

DEPARTMENT OF HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

**EFFECTIVE DATE:** November 1, 2007

**DATE ISSUED:** October 12, 2007

- I. **TITLE:** Reporting Unusual Incidents  
(Rescinds Division Circular #14 "Reporting Unusual Incidents", issued November 2, 2001.)
- II. **PURPOSE:** To establish policies and procedures for the reporting of unusual incidents to the Department of Human Services (DHS) utilizing the Unusual Incident Reporting and Management System (UIRMS).
- II. **SCOPE:** This circular applies to all components of the Division and agencies and entities under contract with the Division or regulated by the Department that provide services to Division eligible individuals.

Developmental Center staff must also adhere to the requirements as described in Department of Human Services' Administrative Order 2:05, Unusual Incident Reporting and Management System.

Community Services and contracted Provider Agency staff must also adhere to the requirements as described in Department of Human Services' Administrative Order 2:05, Unusual Incident Reporting and Management System and the Addendum to Administrative Order 2:05, Community Reporting: Unusual Incident Reporting and Management System.

- IV. **POLICIES:**
  - A. All unusual incidents shall be reported in accordance with this circular and Administrative Order 2:05, "Unusual Incident Reporting and Management System (UIRMS)" and the Addendum to Administrative Order 2:05, "Community Reporting: Unusual Incident Reporting and Management System (UIRMS)", as applicable.

- B. The Division recognizes that all individuals with developmental disabilities have the right to a safe supportive environment. However, the Division also recognizes that even in a supportive environment adverse events may occur. In such occurrences, the Division expects all Division personnel, as well as staff of provider agencies under contract with the Division and/or regulated by the Department and that provide services to Division eligible individuals, to take immediate steps to protect the individual; to ensure prompt medical attention, when needed; and to work to prevent future occurrences. In order to accomplish this, such occurrences must be reported as unusual incidents and be appropriately followed up.
- C. The first duty of all persons involved is to ensure the health and safety of the individual served.
- D. It is the responsibility of all employees of the Division, employees of agencies under contract with the Division or regulated by the Department and that provide services to Division eligible individuals, and individual providers to report unusual incidents within the time frames contained in this circular and cooperate in any investigation. Failure to report an unusual incident or cooperate in an investigation may result in corrective action.
- E. In addition to the reporting requirements of the Division, all reports required by New Jersey laws shall be made to the appropriate government protective and law enforcement agencies. (Refer to sections V.D, E and F).
- F. Law enforcement authorities shall be advised of any suspected criminal activities and documented in the UIR. (Refer to section V.E and F.)
- G. The individual's guardian shall be informed of all unusual incidents that are client-specific within one working day and documented in the UIR.
- H. The Regional Assistant Director shall ensure that the reporting of unusual incidents in each region and developmental center complies with the procedures contained in this circular. However, it is the responsibility of administrative staff to ensure that every staff complies with the policies of this circular.
- I. Each reporting component shall enter required information about unusual incidents into the Department approved UIRMS database that shall be accessible to authorized Department and Division staff.
- J. The Division recognizes that extraordinary circumstances may occur that may make compliance with this circular impractical. All requests for

exceptions or exemptions to the policies and procedures in this circular and Administrative Order 2:05 and addendum must be submitted, in writing, to the Department through the Assistant Commissioner.

- K. The Unusual Incident reports and related investigation reports shall be confidential and maintained in accordance with Division Circular #30 (N.J.A.C. 10:41) "Record Confidentiality and Access to Client and Agency Records".
  - 1. Each incident report will be maintained in accordance with the State Record Retention Schedules along with state and federal confidentiality laws, including but not limited to, Health Information Portability and Accountability Act (HIPAA) regulations. All records, reports, or other information, whether written or verbal, that directly or indirectly identify a current or former DHS service recipient, shall be kept confidential.
  - 2. Division electronic files shall be protected in the maintenance of the UIRMS database, electronic transmission of data, and data storage in accordance with federal, state, and Department and Division confidentiality regulations. The Division or developmental center HIPAA Security Officer shall approve all safeguards.
  - 3. Division staff who fail to maintain the confidentiality of such records in accordance with this policy, N.J.A.C. 10:41 or with state and federal laws may be subject to monetary penalties and/or corrective/disciplinary action in accordance with DHS Administrative Order 4:08. Any breach of confidentiality shall be reported to the facility or Division Privacy Officer.
- L. DHS/Special Response Unit (SRU) will serve as the liaison to law enforcement for those incidents under investigation by SRU to assist the Division in monitoring the investigation.

**V. GENERAL STANDARDS:**

- A. Each developmental center and regional office shall designate a UIR Coordinator to receive reports of unusual incidents.
  - 1. The UIR Coordinator is responsible for entering the unusual incident information into the UIRMS Database as described in section VI., Procedures, and A.O. 2:05.
  - 2. The UIR Coordinator is responsible to ensure that the UIR information is entered into the UIRMS Database when it meets the

requirements of A.O. 2:05 as reported by the source. Minor edits may be made for grammar, clarity or correction of citations.

3. The UIR Coordinator is required to ensure that notification requirements (e.g., law enforcement, guardian) are adhered to and documented in the unusual incident report and UIRMS.

**B. DEFINITIONS** – for the purposes of this circular, the following terms shall have the meaning defined herein:

“Abuse” - refer to the following definitions: Physical Abuse, Sexual Abuse and Verbal/Psychological Abuse/Mistreatment.

“Boarding Home” means a facility that provides food, shelter and personal guidance and is licensed by the New Jersey Department of Community Affairs.

“Bureau of Guardianship” means that component of the Division that is responsible to act as a guardian of an individual. Refer to Division Circulars #6 and #7.

“Chief Executive Officer (CEO)” means the person having administrative authority over, and responsibility for a State operated developmental center.

“Client” means the individual receiving services from the Division. This term has been replaced with “individual”. However, it is used when referring to the client record.

“Community Services Regional Office” means that component of the Division that provides intake, case management, placement and support services to individuals who reside or work in community settings.

“Component” means regional assistant director’s office, developmental center, regional office, bureau, office or unit of the Division of Developmental Disabilities.

“Consultant/Contractor” means a person or company that provides services for DHS service recipients on a regular or occasional basis. Examples include but are not limited to, medical specialists who come to the facilities to provide care for the service recipients (e.g., podiatrist ), Community Care Residence (CCR) provider, Contracted Provider Agency and staff; environmental remediation companies, HVAC repair persons, and pharmaceutical delivery service. Consultant/contractors are not Department employees.

“Contraband” means possession or use of an item(s) by a service recipient, an employee, or another person that has been designated by the service provider as having the potential to pose danger or harm to others. Examples include, but are not limited to, weapons (commercially manufactured or hand-made) used for

offensive or defensive purposes; illegal items such as Controlled Dangerous Substances (CDS) or fireworks; alcohol (for service recipients under the age of 21, with a Mentally Ill Chemical Abuse {MICA} diagnosis, or with potential for pharmacological reaction); or other items identified by the service provider, including but not limited to, coffee, matches, and aerosol sprays, as appropriate.

“Corrective Action” means those measures that are intended to reduce the likelihood that the incident will recur. Such actions include, but are not limited to: improved risk management, enhanced individual planning, criminal prosecution, removal of an individual from a program, disciplinary action, licensure suspension or revocation, improvements in the physical plant, revision of operating procedures, staff training and administrative oversight.

“Criminal Activity” refers to the alleged activity of a service recipient, employee, or service provider meeting the thresholds of NJ Criminal Statutes Title 2C, including N.J.S.A. 2C:43-1, the Grading of Offenses (e.g., disorderly persons, aggravated assault) or N.J.S.A. 2C:24-7 and 8 – Neglect of the Elderly and Disabled. These alleged activities could result in physical injury to another person or damage/loss of property belonging to the State, a service recipient or an employee.

“Criminal Status” means a service recipient with a criminal status of Not Guilty by Reason of Insanity (NGRI) or pursuant to State vs. Krol (KROL – 68 N.J. 236 (1975)); Incompetent to Stand Trial (IST) Detainer (a service recipient originally in the legal custody of a correctional facility found to be in need of mental health services); or Megan’s Law (sex offender).

“Danielle’s Law” means the requirement of staff at a facility for individuals with developmental disabilities or a facility for persons with traumatic brain injury or members of the staff at a public or private agency and CCR providers, who works directly with individuals with developmental disabilities or traumatic brain injury, to call the 911 emergency telephone service for assistance in the event of a life-threatening emergency at the facility or public or private agency home/program and CCR provider home, and to report that call to the Department. (N.J.S.A. 30:6D-5.1 et seq. and N.J.A.C. 10:42A)

“Death, Expected” means the death of a service recipient with a recent (six months or less) medical prognosis of probable or imminent expiration.

“Death, Unexpected” means the death of a service recipient that was not medically anticipated. Examples include suicide, homicide and/or unanticipated death due to unforeseen circumstances/complications. Example: A healthy individual goes into the hospital for a routine procedure, develops complications and succumbs to the complications two weeks later.

“Department” means the State of New Jersey, Department of Human Services (DHS).

“Designated Screening Center” means a public or private ambulatory care service designated by the DHS Commissioner, which provides mental health services including assessment, screening, emergency and referral services to mentally ill persons in a specified geographic area. A designated screening center is the facility in the public mental health care treatment system wherein a person believed to be in need of commitment to a short term care, psychiatric facility or special psychiatric hospital undergoes an assessment to determine what mental health services are appropriate for the person and where those services may be most appropriately provided.

“Developmental Centers” means the State-operated facilities providing residential services to Division eligible individuals with developmental disabilities.

“Developmental Disabilities Licensing (DDL)” means that component of the Department that licenses and inspects community residences for individuals with developmental disabilities, persons with head injuries and private residential facilities.

“Division” means the Division of Developmental Disabilities (DDD).

“Elopement” means the act of a service recipient with criminal status leaving the grounds of a facility or community residential or day program without authorization and who cannot be located after a diligent and reasonable search of two hours (for a minor under the age of 18 search time is one hour). For service recipients with no criminal status, refer to Walk-away definition.

“Employee” means any person employed full-time or part-time by, or serving as a volunteer or intern of, the Department or Division.

“Exploitation” means any willful, unjust or improper use of a service recipient or his/her property/funds, for the benefit or advantage of another; condoning and/or encouraging the exploitation of a service recipient by another person. Examples of exploitation include, but are not limited to, appropriating, borrowing, or taking without authorization personal property/funds belonging to a service recipient, or requiring him/her to perform functions/activities that are normally conducted by staff or are solely for the staff’s convenience.

“Individual” – refer to Service Recipient.

“Inappropriate Sexual Conduct” refers to the act of a service recipient exposing him/herself to another person or masturbating in a public setting, with no physical contact between the service recipient and the other person. (See also Sexual Contact)

“Incident Level A+, A, B or C incidents” refer to Appendix C for community and Appendix D for developmental centers. Incidents are described as follows:

1. “A+” level incidents are classified as occurrences that are highly unusual or an event posing imminent threat to life or safety.
2. “A” level incidents are classified as occurrences that are a serious threat to life and/or safety.
3. “B” level incidents are classified as occurrences where the threat to life or safety is not imminent.
4. “C” level incidents are classified as occurrences that indicate possible problems in the care of service recipients or incidents with the potential to expose service recipients to possible harm or injury, but are not considered an emergency. Incident level “C” is only reported in the developmental centers.

“Injury\*” means the accidental, self-inflicted, or intentional damage to the body by an external force. Levels of injury will be categorized as follows:

1. *No injury: Lacking any evidence of injury and/or no complaint of pain as determined by staff assessing the situation and, if possible, as described by the service recipient.*
2. *Minor injury: Refers to an injury that requires no treatment beyond basic first aid administered by a medical professional or service provider. Examples of minor injuries include, but are not limited to, bruises and abrasions.*
3. *Moderate injury: refers to an injury that requires treatment beyond basic first aid and can only be performed by a medical professional at a physician’s office, at a hospital emergency room, or by facility physicians. Examples of moderate injuries include, but are not limited to, a laceration requiring sutures or a human bite breaking the skin, injury around the eye such as bruising, swelling or lacerations.*
4. *Major injury: refers to an injury that requires treatment that can only be performed at a hospital facility and may or may not include admission to the hospital for additional treatment or observation. Examples of major injuries include, but are not limited to, skull fractures, injuries to the eye and broken bones requiring setting and casting.*

*\*Note: Due to subjective nature of this issue, there may be some overlapping of categories. Diagnostic tests including, but not limited to, x-*

*rays, may be needed to rule out injuries of a more significant level. In all circumstances, the location and extent of the injury should be taken into careful consideration during the initial assessment by the service provider or facility medical personnel before selecting the injury level.*

“Interdisciplinary Team (IDT)” means a group that shall minimally consist of the individual receiving services, the plan coordinator, the legal guardian, and/or the Division case manager. The IDT may include the parents or family member at the preference of the person served or guardian. In addition, members may include: advocates and friends, those persons who work most directly with the individual served, and professionals and representatives of service areas who are relevant to the identification of the individual's needs and preferences and the design and evaluation of programs to meet them.

“Investigation” means the systematic inquiry into the factors which have contributed to a report of an unusual incident. An investigation may range from a brief examination of records and statements to a comprehensive collection and analysis of all pertinent evidence.

“Law Enforcement ” means an entity responsible for investigating and prosecuting violations of the New Jersey Criminal Code or Federal Criminal Statutes. Such entities include police officers, medical examiners, the N.J. Division of Criminal Justice, and the Federal Bureau of Investigation.

“Media Interest” means media (e.g., TV, radio) or electronic and print media (e.g., newspaper, magazine/book) attention that has been or is likely to be generated or intensified regarding any reportable incident involving the Department, Division, and their service recipients or employees. Said media interest may or may not have an impact on daily facility operations.

“Medical” refers to any incident concerned with choking, disease/illness, or errors in medical treatment and/or the administration of medication categorized as follows:

1. *Choking means an incident that occurs during swallowing that requires the assistance of another person for relief, as in the application of an abdominal thrust or suctioning.*
2. *Disease refers to the outbreak of a communicable illness that could impact the health, safety, or operation of a facility or program or a single incident of illness reportable to the Department of Health and Senior Services. Reference: N.J.A.C. 8:57-1.3.*
3. *Medication/Treatment Error refers to any deviation from prescribed orders that results in, or has the potential to result in, serious effects that require medical intervention as determined by a qualified medical professional*

*(e.g., physician, pharmacist). These incidents may involve errors in medical treatment or errors in the administration of medication.*

“Megan’s Law Sex Offender” refers to any person convicted, adjudicated delinquent, or acquitted by reason of insanity of designated sex offenses pursuant to N.J.S.A. 2C:7.-2b. (DHS A.O. 3:06)

“Neglect” means the failure of a paid or unpaid caregiver (person responsible for the service recipient’s welfare) to provide the needed services and supports to ensure the health, safety and welfare of the service recipient. These supports and services may or may not be defined in the service recipient’s plan or otherwise required by law or regulation. This includes acts that are intentional, unintentional, or careless regardless of the incidence of harm. Examples include, but are not limited to, the failure to provide needed care such as shelter, food, clothing, supervision, personal hygiene, medical care, and protection from health and safety hazards.

“Nursing Home” means a skilled nursing facility, health care facility or complement of beds in a health care facility, licensed by the Department of Health and Senior Services.

“Operational Incidents” means a variety of incidents that significantly impact or could potentially affect the general health, safety, and welfare of DHS service recipients or impacts on the daily operation of the facility or program. Examples include, but are not limited to, fires, environmental issues, damage to state or service recipient property, and staff shortages.

1. *Destruction/Damage to State, Service Recipient, or Employee Property* refers to an accidental or willful act, perpetrated by any person that destroys or damages state, consultant/contractor or personal property rendering the item unusable.
  - a. *State Property*: Examples include, but are not limited to, equipment (vehicle, laptop computer, tools) or property (structural or land).
  - b. *Service Recipient Property*: Examples include, but are not limited to, television, stereo, camera, and clothing. Incidents involving money will be handled under Theft/Loss category.
  - c. *Employee or Other’s Property*: Examples include, but are not limited to jewelry, clothing, cell phone, automobile tires, and equipment/tools.
2. *Environmental* refers to incidents involving spills or illegal dumping of toxic substances or other occurrences impacting on air, soil or water quality.

3. Fire
  - a. Major event refers to an incident resulting in damage, which renders a facility, or part thereof, unusable or resulting in injuries to staff or service recipients.
  - b. Moderate event refers to incidents requiring outside assistance to extinguish or contain.
  - c. Minor event refers to incidents that were extinguished or contained utilizing facility staff.
4. Mass disturbance refers to an incident involving five or more people (service recipients or employees) that disrupts services or impacts on facility operations and may pose a threat to the life or safety of others. Example: riot.
5. Operational breakdown refers to any utility outage, which may cause a threat to life or safety and impact on facility operations. Examples: loss of electricity to all or part of the facility or loss of telephone service.
6. Public Safety Issue refers to incidents such as natural disasters (flood, hurricane, etc), terrorist threats or the taking of hostages posing an immediate threat to the life and safety of service recipients and employees. In cases where Criminal Activity occurs, the incident should also be reported as such.
7. Theft/Loss refers to a willful or unexplainable incident, perpetrated by any person, resulting in State, service recipient, or employee property or monetary funds, being stolen or missing. (Refer to Appendix C for community reporting and Appendix D for developmental centers.)
8. Unexpected Staff Shortages refers to incidents resulting from an apparent job action or other situations that may pose a threat to life/safety or impact on facility operations.

“Other” means refers to a person(s) such as a visitor (family member or friend), program/institution/agency staff (non-DHS). Other is not an employee, service recipient, or a consultant/contractor.

“Physical Abuse” means a physical act directed at a service recipient by a Department or Division employee, volunteer, intern, consultant/contractor or program/institution/agency staff (non-DHS) of a type that could cause pain, injury, anguish, and/or suffering. Such acts include but are not limited to the service recipient being kicked, pinched, bitten, punched, slapped, hit, pushed, dragged, and/or struck with a thrown or held object.

“Physical Assault” means the act of touching or striking a victim’s body to cause physical harm, which may or may not result in actual injury. The acts perpetrated

under the physical assault category could occur between two service recipients, staff to staff, “other” to service recipient or staff, or service recipient to staff or “others.” When staff persons charged with the responsibility of supervising or providing direct care physically strikes a service recipient, the incident is always categorized as abuse and must be reported as such.

“PICA” refers to the behavior of ingesting inedible substances or objects including, but not limited to soil, paint chips, batteries, or cigarette butts.

“Program/Institution/Agency Staff (Non-DHS)” means those employees who are identified in community incidents who are not employees of the Department or any of its Divisions, Bureaus, Offices or Commissions.

“Provider” means a facility or its staff; an agency or its staff; an individual under contract with the Division; a medical professional or any person who is performing services on behalf of a service recipient or the Division.

“Regional Assistant Director (RAD)” means an individual appointed by the Assistant Commissioner to plan, organize and deliver integrated community-based and institutional services to specific regions.

“Regional Office” means the component of the Division that provides intake, case management, placement, and support services to Division eligible individuals who reside or work in community settings.

“Reporting Component/Entity” means the Division’s developmental centers, regional Community Services offices and central office.

“Residential Health Care Facility” means a long term care alternative that provides a home-like atmosphere, food, recreational activities, supervision of medication needs, and assistance in getting health services. (Also known as Sheltered Boarding homes).

“Restraint Use” refers to the restriction of an individual’s freedom of movement either partially or totally by physical contact imposed by staff (Personal Control Technique), the application of a physical device (Mechanical Restraint) or through the use of medication (Chemical Restraint). Refer to Division Circular #20. Restraints are further defined as:

1. Approved: Restraints implemented with prior approval and written order, in accordance with the administrative regulations and policies of the appropriate division, or as part of an approved behavior treatment plan.
2. Unapproved: Restraints implemented without the prior approval/order or not in accordance with the administrative regulations of the Division, or not as part of an approved behavior treatment plan.

“Rights Violation” means any act or omission that deprives a service recipient of human or civil rights, including those rights that are specifically mandated under applicable statutes or regulations. Court ordered restrictions, clinically justified restrictions that are appropriately documented, or licensing regulations subject to a waiver are not considered rights violations within the meaning of this policy. Examples include, but are not limited to, unauthorized removal of personal property, refusal of access to the telephone, privacy violations, breach of confidentiality, or any failure to inform, respect, or assist a service recipient in exercising his or her rights.

“Risk Management Committee” means the staff within the developmental centers that meet on a regular basis to review and analyze trends of incidents and make recommendations to address trends for individual safety.

“Service Plan” – refer to Division Circular #35.

“Service Recipient” means an individual who resides in a state operated facility/institution or who receives services from a program operated, licensed, contracted, regulated or subject to investigation by DHS or DDD. For purposes of this circular, this term may be used interchangeably with the terms of consumer, patient, individual or client.

“Sexual Abuse” means acts or attempted acts such as rape, exposure of genital body parts, sexual molestation, sexual exploitation, or inappropriate touching of an individual by a DHS employee, volunteer, intern, program/ institution/agency staff (non-DHS) or consultant/contractor. Any form of sexual contact or activity between a DHS employee, volunteer, intern or consultant/contractor and a service recipient is abuse, regardless of whether the service recipient gives consent or the employee, volunteer, intern, program/ institution/agency staff (non-DHS), or consultant/contractor is on or off duty.

“Sexual Assault” means incidents of nonconsensual sexual activity involving penetration, such as vaginal and anal intercourse; the insertion of a hand, finger, or object into the anus or vagina; or cunnilingus and fellatio. The acts perpetrated under the sexual assault category could occur between two service recipients, staff to staff, “other” to service recipient or staff, or service recipient to staff or “others.” Any act perpetrated by staff upon/involving a service recipient is considered abuse and must be reported as abuse. N.J. Criminal Code – N.J.S.A. 2C:14-1.

“Sexual Contact” refers to the intentional, nonconsensual touching of the victim’s breast, genital or anal area, over or under clothing, with the purpose of sexual arousal and/or gratification of the perpetrator. Any act perpetrated by staff upon/involving a service recipient is considered abuse and must be reported as abuse. N.J.S.A. 2C:14-1.

“Special Response Unit (SRU)” means that component of the Department responsible for investigating allegations of serious abuse, neglect and exploitation as well as alleged violations of Danielle’s Law in community programs licensed and/or regulated by the Department or contracted by the Division.

“Suicide Attempt” refers to an attempt to intentionally kill one’s self regardless if the act resulted in injury.

“Unusual Incident” means an occurrence involving the care, supervision, or actions of a service recipient that is adverse in nature or has the potential to have an adverse impact on the health, safety, and the welfare of the service recipient or others. Unusual incidents also include situations occurring with Department staff or contractors/consultants or affecting the operations of a facility/institution/school. Examples include, but are not limited to, allegations of abuse and neglect, service recipient to service recipient assault, and medication errors. An unusual incident may also involve the conduct of employees (while on- or off-duty) or others who may come in contact with service recipients who reside in DHS or DDD operated facilities, regardless of the place of occurrence of the incident. Examples include, but are not limited to, a service recipient receiving medical care in a local hospital or an incident occurring while service recipient is on a brief visit.

“UIRMS – Unusual Incident Reporting and Management System” refers to the Department of Human Services’ policy and procedure for the reporting, tracking and management of unusual incidents.

“Unusual Incident Report (UIR) Coordinator” means an individual assigned by the Chief Executive Officer of a Developmental Center or the Regional Administrator of a Community Services Regional Office, to carry out the unusual incident reporting system.

“UIR Review Committee” means the committee within the developmental centers responsible for reviewing incident trends and making recommendations for corrective action.

“Verbal/Psychological Abuse/Mistreatment” means any verbal or non-verbal acts or omissions by a DHS employee, volunteer, intern or consultant/contractor which inflicts emotional harm, mental distress, invocation of fear and/or humiliation, intimidation, degradation, or demeaning a service recipient. Examples include, but are not limited to: teasing, bullying, ignoring need, favoritism, verbal assault, or use of racial slurs, or intimidating gestures (e.g., shaking a fist at a service recipient).

“Walk-away (No Criminal Status)” refers to the act of a service recipient who leaves the grounds of a facility or community residential, or program setting, without authorization and who cannot be located after a diligent and reasonable search of two hours (for minors under the age of 18 search time is one hour). Incident reports are required for all occurrences regardless of when a service recipient is located. For service recipients with legal status, refer to “Elopement”.

**C. NOTIFICATION TO LEGAL GUARDIAN OR FAMILY:**

1. The legal guardian shall be notified of all client specific unusual incidents. The authorized family members may be notified of client specific unusual incidents.
2. Notification to the legal guardian and authorized family members will be made by:
  - a. Staff of the developmental center;
  - b. Provider agency if the individual lives in a facility licensed under N.J.A.C. 10:44A or 10:44C unless the incident report is made by Division regional staff. In that instance, regional staff shall contact the legal guardian and family;
  - c. Staff of the private residences for individuals with developmental disabilities if licensed under N.J.A.C. 10:47 unless the incident report is made by Division regional staff. In that instance, regional staff shall contact the legal guardian and family;
  - d. Staff of the day program unless the incident report is made by Division regional staff. In that instance, regional staff shall contact the legal guardian and family;
  - e. Division regional staff for facilities licensed as Community Care Residences under N.J.A.C. 10:44B; and/or
  - f. Regional staff for all other incidents, for example, Purchase of Care facilities.
3. Notification to the guardian may be by telephone, by facsimile machine or in person as soon as possible, but no later than the next working day. The type of notification and date shall be documented in the client record.
4. Names of other individuals or witnesses allegedly involved in the incident must remain confidential.
5. If the incident involves an individual served by Bureau of Guardianship Services (BGS), the UIR Coordinator shall provide a copy of the unusual incident report to the respective BGS office.

6. Unusual incident reporting procedures shall be reviewed with the individual and his or her legal guardian and family no less than annually;
  - a. For developmental centers, by the IDT.
  - b. For community residences licensed under 10:44A, by the provider agency.
  - c. For community residences licensed under 10:44B, by the case manager.
  - d. For community residences licensed under 10:44C, by the provider agency.
  - e. For private residential facilities licensed under 10:47, by the provider agency.
7. A pamphlet summarizing the content of this circular will be provided to individuals, his or her legal guardian and/or family upon determination of eligibility for Division services, at the annual Service Plan meeting, or as requested. (Appendix E)

**D. SPECIAL REPORTING REQUIREMENTS FOR INCIDENTS OF ALLEGED ABUSE, NEGLECT OR EXPLOITATION.** In addition to the reporting procedures as described in section VI, the following reporting shall occur.

1. Allegations received by the Division from any source (anonymous or known) shall be reported to the applicable UIR Coordinator. Such reporting shall be documented in the UIR.
2. The UIR Coordinator shall confirm that the reporting has occurred. Such reporting shall occur to ensure that the reporting does not compromise any investigation.
3. All complaints of abuse, neglect or exploitation shall be considered to be allegations unless the matter is substantiated by the preponderance of the evidence following an investigation.
4. Suspected abuse or neglect of individuals under the age of 18 shall be reported to the N.J. Department of Children and Families/Statewide Central Registry at 1-877-NJ ABUSE (1-877-652-2873) in addition to the reporting requirements contained in this circular. (N.J.S.A. 9:6-8.10)
5. Suspected abuse or neglect of individuals over the age of eighteen (18), residing in their own home or in other unlicensed settings shall be reported to the county Adult Protective Services agency in addition to

the reporting requirements contained in this circular. (N.J.S.A. 52:27D-406 et seq.)

6. Suspected abuse or neglect of any individual 60 years of age or older who resides in living arrangements other than their own home, shall be reported to the N.J. Office of the Ombudsman for the Institutionalized Elderly in addition to the reporting requirements contained in this circular. (N.J.S.A. 52:27G-1 et seq.)
7. Suspected abuse or neglect of individuals who reside in boarding homes or residential health care facilities shall be reported to the local county Boards of Social Services in addition to the reporting requirements contained in this circular. (N.J.S.A. 55:13B-1 et seq.)
8. Suspected abuse or neglect of individuals who reside in facilities licensed by the Department of Health and Senior Services (DHSS), including but not limited to nursing homes, to DHSS in addition to the reporting requirements contained in this circular. (N.J.S.A. 52:27G-1 et seq.)

**E. CRIMINAL ACTIVITY:**

1. If it appears that there may be a violation of the N.J. Code of Criminal Justice involving a service recipient or contracted provider or program, the matter must be reported to law enforcement authorities by Division staff and agencies and entities under contract with the Division or regulated by the Department that provide services to Division eligible individuals.
2. Notification to law enforcement authorities can occur before, during or after the investigation of the incident as warranted. Law enforcement notification may be required for incident types including, but not limited to:
  - a. Unexpected, sudden or unusual deaths;
  - b. Sexual abuse or assault;
  - c. Physical abuse or assault;
  - d. Neglect;
  - e. Exploitation;
  - f. Theft/loss of money or property;
  - g. Injuries of unknown origin; or
  - h. Illegal contraband
3. This policy requires compliance with existing federal laws and regulations and state statutes mandating the reporting of unusual incidents to other units or agencies, e.g., Department of Children and Families, New Jersey

Protection and Advocacy, Department of Environmental Protection, Bureau of Guardianship Services. (Refer to section V.D.)

4. Per Administrative Order 1:50, Centralized Police Operations, it is the responsibility of the Chief Executive Officer or other persons in charge at each developmental center, to promptly alert law enforcement personnel to any criminal acts, violations of the law, or suspicious acts or incidents that may infringe upon the orderly and proper administration of the facility. (Refer to Appendix D for categories that must be reported to Human Services Police.)
5. When Division staff report a suspected criminal matter to a law enforcement agency, the Division may disclose the unusual incident report to the law enforcement agency without authorization, unless the alleged perpetrator of the criminal act is a service recipient of the Division. (Please refer to Division Circular #53, Bulletin #3, "Release of Records to Law Enforcement".)
6. In community programs licensed in accordance with N.J.A.C. 10:44A, N.J.A.C. 10:44C or N.J.A.C. 10:47 the provider agency shall be responsible to develop procedures for reporting potential criminal matters to the appropriate law enforcement authorities. If the provider agency has reported the matter to a law enforcement authority, it must immediately inform the Regional Administrator's Office and the SRU.

**F. LAW ENFORCEMENT INVOLVEMENT FOR COMMUNITY CARE RESIDENCES (CCR Sponsor Homes)**

Law enforcement contact regarding any individual living in a home licensed under N.J.A.C. 10:44B shall be reported in accordance with Appendix C.

1. When the report is made to a Community Services' office, staff of the region shall take action to ensure the individuals receiving services are safe.

**VI. PROCEDURES**

**A. REPORTING UNUSUAL INCIDENTS – GENERAL PROCEDURES**

1. Incidents should be reported to the UIR Coordinator as quickly as safety allows. In all scenarios, incidents must be reported, at minimum, within the timeframes established in section 2, below.

2. Sufficient information must be gathered to complete the mandatory required fields of the initial incident report. However, if all information is not available, reporting of the incident should not be delayed. The missing information should be submitted as soon as possible in a follow-up report.
  - a. Each incident reported must be categorized as an A+, A, or B level as described in Appendix C or D, as applicable. If any incident falls into more than one category with different reporting levels, it shall be assigned the higher reporting level. If further investigation discloses the need for an upgrade or downgrade, a follow-up report should be submitted to indicate the revision.
  - b. The RAD shall assure that each Chief Executive Officer in the developmental centers and each Regional Administrator in Community Services assigns a staff member to review Category A+ or A incident reports immediately.
  - c. Category B incident reports the same working day they are received.
  - d. A+ and A level incidents shall be reported immediately by telephone.
    - i. Each developmental center Chief Executive Officer shall designate a person responsible for immediately notifying the Assistant Commissioner and/or respective Regional Assistant Director by telephone of each A+ and A level incident. Each Regional Administrator shall designate a person responsible for immediately notifying the Assistant Commissioner and/or respective Regional Assistant Director by telephone of each A+ level incident.
    - ii. Immediately upon notification that an A+ level incident has occurred, the Assistant Commissioner or designee shall notify the appropriate Deputy Commissioner, Office of Public Information (OPI) personnel, and appropriate Department personnel or their designees by telephone, day or night, of the incident.
  - e. Written reports of A+ and A level incidents shall be forwarded the same working day during normal working hours. If the incident occurs after regular working hours, the written incident report shall be forwarded the next working day.
    - i. Information regarding A+ level incidents occurring during normal working hours shall be entered into the UIRMS database immediately after obtaining the required details necessary to complete the initial incident report.
    - ii. Submission of an A+ level incident should not be delayed if information is unknown. Missing information should be submitted as soon as possible via a follow-up report.

- iii. A+ or A incidents occurring after normal work hours must be entered into the UIRMS database as soon as possible on the next working day. Following weekends and holidays the submission of A+ or A level reports must be made a priority.
  - iv. Information regarding an A level incident occurring during normal working hours shall be entered into the UIRMS database by the end of that work day.
  - v. Submission of an A level incident should not be delayed if information is unknown. Missing information should be submitted as soon as possible in a follow-up report.
- f. Information regarding B level incidents must be entered into the UIRMS database by the end of the workday following the notification of the reporting entity responsible for UIR submission.
- g. Any delay in the reporting of any incident, regardless of the reporting level, shall be explained in the initial incident report.
3. The Regional Assistant Director shall ensure that there are on-call persons in each developmental center to receive information about Category A+ and A level incidents after regular working hours. After normal working hours the on-call person shall be responsible to report A+ level incidents to the Regional Assistant Director, or designee, immediately by telephone.
4. The Regional Assistant Director shall ensure that there are on-call persons in each Community Services Regional Office to receive information about Category A+ level incidents after regular working hours. After normal working hours the on-call person shall be responsible to report A+ level incidents to the Regional Assistant Director, or designee, immediately by telephone.
5. Each Division component and provider agency shall maintain a comprehensive file of incident reports as specified by internal procedures. The UIR, follow up reports, and investigation notes and reports are confidential and are not subject to public disclosure in accordance with Division Circular #30 (N.J.A.C. 10:41).
6. In accordance with N.J.A.C. 10:41, a summary of the unusual incident shall be included in the progress notes section of the client record and shall only have client-specific information. The summary shall include the date of incident; type of incident; description of incident and injuries, if any; care and treatment provided; and follow-up actions as they relate to the client who is the subject of the file.

7. Division supervisors shall discuss with staff the procedures for reporting unusual incidents, giving examples relevant to the worksite, during the Division employee's job performance evaluation.
8. In the event that the UIRMS database is inaccessible within the reporting time frames specified for the written notification of unusual incidents, the UIR Coordinator shall notify Division and Department staff of the problem by telephone. Department and Division management will designate staff to be alerted to technical problems with the UIRMS database. The incident report should then be emailed or faxed to the appropriate reporting sites for the Division.
  - a. Required reporting time frames remain in effect when the UIRMS database is unavailable.
  - b. Faxed Unusual Incident Reports must be submitted on the DHS Initial UIR form (Appendix A).
  - c. The UIR Coordinator shall ensure that all A+, A, and B level incidents are entered in to the UIRMS database as soon as it becomes available to the UIR Coordinator.

## **B. REPORTING INCIDENTS – DEVELOPMENTAL CENTERS**

1. In addition to the requirements set forth in A.O. 2:05 and this circular, designated developmental center staff shall review any available information and shall:
  - a. determine if remedial action is needed. For example;
    - i. Relocate individual receiving service/staff if there appears to be imminent danger or risk to health, safety or welfare of the individual;
    - ii. Secure medical attention;
    - iii. Notify the Human Services Police if a criminal act appears to have occurred.
  - b. determine whether an investigation is necessary;
  - c. suggest to the CEO possible corrective actions including training, supervision changes, procedural changes and/or disciplinary action to prevent recurrence;
  - d. close the report in accordance with the procedures established in A.O. 2:05 and this circular.
2. If the initial report is closed, the reasons for closure shall be documented on the UIR.
3. "C" level incidents are classified as occurrences that indicate possible problems in the care of service recipients or incidents with the potential to expose service recipients to possible harm or injury, but are not

considered an emergency. It is expected that such incidents will be tracked and analyzed for trends by all developmental centers. Corrective action shall be taken in response to such incidents and subsequent trend analysis to preserve the health, safety, and welfare of service recipients.

C. **REPORTING INCIDENTS – COMMUNITY** – In addition to the procedures as described in this circular, Community Services staff, and agencies and entities under contract with the Division or regulated by the Department that provide services to Division eligible individuals shall adhere to the following procedures:

1. Community Care Residence sponsors will report all unusual incidents by phone to the assigned Division case manager or supervisor at the appropriate Division regional office. The case manager or supervisor shall report all incidents to the Regional UIR Coordinator.
2. Provider agencies shall report all incidents to the applicable Regional UIR Coordinator.
  - a. A+ and A level incidents shall be reported immediately by phone during and after normal working hours.
  - b. Written reports of A+ and A level incidents shall be forwarded the same working day during normal working hours. If the incident occurs after regular working hours, the written incident report shall be forwarded the next working day.
  - c. Written reports of B level incidents shall be forwarded by the next working day.
3. The designated Division/agency staff shall review any available information and determine if remedial action is needed or was already taken, including but not limited to:
  - a. Relocating the service recipient or staff if there appears to be imminent danger or risk to health, safety or welfare of the service recipient;
  - b. Securing medical attention;
  - c. Notifying police if a criminal act appears to have occurred (refer to V.E.5 for law enforcement notification).
4. If the Division staff reviewer determines other remedial action is needed, the reviewer will consult with the provider agency.
5. The provider agencies shall use the “DDD INITIAL INCIDENT REPORT” form (Appendix A).

6. For incidents involving Division eligible individuals with head injuries who reside in a program licensed by DHS/Developmental Disabilities Licensing under N.J.A.C. 10:44C, the report shall be forwarded to the Regional UIR Coordinator.
7. Incidents involving non-DDD eligible persons that occur in programs for persons with head injuries that are licensed by the Department shall be reported to the Department.

**D. INVESTIGATION OF UNUSUAL INCIDENTS**

1. Investigations of unusual incidents shall occur in accordance with Division Circular #15 and DHS policies and procedures.
2. In cases involving abuse, neglect and exploitation in community programs under contract with the Division or regulated by the DHS and providing services to Division eligible individuals, the DHS shall either conduct the investigation or will administratively review the provider agency's investigation report.
3. Agencies under contract with or regulated by the Division shall have internal procedures for the investigation of unusual incidents.
4. A community provider agency under contract with the Division or licensed in accordance with N.J.A.C. 10:44A and 10:44C may immediately initiate an independent investigation, unless there is law enforcement involvement. This does not however, relieve the provider agency of the responsibility to make an initial report to the Division. The results of that independent investigation shall be shared with the appropriate Community Services Regional Office.
5. The Assistant Commissioner and/or Assistant Directors reserve the right to initiate the investigation of an unusual incident at his/her discretion.
6. Developmental centers shall submit an internal investigation report of the incident, including any findings, within five (5) working days to the CEO and Director of Quality Assurance.

**E. DIVISION UNUSUAL INCIDENT FOLLOW-UP AND CLOSURE/ COMMUNITY**

1. A finding is required prior to closure of an incident. Recommendations and/or corrective action plans will be the responsibility of the Division component and/or the community provider agency.

2. Upon notification of DHS's involvement, the Regional Office is not responsible for closing out the incident.
3. In cases where the DHS is not involved, the Regional Office is responsible to follow-up and closeout the incident.
4. Provider agencies shall submit follow-up reports on the "DDD FOLLOW-UP INCIDENT REPORT" form (Appendix B) and forward to the UIR Coordinator with attachments, as necessary:
  - a. Follow-up reporting shall continue whenever substantial information is obtained leading to the closing of the incident.
  - b. Division staff and provider agencies shall follow-up every 30 days following an incident to ensure progress is being made toward the closure of the incident.
  - c. Provider agencies shall send all follow-up information to the Regional Office. In those cases when an agency conducts an investigation, the investigation report shall be forwarded to DHS.

**F. FOLLOW-UP REPORTING INTO UIRMS**

1. Follow-up reports shall be entered into the Department's database within the required time frames specified below. The database is designed so that follow-up reports will be a continuation of the initial incident record that will also include the description of the original incident and a reference number.
2. Follow-up reports shall be entered into the database for A+, A, and B level incidents as soon as any of the following occurs:
  - a. Additional critical information becomes available, particularly when the reporting category of the incident was an A+ level or is being upgraded from the A to A+ level.
  - b. An investigation is completed.
  - c. The incident is considered closed.
  - d. If none of the above has occurred by the conclusion of the 30<sup>th</sup> calendar day after the report of the initial incident, a follow-up report must be submitted to document the reason(s) for the delay.
  - e. Follow-up reporting shall continue at 45 calendar day intervals until the incident is closed.

## **G. CLOSING CRITERIA**

The closing of incidents requires that developmental centers, Community Services and/or provider agency staff complete the following steps:

1. Complete a thorough investigation and/or evaluation of the incident by an objective party in accordance with applicable statutory, regulatory, and/or policy-related timeframes.
2. Arrive at an objective conclusion based upon the corroboration of evidence and facts.
3. Make recommendation(s) that delineate the scope of required corrective plans and designates targeted timeframes for implementation to prevent recurrences of the incident.
4. Present all relevant facts, conclusions, and recommendations regarding the incident to Division administration, and/or Department management.
5. All incidents must have one of the following findings in order to be closed:
  - a. Substantiated,
  - b. Unsubstantiated, or
  - c. Unfounded.
6. The definitions of the findings are as follows:
  - a. Substantiated: There is a preponderance of credible evidence that an allegation or a situation is true and/or occurred.
  - b. Unsubstantiated: There is less than a preponderance of credible evidence, facts, or information to support the allegation or situation is true and/or occurred.
  - c. Unfounded: There is no credible evidence, information or facts to support the allegation or situation is true and/or occurred.
7. Any incident, once closed, may be re-opened by the Division administration or Department Management following its review. Department Management shall exercise final discretion when the need for additional review is disputed. When a case is re-opened for further investigation or evaluation, subsequent recommendations may be needed to address the issues reviewed.
8. Required elements for closing an incident:

- a. The present status of the individual(s) involved in the incident should be presented in any report closing out an incident.
- b. Corrective actions taken or to be taken to address the issues raised by the incident and/or to prevent a recurrence of the incident should be documented in the follow up report.
- c. If a corrective action has not been taken at the time of the report (either initial UIR or follow-up report), then the expected date of completion must be cited along with the title of the person or component responsible for assuring the corrective actions are completed.
- d. If medical treatment or counseling was necessary, the report should confirm that it was obtained or is scheduled.
- e. To close an incident involving an injury whose origin continues to be unknown despite investigation, the report must document the attempts to determine the cause of the injury and the steps taken, if possible, to prevent a recurrence of the injury.
- f. In those cases when a service recipient has a history of similar injuries or incidents, or the injury is particularly serious, more extensive corrective action to prevent recurrence of the incident may normally be required.

## **H. MONITORING AND COMPLIANCE**

1. The Department shall monitor compliance with A.O. 2:05 and addendum through regular audits and on-site visits.
2. Responsibilities of the developmental center and regional UIR Coordinator:
  - a. The UIR Coordinator is responsible to receive initial UIRs and to review for overall accuracy, completeness of details. The UIR Coordinator is responsible to enter the UIRs into the UIRMS database system when the criteria in A.O. 2:05 is met.
  - b. The UIR Coordinator is responsible for the review of pending UIRs and to notify appropriate Division staff if further action is required.
  - c. The UIR Coordinator shall complete the follow-up report and close the incident in UIRMS.
  - d. The Regional UIR Coordinator is responsible to provide UIR training to regional, agency staff and community care sponsors.
  - e. The Regional UIR Coordinator will act as regional UIR Committee co-chairperson with the Director of Quality Assurance; will follow up on actions requested by the committee; and represent the Region at statewide UIR Committee meetings.

3. Each developmental center shall establish an Unusual Incident Review Committee that will review a sampling of incident reports to determine if UIR recommendations have been appropriately addressed.
4. The Unusual Incident Review Committee shall:
  - a. Have interdisciplinary membership;
  - b. Meet on a regular basis; and
  - c. Distribute minutes following each meeting.
5. Responsible staff of the developmental centers shall assure that recommendations of the Unusual Incident Review Committee are addressed.

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Assistant Commissioner

ATTACHMENTS:

- Appendix A – DDD Initial Unusual Incident Report w/Instructions
- Appendix B – DDD UIR Follow Up Report w/Instructions
- Appendix C – UIRMS Incident Category List (Community)
- Appendix D – UIRMS Incident Category List (Developmental Center)
- Appendix E – UIR Pamphlet