

## Standards for Conducting Protocol Investigations

### Protocol Investigation Categories

Protocol investigations shall be conducted for the following MUIs:

1. Physical abuse
2. Sexual abuse
3. Verbal abuse
4. Suspicious or accidental death
5. Exploitation
6. Failure to report
7. Misappropriation
8. Neglect
9. Peer-to-peer acts
10. Prohibited sexual relations
11. Rights code violation

If it is not reasonably possible or relevant to the investigation to meet a requirement under this appendix, the reason shall be documented.

The department or county board may elect to conduct a protocol investigation on any MUI, even when not required to do so by this rule.

### Protocol Investigation Findings

Findings in protocol investigations shall be based upon a preponderance of the evidence standard. "Preponderance of evidence" means that credible evidence indicates that it is more probable than not that the incident occurred. There are three possible findings of a protocol investigation:

1. "Substantiated" means there is a preponderance of evidence that the alleged incident occurred;
2. "Unsubstantiated/insufficient evidence" means there is insufficient evidence to substantiate the allegation. "Insufficient evidence" means there is not a preponderance of evidence to support the allegation or there is conflicting evidence that is inconclusive; or

3. "Unsubstantiated/unfounded" means the allegations are unfounded.  
"Unfounded" means evidence supports a finding that the alleged incident did not or could not have occurred.

### Steps in Conducting a Protocol Investigation

1. Commence the investigation immediately, or no later than twenty-four hours after discovery of the incident. "Commencing the investigation" means any of the following:
  - a. Interviewing the reporter of the incident.
  - b. Gathering relevant documents such as nursing notes, progress notes, or incident report.
  - c. Notifying law enforcement or the public children's services agency and documenting the time, date, and name of the person notified. If law enforcement or the public children's services agency decides not to conduct an investigation, the investigative agent shall commence the investigation.
  - d. Initiating interviews with witness(es) or victim(s).
2. Interview the victim no later than three working days following notification of the major unusual incident and document the results. Exceptions to this requirement are when the individual is unable to provide any information or the investigative agent determines that the circumstances warrant interviewing the individual later in the investigation.
3. Visit the scene of the incident.
4. Follow-up with law enforcement. Include a copy of the police report, as applicable.
5. Secure physical evidence. Take photographs of injuries, as applicable. Secure and sketch and/or photograph the scene of the incident. Provide a detailed description of any injury that may have resulted from the incident, including the shape, color, and size. Take a photograph of any injury that may have resulted from the incident; record the name of the person who took the photograph and the date and time the photograph was taken. Provide a written description of the physical evidence along with the date, time, and location of the gathering of the evidence. Photograph and/or describe materials or objects that played a part in the incident. Provide a written description, sketch, or photograph of the area where the incident occurred. Note environmental factors that may have caused or contributed to any injury.
6. Review all relevant documents relating to the primary person involved that form the basis for the reported incident and the relevant documents relating to the individual who is the alleged victim.

7. Gather written statements from all relevant witnesses. Alternative methods include a statement written by the investigator using the individual's words and/or videotaping the individual's statement.
8. Interview direct witnesses to the incident and provide documentation of the interviews.
9. Interview medical professionals as to the possible cause/age of the injuries and provide documentation of the interviews. Include a statement from a qualified medical professional as to whether or not the injury is consistent with the description of the incident, including the apparent age of the injury and probable force necessary to cause the injury. Include a description of treatment received or ordered. Qualified medical professionals include, but are not limited to, physicians, nurses, emergency medical technicians, and therapists.
10. Interview others who may have relevant information and provide documentation of each interview.
11. Conduct follow-up interviews if needed.
12. Include a clear statement of the allegation.
13. Evaluate all witnesses and documentary evidence in a clear, complete, and non-ambiguous manner.
14. Evaluate the relative credibility of the witnesses. Factors to be considered in judging the credibility of a witness include:
  - a. whether the witness's statements are logical, internally consistent, and consistent with other credible statements and known facts (e.g., does the witness appear to leave out or not know about information that he/she should know about?);
  - b. whether the witness was in a position to hear or see what is claimed;
  - c. whether the witness has a history of being reliable and honest when reporting incidents or making statements regarding incidents;
  - d. whether the witness has a special interest or motive for making a false statement (e.g., is there a possible bias of the witness?);
  - e. the relevant disciplinary history of the primary person involved (PPI), such as involvement in similar past allegations;
  - f. the witness's demeanor during the interview (e.g., did the witness appear evasive or not forthcoming?); and
  - g. whether the witness did other things that might affect his/her credibility.
15. Include a succinct and well-reasoned analysis of the evidence.
16. Include a clearly stated conclusion that identifies which allegations were and were not substantiated.

### Incident Specific Requirements – Physical Abuse

1. Provide written statements that include a description of the amount of physical force used which may include, but is not limited to, speed of the force, range of motion,

open or closed hand (fist), the sound made by impact, texture of surface if the individual was dragged or pulled, and the distance the individual was dragged, pulled, or shoved.

2. Provide a description of the individual's reaction to the physical force used. This may include, but is not limited to, the individual fell backwards or individual's head or other body part jerked backward and any other indication of pain or discomfort by the individual which may include words, vocalizations, or body movements.
3. Include comments made during the incident by the PPI.
4. Document how the harm to the individual is linked to the physical force used by the PPI.

### Incident Specific Requirements – Sexual Abuse

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

### Incident Specific Requirements – Verbal Abuse

1. Provide a statement of the exact words or gestures used to threaten, coerce, intimidate, harass, or humiliate the individual and the context in which these were used.
2. Provide a description of the reaction of the individual to the words or gestures, including any words or vocalizations.
3. Describe the volume used, including such description as loud, soft, and tone of voice, and where the PPI was located in relation to the individual.
4. Describe the past history of verbal interactions between the PPI and the individual.

### Incident Specific Requirements – Suspicious or Accidental Death

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

### Incident Specific Requirements – Exploitation or Misappropriation

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

### Incident Specific Requirements – Failure to Report

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

### Incident Specific Requirements – Neglect

1. Verify and document the PPI's duty to provide care to the individual.
2. Document the treatment, care, goods, services, or supervision required but not provided by the PPI. Include the time period of the alleged neglect.
3. Verify and document the PPI's knowledge that the withheld treatment, care, goods, services, or supervision was needed by the individual. Such documentation might include the individual's plan of care, medical information available to the PPI,

statements made by others to the PPI, statements made by the PPI, or training received by the PPI.

4. Verify that the PPI's action or inaction resulted in, or reasonably could have resulted in, harm to the individual.
5. Specifically describe the harm or any risk of harm to the individual caused by the PPI's action or inaction.

### Incident Specific Requirements – Prohibited Sexual Relations

1. Describe and document the type of sexual conduct or contact.
2. Document whether or not the incident was consensual. (Note: Consent does not excuse sexual contact by a caregiver with an individual when the caregiver is paid to care for the individual.)
3. Verify and document that the PPI was providing paid care to the individual.
4. Verify and document that the PPI was not married to the individual.
5. Provide a statement of any known, long-term, personal relationship the PPI has with the individual or other circumstances relevant to the sexual contact or conduct.

### Incident Specific Requirements – Rights Code Violation

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