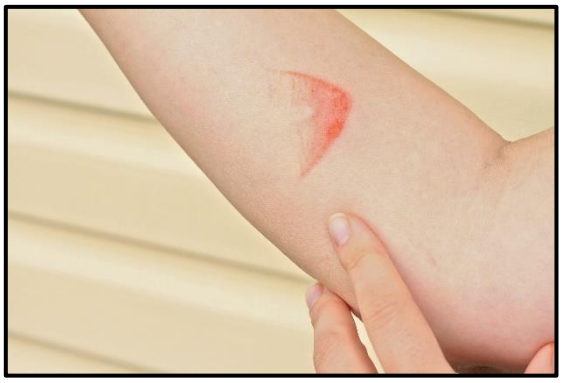
- Certain locations on the body are more likely to sustain accidental injury or wounds. These include the knees, elbows, shins, and forehead.

- Protected body parts and soft tissue areas, such as the back, thighs, genital area, buttocks, back of legs, or face, are less likely to accidentally come into contact with objects that could cause injury.

Number and frequency of injuries or wounds:

- The greater the number of injuries or wounds, the greater the cause for concern. Unless the person is involved in a serious automobile accident, he/she is not likely to sustain a number of different injuries accidentally.
- Multiple injuries or wounds in different stages of healing are also a strong indicator of chronic abuse.
- Injuries or wounds that are frequently present after spending time with certain people (family, friends, significant other, caregivers, staff, etc.).

Size and shape of the injury or wound:



- A patterned bruise, no matter its size, that is in the shape of an identifiable object such as a belt buckle, shoe, hanger, etc. Accidental marks resulting from bumps and falls usually have no defined shape
- Bilateral: means bruises on same places on both sides of the body. Bruises would appear on both upper arms, for example, may indicate where the abuser applied pressure while forcefully shaking the person. Bruises on both sides of the body rarely result from accidental causes
- Spiral fractures, dislocated joints
- Bruising to an area of the body which does not typically or easily bruise (e.g. midline – stomach, breasts, genitals, inner thighs or middle of the back)

Description of how the injury or wound occurred:

- If an injury is accidental, there must be a reasonable explanation of how it happened that is consistent with the appearance of the injury. When the description of how the injury or wound occurred and the appearance of the injury or wound is inconsistent, there is cause for concern. For example, it is not likely that a person's fall from a wheelchair onto a rug would produce bruises all over the body.
- Injuries or wounds that are not consistent with what is reported to have happened, and injuries or wounds explained as caused by self-injury to parts of the body the individual has not previously injured or cannot access.

The Administrative Review committee must closely examine evidence related to the behaviors and actions

of caregivers. Caregivers could be unable or unwilling to provide quality support to meet the needs of an individual.

Caregivers who are unable to provide quality supports may include people who are not properly trained, physically unable to provide needed care, or suffering from a lack of resources to perform their caregiving duties. They may have a developmental disability or mental illness themselves. Caregivers who are unable to provide quality care may be suffering from extreme stress, exhaustion or burn-out. They may also be working under the influence of drugs or alcohol which limits their abilities.

Caregivers who are unwilling to provide quality care are more likely to know what they are doing is wrong yet continue to act in that way. Research shows that these individuals will abuse, neglect, or exploit individuals with developmental disabilities repeatedly as long as they are given the opportunity to do so. Some of these caregivers may not view their victims as actual people (with feelings and emotions). In other cases, caregivers who are unwilling to provide appropriate care see people with developmental disabilities as the perfect victims who may not be able to defend themselves or tell anyone what has happened.

Neglect does not require intent. When conducting an Administrative Review, it is not necessary to determine whether the neglectful acts were intentional. Rather the committee must determine whether the actions of a target(s) were due to a failure to obtain or provide necessary services and supports.

For the purposes of the Administrative Review, it does not matter if a caregiver was unintentional, unable or unwilling to provide quality care and supports. Confirming whether abuse or neglect occurred is not dependent on factors such as the intent, willingness or inability to provide care. However, there is a difference in what corrective actions will be developed and how they will be implemented based on the factors leading to the abuse or neglect.

Additional information about common signs of abuse by caregivers can be accessed at www.myODP.org.

Professionals > Certified Investigators > CI Help & Resources > Helpful Links

Appendix D

Concerns Identified by CI

Type of Concern	Explanation
Assessed Needs	Concerns related to an individual's assessed needs. This includes but is not limited to: • Assessment(s) has not been completed • Assessment(s) is inaccurate • Assessment is out of date Examples of assessments include but are not limited to: • Pennsylvania statewide needs assessment – Support Intensity Scale (SIS) • Assessments per licensing regulations • Functional behavior assessment • Individual Support Plan (ISP) team assessment
Corrective action(s) from Incidents	Concerns related to corrective actions from an incident. This includes but is not limited to: • Corrective action(s) listed in an incident report has not been implemented • Corrective action(s) listed in an incident report has not been implemented as written • Corrective action(s) listed in an incident report has not been monitored for implementation or effectiveness Corrective Actions – Actions implemented to increase protection to individuals from similar future incidents. Corrective actions can be implemented for a single individual and/or related to an organizational change to prevent similar incidents to all individuals.
Documentation	Concerns related to documentation that include but are not limited to: • Documentation is lacking sufficient detail per policy, regulation, or law • Documentation is lacking quality • Documentation is missing required elements to support individual need(s) • Documentation does not provide proof of intended purpose Documentation – Papers or other written material that provides proof of something. May include hard copy, handwritten, and/or electronic materials.

Environmental Needs	Concerns related to environmental needs[1] that include but are not limited to:
	• Safety concerns
	  ○ Structural and safety aspects of the home (i.e., how the home is designed, constructed, and maintained; its physical characteristics; and the presence or absence of safety devices)
	  ○ Quality of indoor air
	  ○ Water quality
	  ○ Exposure to unsafe chemicals
	  ○ Pest and/or rodent infestation
	  ○ The house's immediate surroundings
	• Inadequate privacy
	• Inadequate maintenance and/or cleanliness of the environment
	• Unsanitary and/or inadequate water supply
	• Lack of proper toilet facilities
	• Lack of method to keep food fresh (i.e., refrigeration)
	• Lack of basic utilities such as heat, electricity, running hot and cold water
	• Lack of fire safety equipment such as smoke detectors, fire extinguishers, etc.
	
	<u>Environmental Needs</u>-Needs identified as it relates to physical living space and/or sounds, temperature, sanitation, stimuli, etc.
	
	*CIs need to ensure they are not dismissing certain environmental needs as "lifestyle choices."

Equipment Use/Needs	Concerns related to equipment use/needs that include but are not limited to: • Lack of training/education for individual about equipment use • Education must be provided even if the individual is not going to be the person directly using the new equipment. This is frequently seen with things like blood pressure cuffs, blood sugar monitors, and lifts. Individuals have the right to receive education about all medical conditions and related equipment to help manage those conditions, even if it is not anticipated that they will directly use the equipment required for care. • Lack of action to repair, replace and/or maintain equipment • Missing equipment • Lack of action to obtain evaluations for equipment <u>Equipment</u>-A device used to increase, maintain, or improve an individual's functioning, increase healthy outcomes, monitor physical health conditions, and/or increase an individual's ability to communicate and exercise choice and control in their lives.

[1] Adapted from https://www.cdc.gov/nceh/lead/healthyhomes.htm

Frequency of monitoring	Any concerns related to the frequency of the monitoring of services and supports performed by a Supports Coordinator, provider, or other oversight entity.
Investigation activities	Any concerns related to investigation activities that include but are not limited to: • The investigation process outlined in the ODP Certified Investigators Manual Investigation – The process of identifying, collecting, and assessing evidence from a reportable incident in a systemic manner by a person certified by the Department's approved Certified Investigator Training Program.
Medical Care/Needs	Any concern related to inadequate care or oversight of care needed to maintain or enhance an individual's overall health. The medical care/need may be outlined in an ISP, discussed in an assessment, a recommendation from a medical professional, incident report, or be related to an emergency. Medical care generally refers to the examination and/or treatment by a qualified medical professional, ongoing implementation of healthcare protocols, and/or basic first aid. When reviewing evidence related to medical care, consider the following: • Did the staff person(s) recognize symptoms of illness or injury and seek treatment promptly? • Unnecessary delays in calling emergency services; Such as calling program supervisor, nursing staff, family, etc. before 911 • Failure to acknowledge/recognize symptoms of illness/injury such that the individual: • Reports illness, pain, discomfort, etc., and there is a failure to seek prompt treatment • Displays signs or symptoms of illness/injury, and they are not recognized, which causes a failure to seek prompt treatment • Did the staff person(s), caregiver(s), or another responsible person (s) provide CPR, First Aid, or other life-sustaining treatment appropriately and promptly? • Was CPR initiated if appropriate? • Was First Aid applied correctly? • Were all person-centered health care protocols followed, including: • Meal preparation • Special diet • Eating protocols • Skin integrity protocols
Medication Administration	Any concerns related to medication administration for an individual. Medication Administration-Any activity related to the medications for an individual. Activities that may be related to medication administration include but are not limited to:

	• Obtaining medications from the pharmacy or other sources (for non-prescription medications) • If applicable, creating and maintaining accurate medication records (logs) • Providing needed support to individuals that participate in self-administration of medication • Ensuring medications are administered as prescribed/ordered • If applicable, only administering medications after completing the ODP medication administration course • If applicable, administering medications as outlined in the ODP medication administration course • Ensuring proper storage and disposal of medications • If applicable, only administering insulin injections after completing the ODP medication administration course and completing an approved diabetes education course in the past 12 months
Missing Records, Documentation, etc.	Any concerns related to missing records or documentation. If a record is unable to be located, the CI should attempt to determine the cause of the missing records/documentation. The nature of the missing record will assist the Administrative Review team in developing corrective action(s). For example, records and documentation that are thought to have existed but have been lost may require corrective actions related to laws outside of the ODP system. If missing records/documentation contain personally identifiable information (PII) about an individual, there may be violations of laws such as The Health Insurance Portability and Accountability Act (HIPAA). Additional incidents may need to be reported if an investigation uncovers such violations. Personally identifiable information (PII) is information that can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth mother's maiden name, etc. HIPAA (Health Insurance Portability and Accountability Act of 1996) is United States legislation that provides data privacy and security provisions for safeguarding medical information.
Notification/communication	Any concerns related to notification/communication that include but are not limited to: • Failure to notify an individual about an incident • Failure to notify an individual's family, guardian, and/or designee about an incident. • Discovery that notification did not occur as documented in the record • Failure to notify protective services as required • Failure to notify law enforcement as required • Failure to communicate investigation outcomes to an individual • Failure to communicate investigation outcomes to an individual's family, guardian, and/or designee

	• Discovery that communication was inaccurate to an individual • Discovery that communication was inaccurate to an individual's family, guardian, and/or designee
Organization Policy	Any concerns related to an internal organizational policy. Concerns may or may not be linked to policy rules that exist outside of the organization. The policy or procedure of concern may or may not be directly related to the incident under investigation or investigations in general. The CI may address any policy or procedure of concern.
Plan Content	Concerns related to missing, inaccurate, or outdated information within the Individual Support Plan (ISP) or other plan related to the support/services an individual receives. The content of any plan for services/supports must be consistent, accurate, and in line with assessment results. Examples of plans include but are not limited to: • ISP • Behavior Support Plan (BSP) • Social-Emotional Environmental Needs (SEEN) Plan • Crisis Plan • Restrictive Intervention Plan
Plan Implementation	Concerns related to how services and supports are implemented per the Individual Support Plan (ISP) or other plan related to the supports/services an individual receives. Services/supports are required to be delivered as outlined in the ISP etc. This includes the delivery of services at the frequency and duration the team specifies in the ISP.
Prompt Action to Protect Health, Safety, and Rights	Any concern related to prompt and adequate actions to protect health, safety, and rights. What are prompt actions? In general, actions to protect health, safety, and rights are completed immediately upon discovery/recognition of the incident. The individual, guardian, and team should determine the supports and services that are needed. Individuals do have the right to refuse supports, but the documentation should be present of efforts to encourage acceptance of supports. Suppose the individual is unwilling or unable to advocate on his/her behalf. In that case, the report should indicate this and show that the actions taken in response to the incident are in the best interest of the individual. If needed, the Provider, SCO, or AE should obtain an outside advocate to help the individual decide. What are adequate actions? Adequate actions vary depending on the nature of the incident. Common actions include: • Medical interventions for injuries

	• Counseling • Separation from target • Protection of property • Contact with protective service agencies • Contact with law enforcement if it's suspected a crime has occurred • Victim's assistance • Alternate housing arrangements • How to address the refusal of supports Suppose the individual is unwilling or unable to indicate a desire for additional supports or alternate housing. In that case, there should be evidence in the incident report that the team did not allow the target of the incident to decide this on behalf of the individual. When there is a refusal of supports indicated in the incident report, the Administrative Review committee should determine if the refusal is based on a choice expressed by the individual. Suppose this choice may put the individual at imminent risk of harm. In that case, there should be evidence in the report that this was recognized and that additional actions were explored to mitigate the situation.
Quality of monitoring	Any concerns related to the quality of the monitoring of services and supports performed by a Supports Coordinator, provider, or other oversight entity. Quality includes but is not limited to: • Monitoring at the required frequency • Monitoring all required elements of service/support • Documentation of issues discovered during monitoring
Staff Training	Any concerns related to staff training. Paid staff are required to meet certain training requirements. Concerns in this area include but are not limited to: • Failure to meet orientation training requirements • Failure to meet annual training requirements • Inaccurate and/or misleading training records • Failure to maintain documentation of training • Failure to train to individual needs
Supervision Needs	Any concern related to the supervision needs of an individual. Concerns in this area include but are not limited to: • Failure to accurately assess and document supervision needs • Failure to implement ISP staffing ratios
Other	Any other concerns identified by CI during the course of the investigation. Concerns in this area may include concerns outside the scope of the investigating entity. Those situations may require the investigating entity to notify ODP of the concern and/or refer the concern to entities outside of the ODP service system.

Appendix E

Preventative Corrective Action vs. Additional Corrective Action

Preventative Corrective Action	Additional Corrective Action
Must be implemented before incident final section submission	Can have an expected completion date beyond the incident closure date
Limited to one action	Multiple actions are permitted
Not able to select “other;” user can only use defined list of corrective actions; user has the ability to further explain action via text box	Ability to select “other;” user can document any type of corrective action via text box
Usually focused on long-term risk mitigation actions	May include both short and long-term risk mitigation actions

Appendix F

List of Preventative and Additional Corrective Actions

PREVENTATIVE CORRECTIVE ACTION CATEGORIES:
Develop new policy and/or procedure, train appropriate staff, and evaluate effectiveness
Modify existing policy and/or procedure, train appropriate staff, and evaluate effectiveness
Retrain appropriate staff on existing policy and/or procedure and evaluate effectiveness
Introduce/Added new paid service
Introduced/Added new support
Change in Amount, Frequency, or Duration of existing supports and services
Changes made to living situation
Added new or changed adaptive equipment
Individual/Family education or training

ADDITIONAL CORRECTIVE ACTION CATEGORIES:
Additional incident(s) filed
Changes made to roommate/bedroom assignment/home, etc.
Changed service provider
Diet/food consistency modified
Enhanced supervision/supports
Funds reimbursed/property restored
Incident Management Policy Training
Increased SC monitoring frequency
Individual Education/Training
Individual plan developed (Behavioral Support, Restrictive Procedure, Safety and Risk Mitigation)
Individual plan modified (ISP, Behavioral Support, Restrictive Procedure, Safety and Risk Mitigation)
Introduction of assistive technology/adaptive equipment
HCQU referral
Physical or behavioral health intervention
Policy, Procedure, Protocol Developed
Policy, Procedure, Protocol Revised
Reassessment of health and safety needs
Staff trained/retrained
Team Meeting
Other

Appendix G

Glossary

Additional Corrective Action: Person-centered corrective action that is focused on the prevention of future incidents that may be similar in nature to the incident under investigation. Additional Corrective actions may include both short and long-term risk mitigation actions and can have expected completion dates beyond the incident closure date.

Administrative Review: The final stage of the investigation process that includes reviewing the competency and quality of an investigation for *Speed, Objectivity*, and *Thoroughness*; weighing evidence to make an investigation determination; ensuring completion of preventative corrective action; determining additional corrective action plans; and completing the Administrative Review section of the EIM Incident Report.

Administrative Review Committee: A group of individuals who will review the Provider Certified Investigator Report, Provider Investigation File, evaluate the quality of the investigation, and provide the final determination of the investigation. Committee members may hold various roles within the organization such as agency management and administration.

Allegation: A unproven claim that someone has done something wrong or that goes against an organization's policy/procedure. An allegation is typically made by the person designated as the "initial reporter."

Background Interview: An interview used to generate evidence considered relevant, but not specifically originating from the incident itself.

Certified Investigator: A person who has been trained and certified to investigate critical incidents, according to the guidelines in the most current Certified Investigator's Manual. Certification is through instructors designated by The Office of Developmental Programs.

Circumstantial Evidence: Evidence that is not directly from an eyewitness or participant and requires some reasoning to prove the details of the incident.

Critical Incident: A type of incident that has been determined to be a sufficiently serious indicator of risk that it requires an investigation by a Department-Certified Investigator.

Communication Accommodation: Measures taken to ensure witnesses are given the opportunity to effectively communicate memories and observations of an incident. Communication accommodations may include but are not limited to sign or spoken language interpreters, communication boards, or language applications.

Concerns Identified by CI: Actions or items that go against practices, policies, or procedures that are specific to an individual or organization, which were identified by the CI during the investigation process.

Confirmed Determination: Final finding used by the Administrative Review committee when the evidence presented in the Provider Certified Investigator Report and Provider Investigation File suggests there **is** a majority of evidence (51% or more) that the allegation more than likely occurred.

Direct evidence: Evidence in the form of testimony from a witness who was present for the incident and experienced any of the specific details of the incident through sight, hearing, touch, taste, or smell.

Documentary Evidence: Any evidence written down, on paper or electronically.

Follow-up Interviews: Interviews generally conducted with identified witnesses and used primarily to reconcile conflicting evidence, ask about new evidence emerging in the investigation, or ask questions the CI failed to ask during earlier interviews with a witness.

Incident: An event with potential to adversely impact an individual's health, safety, or rights.

Incident Management: The response to an event, intended to ensure the adequate, appropriate, and effective protection and promotion of the health, safety, and rights of individuals.

Inconclusive Determination: Final finding used by the Administrative Review committee when the evidence presented in the Provider Certified Investigator Report and Provider Investigation File suggests there is exactly equal evidence supporting the allegation as occurring and not occurring.

Initial Witness Interview: Interviews conducted with people identified as potential witnesses who have either direct or circumstantial evidence about what happened.

Investigation: The process of identifying, collecting, and assessing evidence from a reportable incident in a systematic manner.

Investigation Determination: A finding of *Confirmed, Not Confirmed*, or *Inconclusive* that uses the *Preponderance of Evidence* standard and that is made during the Administrative Review stage of an investigation. It is based on the Administrative Review committee's review of the Provider Certified Investigator Report and the Provider Investigation File.

Investigative Plan (Investigation Plan): A framework to guide the CI to conduct a systematic investigation that is objective, timely, and thorough.

Investigatory Question: A question that provides a general guide to the parameters of the investigation and assists the CI in avoiding tunnel vision. There is generally only one investigatory question per investigation.

Investigative Reason: A valid explanation to be included in the Provider Certified Investigator Report when there is a deviation from the standards and protocols provided in the Certified Investigator's Manual.

Irrelevant Evidence: Evidence that does not have the potential to help describe or explain an incident under investigation.

Law Enforcement Activity: Any activity involving law enforcement that occurs during the provision of service,

including instances in which an individual is the subject of a law enforcement investigation that may lead to criminal charges against the individual.

Medical Attention: Any assessment, examination, or treatment by a qualified medical professional, and/or basic first aid.

Not Confirmed Determination: Final finding used by the Administrative Review committee when the evidence presented in the Provider Certified Investigator Report and Provider Investigation File suggests there **is not** a majority of evidence (49% or less) that the allegation more than likely occurred.

Objectivity: The ability to describe or perceive something based on evidence without influence by personal emotions, experiences, bias, or opinion.

Physical Evidence: Evidence in the form of objects or things, spatial relationships between people or things, or the absence of things that otherwise should reasonably be present.

Policy: A written statement outlining a principle that an organization and its members are guided by.

Preponderance of the Evidence: The standard of evidence requiring that the conclusion drawn about the incident be based on what is more likely than not to have occurred, in other words, what 51% or more of the evidence supports.

Preventative Corrective Action: A single immediate corrective action that must be implemented before the Incident Final Section is submitted. A Preventative Corrective action is a person-centered remediation that is related to the underlying cause(s) of the incident. It is focused on preventing future incidents similar in nature to the incident under investigation. If an incident is categorized as Abuse, Sexual Abuse, Neglect, Rights Violation, or Exploitation, and the Investigation Determination is *Confirmed*, a Preventative Corrective Action is mandatory.

Procedure: Written guidelines or steps to be followed by members of an organization in an effort to adhere to rules, regulations and or policies.

Protective Service Entity: A protection agency under the Adult Protective Service Act, Older Adult Protective Service Act, or Child Protective Service Law that has the authority to investigate incidents or complaints of abuse, neglect, and other incident categories related to individuals, if there is probable cause or if incidents or complaints are reported.

Provider Investigation File: A collection of the Provider Certified Investigator Report and all associated evidence that was collected by the CI during the investigation.

Provider Certified Investigator Report: A record that provides the details of the investigation process that was used by the CI to determine what occurred during an incident. Information related to an investigation must be documented in the Provider Certified Investigator Report in the EIM system.

Relevant Evidence: Evidence that potentially helps to describe or explain an event or incident under investigation.

Remote Interview: Any interview with a witness that is not conducted in-person, including those that are conducted over the phone or through the use of electronic video equipment such as Microsoft Teams, Face Time, or Zoom.

Risk Management: The proactive and responsive management of potential risks to an organization, its employees, its clients and customers, and others.

Risk Mitigation: An overall approach to minimize the severity of risk and to reduce the likelihood of occurrence or recurrence of an adverse event.

Speed: A standard of evidence that requires the CI to act in a timely way that considers how evidence may change or disappear over time.

Summary of CI's Findings: A narrative, provided by the CI, which tells the "story" of what more likely than not happened or did not happen, based on the relevant evidence collected during the investigation.

Target: The person or entity who is alleged to have caused the incident to occur.

Testimonial Evidence: Evidence that is a witness' communication to a CI, in verbal form or the equivalent, that expresses their memories of their experiences or observations related to the incident under investigation.

Thoroughness: A standard of evidence that requires the CI to generate details throughout the entire investigation.

Trauma: A psychological, emotional response to an event or an experience that is deeply distressing or disturbing.

Trauma-Informed Interviewing: An approach to interviewing that treats a person in a way that is sensitive to their trauma or possible trauma that has been recently experienced or experienced in the past.

Victim: The individual to whom the incident occurred or is alleged to have occurred.

Victim's Assistance Programs: Resources that are available to individuals who are victims of abuse, neglect, or crime to assist them medically, physically, emotionally, financially, and legally. There are two main types of victim's assistance programs: system and community-based organizations.

Witness Statement: Document used to preserve intact the witness' communication of their memory of experiences they had or observations they made.