Incident Management – Under the Auspices of the Agency

POLICY

Racker is committed to the responsibility of assuring the safety and well-being of the individuals at all times. This commitment includes proper, timely and thorough reporting, reviewing, correcting, and monitoring of certain events or situations in order to enhance the quality of care and to ensure that individuals are free from all forms of abuse. In addition to the agency's Protective Oversight Policy and Guidelines, OPWDD funded programs abide by supplemental regulatory requirements.

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NOTE

The following definitions and procedures are applicable to events and incidents that occur **under the auspices of the agency**. *** For events and situations that occur, but are not under the auspices of the agency, see the appropriate policy and procedure for *Events & Situations (that occur) Not Under the Auspices of the Agency*.

DEFINITIONS

UNDER THE AUSPICES

When agency personnel (staff, interns, contractors, consultants, and/or volunteers) are, or should have been, physically present and providing services at the time of the incident.

NOT UNDER THE AUSPICES

When an event or situation exclusively involves the family, friends, employers, or co-workers of an individual receiving services, whether or not in the presence of agency personnel or at a certified site.

CUSTODIAN

A *custodian* is a person who is an employee, consultant, or volunteer of an agency who has regular and substantial contact with individuals receiving services. Other than in the definitions (as they are directly quoted from the regulations), this P&P uses the word 'staff' in place of 'custodian.'

EVENTS TO CONSIDER (ETC'S)

'Events to Consider' are situations that include:

a. *Destruction* of Property
b. Vehicle accident – *one* ETC regarding the accident itself
c. Aggressive behavior requiring physical intervention
d. Suicidal ideation (accompanied by lethality assessment) – *when assessment reveals significant potential*
e. Sensitive community situations – may include those that involve emergency personnel or occurrences in the community that may compromise someone's dignity or well-being
f. Initial information of any Reportable Incident (allegations of abuse or significant incident) or Notable Occurrence (serious or minor). For events that warrant completion of an FBI form (except vehicle accidents), an ETC is not necessary.

FALL, BRUISE, INJURY (FBI)

a. For ***all*** falls (no exceptions) – including a person intentionally 'dropping' to the floor/ ground
b. One for each individual in a vehicle accident – even if no injury immediately observed
c. Choking that requires an intervention
d. Bruises and other injuries that
   1. are suspicious in nature, or
   2. require ***more than*** *basic first aid*
e. AOC's/ NOC's to complete, *as necessary*, per Protocol for Potential Physical Trauma

NOTABLE OCCURRENCES (Minor and Serious)

Injury
Minor N.O. Any suspected or confirmed harm, hurt, or damage to an individual receiving services, caused by an act of that individual or another, whether or not by accident, and whether or not the cause can be identified, that results in an individual requiring medical or dental *treatment* by a physician, dentist, physician's assistant, or nurse practitioner, ***and*** such treatment is *more than first aid*. [Note: Illness in itself should not be reported as an injury or any other type of incident or occurrence.]

Theft and Financial Exploitation
Minor N.O. Any suspected theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation that involves a value of more than $15.00 and less than or equal to $100.00, that does not involve a credit, debit, or public benefit card, and is an isolated event.

Death
Serious N.O. The death of any person receiving services, regardless of the cause of death. This includes all deaths of individuals who live in residential facilities and other deaths that occur *under the auspices* of the agency.

Sensitive Situations
Serious N.O. Situations involving a person receiving services that do not meet the definitions of other incidents that may be of delicate nature to the agency, and are reported to ensure awareness of the circumstances. Sensitive situations include, but are not limited to, possible criminal acts committed by an individual receiving services.

REPORTABLE INCIDENTS
(Allegations of Abuse & Significant Incidents)

Allegations of Abuse

A. ***Physical abuse*** is the conduct by a custodian intentionally or recklessly causing, by physical contact, physical injury or serious or protracted impairment of the physical, mental, or emotional condition of the individual receiving services, or causing the likelihood of such injury or impairment. Such conduct may include, but shall not be limited to: slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting, or the use of corporal punishment. Physical abuse shall not include reasonable emergency interventions necessary to protect the safety of any party.

B. ***Sexual Abuse*** is any conduct by a custodian that subjects a person receiving services to any offense defined in penal law, or any conduct or communication by such custodian that allows, permits, uses, or encourages a person receiving services to engage in any act described in penal law.

C. ***Psychological Abuse*** includes any verbal or nonverbal conduct that may cause significant emotional distress to an individual receiving services.

(i) Examples include, but are not limited to, taunts, derogatory comments or ridicule, intimidation, threats, or the display of a weapon or other object that could reasonably be perceived by an individual receiving services as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury.

(ii) In order for a case of psychological abuse to be substantiated after it has been reported, the conduct must be shown to intentionally or recklessly cause, or be likely to cause, a substantial diminution of the emotional, social or behavioral development or condition of the individual receiving services. Evidence of such an *effect must be supported by a clinical assessment* performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor.

D. ***Deliberate inappropriate use of restraints*** is the use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is deliberately inconsistent with an individual's plan of services (e.g. LifePlan or Staff Action Plan), or behavior support plan, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other

party. For purposes of this paragraph, a restraint shall include the use of any manual, pharmacological, or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body.

E. ***Aversive Conditioning*** is the application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services. Aversive conditioning may include, but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, and the withholding of meals and the provision of substitute foods in an unpalatable form. The use of aversive conditioning **is prohibited** by Racker and OPWDD.

F. ***Obstruction of reports of reportable incidents*** is the conduct by a custodian that impedes the discovery, reporting, or investigation of the treatment of a person by falsifying records related to the safety, treatment, or supervision of an individual receiving services; actively persuading a custodian or other mandated reporter from making a report of a reportable incident to the statewide vulnerable persons' central register (VPCR) or OPWDD with the intent to suppress the reporting of the investigation of such incident; intentionally making a false statement, or intentionally withholding material information during an investigation into such a report; intentional failure of a supervisor or manager to act upon such a report in accordance with OPWDD regulations, policies or procedures; or, for a custodian, failing to report a reportable incident upon discovery.

G. ***Unlawful use or administration of a controlled substance*** is any administration by a custodian to a person of a controlled substance as defined by public health law, without a prescription, or other medication not approved for any use by the federal food and drug administration. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by public health law, at the workplace or while on duty.

H. ***Neglect*** is any action, inaction, or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of a service recipient. Neglect shall include, but is not limited to:

(i) Failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse as described if committed by a custodian;
(ii) Failure to provide adequate food, clothing, shelter, or medical, dental, optometric or surgical care, , and provided that the agency has reasonable access to the provision of such services and that necessary consents to any such medical, dental, optometric, or surgical treatment have been sought and obtained from the appropriate parties; or
(iii) Failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction in accordance with education law and/or the individual's individualized education program.

Significant Incidents

Significant incidents are incidents, other than an incident of abuse or neglect, that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a person receiving services, and shall include but shall not be limited to:

A. ***Conduct between persons receiving services that would constitute abuse*** as described if committed by a custodian; [Please note: Various definitions of abuse (e.g., physical and psychological) use phrases such as intentionally, recklessly, significant distress, etc. The regulations should be looked at carefully to ensure this is applicable];
B. ***Conduct on the part of a custodian, that is inconsistent with the individual's plan of services***, generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies, and which impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services, including but not limited to:
   (i) ***seclusion*** which is the placement of an individual receiving services in a room or area from which he or she cannot, or perceives that he or she cannot, leave at will. Any seclusion **is prohibited** at Racker;
   (ii) ***unauthorized use of time-out***, which is the use of a procedure in which a person receiving services is removed from regular programming and isolated in a room or area for the convenience of a custodian, or as a substitute for programming. Any time out, per this definition, **is prohibited** at Racker;

(iii) ***The administration of a prescribed or over-the-counter medication, which is inconsistent with a prescription or order*** issued for a person by a licensed, qualified health care practitioner, and which has an adverse effect on an individual receiving services. "Adverse effect" is the unanticipated and undesirable side effect from the administration of a particular medication which unfavorably affects the wellbeing of a person receiving services; and

(iv) ***inappropriate use of restraints*** is the use of a restraint when the technique that is used, the amount of force that is used, or the situation in which the restraint is used is inconsistent with an individual's plan of services (including a behavior support plan), generally accepted treatment practices, and/or applicable federal or state laws, regulations or policies. "Restraint" includes the use of any manual, pharmacological or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body; and

(v) ***mistreatment*** is other conduct on the part of a custodian, inconsistent with the individual's plan of services, generally accepted treatment practices, and/ or applicable federal or state laws, regulations, or policies, and that impairs or creates a reasonably foreseeable potential to impair the health, safety, or welfare of an individual receiving services.

C. ***Missing person at risk for injury*** is the unexpected absence of a person that based on the person's history and current condition exposes him or her to risk of injury;

D. ***Unauthorized absence*** is the unexpected or unauthorized absence of a person after formal search procedures have been initiated by the agency. Reasoned judgments, taking into consideration the person's habits, deficits, capabilities, health problems, etc., shall determine when formal search procedures need to be implemented. It is required that formal search procedures must be initiated immediately upon discovery of an absence involving a person whose absence constitutes a recognized potential danger to the wellbeing of the person or others.

E. ***Choking, with known risk*** is the partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food, that leads to a partial or complete inability to breathe, involving an individual with a known risk for choking and a written directive addressing that risk;

F. ***Choking, with no known risk*** is partial or complete blockage of the upper airway by an inhaled or swallowed foreign body, including food that leads to a partial or complete inability to breathe. Involves an individual with no known risk for choking.

G. ***Self-abusive behavior, with injury***, is a self-inflicted injury to an individual receiving services that requires medical care beyond first aid.

H. ***Injury, with hospital admission*** is any injury that results in the admission of a person to a hospital for treatment or observation because of injury.

I. ***Theft and financial exploitation*** is any suspected:
   a. theft of a service recipient's personal property (including personal funds or belongings) or financial exploitation, involving a value of *more than* $100.00;
   b. theft involving a service recipient's credit, debit, or public benefit card (regardless of the amount involved); or,
   c. A pattern of theft or financial exploitation involving the property of one or more individuals receiving services.

J. ***Other significant incident*** is an incident that occurs under the auspices of an agency, but that does not involve conduct on the part of a custodian, and does not meet the definition of any other incident - but that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in harm to the health, safety, or welfare of a person receiving services.

QUALIFIED PERSON (QP)

Per Mental Hygiene Law §33.16 – the individual or a capable adult/parent/spouse/adult child/or guardian of the individual.

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PROCEDURE FOR REPORTING A NOTABLE OCCURRENCE OR REPORTABLE INCIDENT:

It is understood that professional and reasonable judgment will be used to address all situations involving injuries and incidents. This procedure serves as a reference and guide and is not inclusive of all situations and circumstances.

Also note: The Director of Quality Standards may and should be consulted for clarification on any part of this procedure.

The Staff Member observing or discovering the incident will:

1. Respond to the individual involved. Take **immediate** action/ intervene to stop continuation of the incident/ abuse, if needed;
2. Contact 911 if emergency personnel are needed;
3. Provide First Aid treatment or secure treatment from others, if needed.
   a. Reference protocols, as necessary for:
      i. Injuries of Unknown Origin **[Appendix A]**
      ii. Potential Physical Trauma **[Appendix B-1]**
4. If individual has a person specific Protocol for False Reporting, contact supervisor/ AOC ***immediately!!***
   a. Inform supervisor/ AOC of protocol
   b. **Then skip to #6.**
5. If it is believed that a Reportable Incident (as defined above) has occurred within the certified Residential program **and** under the auspices of the agency, call the NYS JusticeCenter's Vulnerable Person's Central Registry at: **1-855-373-2122.**
   a. Staff *may* request assistance from a supervisor/ administrator with making call, ***but should not delay*** in reporting to the registry.
   b. When placing the call staff must provide names of all others who have knowledge of the incident.
   c. Only one staff member needs to place call to JC. All others with knowledge MUST ensure call to JC was completed and documented – otherwise s/he must place a call to the JC as well.
6. Inform Supervisor or Administrator on Call (A-O-C) of event, if not done already;
7. Follow instructions as provided by supervisor or A-O-C;
8. Initiate, complete, and submit an 'Events to Consider' (ETC) form to supervisor or FBI to nurse.
   a. Include names of all staff who have knowledge of the incident.
   b. Do NOT jointly write description of event on ETC – rather, write separate ETC's.
   c. Whenever possible the 'staff health assessment' section should be completed by a staff member other than the one who completed the 'description of event' section.
   d. If the individual threatens suicide, complete the Suicide Risk Assessment form **[Appendix F-1] – regardless if it is believed the person is serious or not!** This assessment should NOT be done in lieu of the ETC.

The Supervisor/ A-O-C will:

1. Ensure the safety and well-being of the individual is being addressed;
2. Provide support to staff member with suggestions, directives, etc.;
3. Ensure ETC or FBI (and suicide risk assessment, if necessary) is completed;
4. *If it is solely* a **ETC and no further filing is necessary** >
   Ensure the supervisor of the house becomes aware of the situation minimally by the next working day

or

   If it is solely an **FBI** >
   Instruct staff to contact the Nurse on Call (NOC) for direction

5. *If situation is possible false report* and person has specific protocol
   a. Reference specific person's protocol for instructions
   b. Contact RRD **immediately!**
   c. Reference False Reporting Protocol [Appendix C]for further instructions
6. *If the situation is a **possible** Reportable Incident (allegation of abuse/ neglect or significant incident) or Notable Occurrence **or if unsure** >*
   Immediately notify Residential Regional Director (RRD) or Director on Call (D-O-C)

7. Assist with other filing of reports, staffing coverage, as well as any instructions provided by RRD or D-O-C. When accessing IRMA (OPWDD's electronic *Incident Reporting Management Application* system) to complete entry, be sure to complete all necessary fields.
   a. If staff member calling reports a tenuous situation, minimal staffing, or other circumstance that requires staff to focus full attention on individuals, DO NOT instruct staff to carry out tasks that would take them away from that responsibility - such as: finding coverage, etc.
8. If event or situation occurred ***not under the auspices*** of the agency, refer to policy and procedure *Events & Situations (that occur) Not Under the Auspices of the Agency*

The Residential Regional Director (RRD)/ Director-on-Call will:

1. Seek information on how individual is currently doing.
   a. Ensure her/his safety and well-being is being addressed sufficiently;
   b. Make arrangements for physical exam and further medical treatment, if necessary;
   c. If any injury is involved or alleged – **ensure photos are taken IMMEDIATELY of affected area on body.**
      i. **Ensure all photos:**
         1. Can demonstrate scale and characteristics (e.g., use ruler to show size)
         2. **Are properly labeled with time, date, who took picture and what picture is intended to reflect.**
         3. Do not include the person's face unless injury is on the face.
         4. Taken with agency phone or camera whenever possible, vs. personal cell phones.
2. Seek any further ***objective*** information necessary to gain clear understanding of what occurred: who, what, when, where and what happened afterwards.
   a. Ensure ***accurate*** information is gathered, as much as possible – e.g., ask for direct quotes (to avoid misinterpretations by someone paraphrasing statements)
3. Provide direction as warranted to ensure:
   a. event is stabilized;
   b. all individuals are okay;
   c. All individuals are receiving/ will receive short term and long term continuity of supports (e.g., from shift to shift; week to weekend; etc.);
4. If the situation involves an "**injury of unknown origin**", also refer to *Protocol for Addressing Injuries of Unknown Origin* [**Appendix A**]
5. If the situation involves '**potential' physical trauma**, also refer to *Protocol for Potential Physical Trauma* [**Appendix B-2**].
6. If situation may be 'false report' **and** person has person specific Protocol for False Reporting:
      a. Reference person's specific protocol
      a. Reference False Reporting Protocol **[Appendix C]** for further instructions.
7. Determine if incident is a Reportable Incident or a Notable Occurrence
   a. If unable to make determination or to double check on determination, will contact Director of Residential Services and Director of Quality Standards/ designee for assistance;
   b. Support any party with reporting to JC [for Reportable Incidents], if s/he (party) feels it is warranted
      i. Provide resources to assist party to determine if reporting to JC is warranted – i.e., incident definitions, etc.
      ii. *NEVER tell anyone not to report* something to the JC.
8. If the situation is deemed a(n):
   a. Reportable Incident or death, ensure:
      i. Pertinent materials (files/ records, etc.) and immediate vicinity of the incident are secured (if necessary), unless the area must be used;
         1. If area must be used, promptly take/ obtain photos of where event occurred.
      ii. Telephone notification is made to the Justice Center (JC will enter initial info into IRMA);
      iii. Telephone notification is made to OPWDD (speak with live person or as directed when placing call);
      iv. Follow-up information is thoroughly and correctly entered by Racker staff into IRMA within 24 hours/ end of next business day – whichever is later.
   b. Allegation of physical or sexual abuse **consult with Human Resources (HR)** to determine any necessary changes in status of staff member. Change in status may include: increase of supervision, removal,

reassignment, relocation, or placement on paid administrative leave of a staff member. Decision making includes:

i. assessing current level of supervision and/ or contact with individuals;
ii. and ensuring a higher level of supervision or decreased opportunity for contact to prevent recurrence of incident.

Progression of supervision from lower to high – supervisor & HR may skip some levels, if warranted:

- Counseling > instruction to 'not work directly with involved individual(s)' > reassignment to work with other individuals > direct supervision by senior staff > direct supervision by supervisor > relocation with supervision > removal/ non-contact duties > paid administrative leave.

iii. **NOTE**: If a staff person is suspected of abuse, neglect or mistreatment that poses a 'serious and immediate threat' to an individual's health and safety, the staff person may not work in direct contact with any individuals until the review is complete, taking into account outcome of the review;

c. Allegation of **'psychological abuse' –** either by staff member or housemate, notify clinician (LCSW, LMSW, LMHC) to have psychological assessment completed.

9. Receive and review information provided on ETC or FBI form and provide further direction as necessary
   a. Systemic follow up to any incidents, regardless of degree of seriousness, should begin as soon as information becomes available
      i. It is not necessary to wait for outcome of review to make changes that will ensure the safety and well-being of an individual.
10. Obtain appropriate Quality Standards (QS) Reviewer for a comprehensive review of situation if the Justice Center or OPWDD has assigned the agency to investigate;
11. Require all witnesses to remain on duty or available until they are interviewed by the QE Reviewer or JC or OPWDD investigator (emphasize confidentiality of all information pertaining to incident and investigation);
12. Ensure all mandated notifications are made and documented – [see **Appendix D** for specifics and timeframes].
    a. Contact police for all instances of physical, sexual, in some cases psychological abuse and whenever a crime is thought to be committed to a person receiving services;
    b. When contacting 'qualified person' (QP), use 24 hour contact form [**Appendix E-1**] to ensure all information is provided. *Also* complete the OPWDD 163 form [**Appendix E-2**.] This contact must be made by telephone or in person and ***must include*** to parent, spouse, adult child or guardian ***unless:***
       i. the individual, who is a capable adult, objects (must be in writing);
       ii. the Q.P. objects to being notified (in writing – maintained by RRD);
    c. The complete notification to the Q.P. may be conveyed in more than one conversation with the Q.P. but initial contact with ***description of the situation*** must be made or attempted within 24 hours.
    d. If there is no Q.P. (aside from self) and the individual has an Advocate, notification must be made to the Advocate.
    e. If there is no Q.P. and person is capable adult, notification is made to her/ him;
13. Scan and send all documentation to QualityStandards@racker.org ;
14. If not done already, notify the house's respective RRD;
15. Per request from Qualified Person, hold 'sit down' conversation
    a. Draft minutes of meeting held in response to request and list those present and QP's input and response to information provided in meeting.
    b. Forward minutes of meeting and those present to the QualityStandards@racker.org .
16. Ensure subsequent initial information is entered into IRMA (by end of next working day).

The Physician or Nurse, as necessary, will:

1. Provide instructions to staff for follow-up, if situation is solely an FBI;
2. Reference and utilize protocols: *Addressing Injuries of Unknown Origin* [**Appendix A**] and *Potential Physical Trauma* [**Appendix B-2**], as necessary;
3. Provide needed examination and treatment, as necessary, if situation is a Reportable incident (allegation of abuse or significant incident).

The Clinician (if contacted for allegation of psychological abuse) will:

1. Follow *Guidance for completing psychological assessment post incident* [**Appendix F**] for completing psychological assessment.

The Director of Residential and Director of Quality Standards/ designee will:

1. Ensure the safety and well-being of the individual is being addressed
   a. If not already completed, this may include the Dir. of Res. and HR determining appropriateness of increase of supervision, removal, reassignment, relocation, or placement on paid administrative leave of a staff member, as stated above.
2. Consult with one another to ensure a cohesive and comprehensive approach is implemented;
3. If not already completed and the JC and OPWDD have opted not to complete the investigation, assign a QE Reviewer for all Reportable Incidents and Serious N.O.'s
   a. The Reviewer must be someone objective to the program and cannot be a supervisor or party in the chain of command of directly involved staff;
4. Ensure completion of all mandated notifications as described under RRD/ DOC responsibilities;
5. Provide other direction to RRD, as necessary;
6. Ensure all information is provided to JC or OPWDD as requested, if they opt to complete investigation;
7. Ensure a *program review* continues even if the JC or OPWDD are investigating, as a process to assess internal practices.

The Quality Enhancement Reviewer will (if warranted/ directed):

1. If potentially false report and person involved has person specific Protocol for False Reporting, reference
   a. Person specific protocol for false reporting
   b. False Reporting Protocol **[Appendix C]** for further instructions
   c. Be sure to complete review and report **within 24hours**!
2. Go to the site of incident (or appropriate location) and conduct a comprehensive QE Review;
3. Within 3 weeks, submit final written QE Review report (with applicable statements) to the Chairperson of the Agency Review Panel;
4. If situation involves a resident who has a Support Plan which addresses reporting of false allegation, ensure review and report are completed within 24 hours, if it is deemed by the review that the allegation is false.
   a. If there, during the 24 hour review there is reasonable cause to suspect abuse occurred or if the review and report cannot be completed within 24 hours, notify the supervisor/ AOC immediately.
   b. See further instructions for in the Protocol for False Reporting.

The Qualified Person or Advocate:

2. May request a copy of the incident report;
3. Must put the request ***in writing*** to the Director of Quality Standards, if the agency is conducting the review – otherwise direct the request to either the JC or OPWDD, whichever is conducting the investigation.

The RRD will:

1. Forward any request for copies of the incident report to the Director of Quality Standards;
2. Provide ten day follow-up letter to the Q.P. who received the 24 hour contact [see **Appendix F**]. Ten day letters are to be sent to Q.P.'s for all Reportable Incidents and Notable Occurrences
3. Send copy of ten day letter to QualityStandards@racker.org;
4. If the situation is deemed a *Minor Notable Occurrence,* review and prepare and present a written report of the situation to the Special Review Committee.
5. Promptly report to the VPCR additional information discovered during the review process, if the information may warrant the incident to be upgraded.
6. Ensure the Protocol for False Reporting is followed, if applicable.
   a. See Protocol for False Reporting for further instructions.

The Qualified Person:

1. May request a copy of records pertaining to allegations and investigations (quality Standards review) of abuse;

2. Must put the request ***in writing*** to the Director of Quality Standards, if the agency is conducting the review – otherwise send request to either the JC or OPWDD, whichever is conducting the investigation;
3. Note: an **Advocate** is not eligible to receive records pertaining to allegations of abuse and QE reviews.

The Director of Quality Standards/ designee will:

1. Maintain all original reports, records, QE Reviews, and minutes
2. Submit to the JC's WSIR (Web Submission of Investigation Reports) system the complete QE Review packet upon completion of the review of any allegation of abuse that the agency conducts;
3. Date/ time stamp all requests for information;
4. Verify that the person requesting any information – incident forms, or investigation packets - is a "Qualified Person" or other authorized person;
5. *If requestor is a Q.P. and there is no objection by the individual, as a capable adult and the Q.P. and the agency completed the review* -
   a. Promptly provide redacted copy of the incident report, if requested
      - with attached letter stating that all information is preliminary and has not been substantiated
   b. Provide redacted copies of records pertaining to allegations and investigations (quality Standards review) of abuse, if requested – promptly after final review by the Special Review Committee.
      - with attached letter stating that by law, the information may not be further disseminated
   c. Maintain documentation of all requests and copies of all materials that are provided to Q.P.
   d. If the agency did not complete the review direct the QP to the JC or OPWDD, whichever is appropriate.

   If requestor is not a Q.P. or other authorized person,
   Contact person and inform her/him that s/he is not eligible to receive reports and records;

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REVIEW PROCESS

The RRD's; Director of Residential Services; Director of QS/ designees will:

1. Be familiar with their individual responsibilities for reporting, notifications, follow-up and closures.
2. *Ensure adherence to the required timeframes* for completing their individual responsibilities for reporting, notifications, documenting, follow-up and closures [**Appendix G**].

The Quality Enhancement Reviewer will:

1. Receive specific training regarding the completion of 'investigations', known at Racker as *Quality Enhancement Reviews*. Specific training is defined by OPWDD and the JC;
2. Attend annual updates for completing QS Reviews, provided by the Director of Quality Standards;
3. Complete QS Reviews as assigned and have a second reviewer proofread the report for clarity and thoroughness, then submit final report to QualityStandards@racker.org. The report must follow the directed format and include all necessary components –
   a. A finding of substantiated or unsubstantiated must be included for all allegations.
   b. A finding of *substantiated* must be supported by a "preponderance of evidence."
4. Present the report to Review Panel members when a Panel is convened.
5. Promptly complete any further follow-up, fact gathering, etc. as requested by the Review Panel and submit the information to QualityStandards@racker.org.

The Director of Quality Standards (designee) will:

1. Upon receipt of final report from QE Reviewer, schedule a Review Panel and forward report to members;
2. Convene and chair Review Panel;
3. All documents used/ obtained in the QE Review process will be available for viewing by the Panel;
4. Draft minutes and forward to: Executive Director, Residential Director, others present for Review Panel, and Executive Secretary for distribution to Racker's Board President.
   a. Minutes will include a brief summary of the situation (including date and type), what caused the report to be generated, Panel findings (including whether allegation is substantiated or unsubstantiated; founded or unfounded for SI's) and recommendations;

5. Notify necessary Residential staff to obtain any outstanding documents and follow up to recommendations, as necessary to complete incident file.
6. Ensure all necessary documentation is uploaded into IRMA / WSIR (Justice Center's electronic *Web Submission of Investigation Report*), as appropriate.

The Director of Residential Services will ensure:
1. All outstanding documentation to complete incident file is forwarded to QualityStandards@racker.org
2. All recommendations are addressed and follow-up to recommendations is sent to QualityStandards@racker.org within two weeks of receipt of minutes.

The Director of QS/ designee will:
1. Convene the monthly (but not less frequently than 1/4ly) Special Review Committee (SRC);
2. All documents used/ obtained in the QS Review process will be available for viewing;
3. Record and securely maintain minutes. Minutes will include:
   a. follow-up from prior month's minutes/ recommendations for closure to incidents;
   b. reference to the Reportable Incident reports, Notables Occurrences (serious and minor) and Review Panel minutes; any discussion/ questions and answers during the committee meeting; actions taken on the part of the agency/program as a result of Review Panel recommendations and any further recommendations made by the SRC – including when to close incident.
   c. Some follow-up/ updates may occur via email with committee members.
4. Ensure minutes are entered into IRMA, and MHLS (for allegations of abuse) receives a copy as well;
5. Maintain and secure minutes with incident file.

The respective RRD's will:
1. Provide Q.P.'s with status to incidents once it has been deemed that no further review is necessary;
2. Follow-up on any outstanding Review Panel recommendations or further recommendations made by the SRC, OPWDD or the JC and forward follow-up to QualityStandards@racker.org.

The Director of QS/ designee will:
1. Confirm *agency* closure to all incidents once SRC decides no further review is necessary;
2. Record when all recommendations have been adequately addressed;
3. Ensure all Review Panel members have necessary training and knowledge of their responsibilities;
4. Convene annual trainings and trend reviews with SRC;
5. Draft and submit annual report of incidents and trends to the Executive Director, Board President and OPWDD;
6. Update policy and procedure as program or regulatory changes occur;
7. Obtain Board approval for any policy change.

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The Agency has established a **Special Review Committee** (SRC) to review incidents. A sub-committee to the SRC is a Review panel made up of directors within the agency. The following are the committee's and panel's responsibilities and the subsequent procedure surrounding the review process:

REVIEW PANEL

RESPONSIBILITIES:
1. Convene as needed, after completion of a QE Review – no later than thirty days after filing of incident;
2. Examine QE Reports for all Reportable Incidents (allegations of abuse and significant incidents) and Serious N.O.'s. The examination includes reading the QS Report and speaking with the QE Reviewer to ascertain:
   a. if Reportable Incidents and Serious Notable Occurrences were handled, reported, reviewed (via the QE Review process) and documented according to the provisions of this policy and procedure;
   b. if necessary and appropriate corrective, preventive, and/or *action has been taken* to protect individuals from further harm and to safeguard against the recurrence of a similar situation;
   c. if further review for additional corrective, preventive, and/or action is necessary;
   d. if prior similar situations have occurred and review how they were handled, etc./ identify trends;
   e. the quality of the review

   f. if all mandated notifications were completed as required.
3. Request further information from the QE Reviewer, if needed/ desired;
4. Determine finding of all allegations of abuse (substantiated or unsubstantiated)
   a. There must be a preponderance of evidence to support a substantiated allegation;
5. Make recommendations to the Director of Residential Services based on information received. Examples of recommendations may include, but are not limited to:
   a. Administrative/ remedial action (scheduling, supervision level, procedural changes, etc.);
   b. Clinical action (health assessments, medical attention, counseling to individual, etc.);
   c. staff training/ counseling;
   d. assessment of staff's employment status with Human Resources;
   e. referral or notification to other programs/ agencies for supports/ services;
   f. environmental modifications/ considerations;
   g. Upgrading of incident.
6. Abide by confidentiality policy of agency with regards to information shared in the committee.

SPECIAL REVIEW COMMITTEE

RESPONSIBLITIES:

1. Convene monthly, as necessary, to review all Reportable Incidents and Notable Occurrences;
2. Maintain regular attendance by all members (at either SRC or in a Review Panel);
3. Review summary of QE Reports as presented at the meeting;
4. Ask questions for further information or clarification about incidents, as needed;
5. Ensure no individual directly involved, in chain of command for the involved individual or completing the QE Review, participates in deliberation (decision making) during the SRC review;
6. Review follow-up to all recommendations made by Review Panels;
7. Offer other recommendations such as those listed above and ensure they are addressed;
8. Monitor status of all on-going reviews;
9. Provide final completion of investigations to all Reportable Incidents and Notable Occurrences once no further review is required;
10. Track that all recommendations have been addressed adequately;
11. Review final outcomes for all incidents which include:
    a. Final closure to all SI's and NO's
    b. Final closure as determined by the JC for all allegations of abuse.
12. Review quarterly trend reports for all Notable Occurrences, FBI's, Medication Errors, Reportable Incidents and offer recommendations for follow-up. Ensure all recommendations are addressed
13. Complete annual trend review and offer recommendations for follow-up. Ensure all recommendations are addressed;
14. Attend annual update training with regards to responsibilities, policy and procedure, making recommendations, etc.
15. Abide by confidentiality policy of agency with regards to information shared during committee meetings.

Review Panel

Membership

Director of Quality Standards (as Chairperson)
Assistant Director of Quality Standards
Director of Department (*if* panel is reviewing incident from Residential an RRD may be designated)
Round Table Directors and Director of Donor & Government Relations
Other assigned designees from support departments: Budget & Financial Analyst; Payroll Manager; etc.
Medical Director or other Agency Health Professional *for* Reportable Incidents involving significant health concerns or death.
Other Quality Standards Staff

Special Review Committee

Membership

Director of Q.S. / designee (as Chairperson)
All Review Panel members
Representative/ Presenter from each Residential Region (if reviewing incident from respective region)
Representatives from Community Support (if reviewing incident from respective program)
Residential Health Care Director / designee
Agency Medical Director (as a consultant)
Residential Behavior Specialist(s)
2-4 other representatives outside of Residential
Board Member(s)
Parent representative(s)
Direct Care Staff representatives
Individual receiving services
Other professional staff for specific expertise, as necessary and requested
Director of Residential Services (present but not "member" for Residential presentations)
Director of Community Support/ designee (present but not "member" for Community S&S presentations)

APPENDICES

Appendix A – Protocol for Injuries of Unknown Origin

Appendix B-1 – Protocol for Potential for Physical Trauma (Direct Support version)
Appendix B-2 – Protocol for Potential for Physical Trauma (supervisor/ nurse version)

Appendix C – False Reporting Protocol

Appendix D - notification timeframes

Appendix E-1 – 24 hour contact form
Appendix E-2 – OPWDD 163 form

Appendix F – Psychological Assessment
Appendix F-1 – Suicide Risk Assessment form

Appendix G – ten day letter instructions

Appendix H – timeframes for reporting, documenting, follow-up, closure, etc.

This procedure is based on:
Racker Best Practices;
14 NYCRR 624 regulations and subsequent applicable OPWDD memorandums;
and Mental Hygiene Law §33.16.