



Virginia Department of  
Behavioral Health &  
Developmental Services

# INVESTIGATING ABUSE & NEGLECT

## *The Basics*

Office of Human Rights Training Series

**This training is designed to present fundamentals of the investigative process and to expose the learner to best practices related to investigating abuse and neglect allegations specific to the Office of Human Rights.**

**You are encouraged to continue building your skills as an investigator by researching other resources (e.g., trainings, literature, etc.).**


**Primarily, the information presented in this training has been adopted from the Labor Relations Alternatives, Inc. Investigations Manual (2016).**

# Learning Objectives

Identify abuse and neglect as defined by the human rights regulations.



Describe the regulatory mandates for investigations concerning abuse, neglect, and exploitation per the human rights regulations.



Demonstrate ability to navigate an abuse and neglect investigatory process.

# Abuse: 12VAC35-115-30



# Exploitation: 12VAC35-115-30

## Defined

- Type of abuse
- Misuse, misappropriation of assets, goods, property
- Use of authority to extract personal gain

## Examples

- Withholding an individual's belongings to ensure compliance with a request.
- Accepting gifts.
- Offering an individual extra meds for favors/personal gain.
- Withholding a service for personal or business gain.

# Restraint: 12VAC35-115-30

## Use of:

- mechanical device
  - medication
- physical intervention
  - hands-on hold



Prevent body  
movement



Mitigate imminent risk

# Neglect: 12VAC35-115-30

## Failure to provide services:

nourishment

treatment

care

goods

services necessary  
for health, safety,  
welfare



## Questions to consider

Were policies and procedures  
followed?

Was the ISP and/or BTP  
followed?

Was the basic right to dignity  
denied?

# Human Rights Complaint Process: 12VAC35-115-175

## ANE investigators must be trained.

- Cannot be involved in the issues under investigation
- Investigation must be impartial

## Investigation time frames:

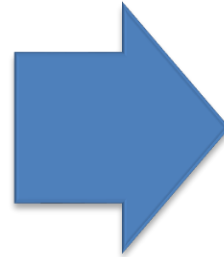
- Should begin as soon as possible, but no later than the next business day
- Summarize in CHRIS within 10 working days
  - Extensions may be requested until the 6<sup>th</sup> day of the investigation time frame
  - Full investigation summary should be kept as part of the individual's record

# The Investigation Process

Foundations for conducting a successful investigation

# What is an Investigation?

An investigation is a process of systematically collecting facts.



Facts are pieces of information that help clarify a matter and generate a conclusion.

# Preparing for the Investigation

## Internal Preparedness

- Policy & Procedures
  - reporting procedures
  - investigator assignments
  - timelines
  - organization
    - scene
    - interviews
      - victims/person making complaint
      - witnesses
      - accused
    - evidence collection

## Investigator Preparedness

- Know the policy
- Review the complaint
  - type of ANE?
  - plan, organize the investigation
- Tool kit
  - pen, pencil & paper
  - internal forms
  - PPE
  - snacks

# The Investigatory Question

Elements of the question  
come from initial reports

Compass of the investigation

❖ Let it do its job and lead the investigation!

Develop to describe the when (time)  
and where (space) of the allegation

# The Investigatory Question

## Forming the Question

- open-ended
- approximate date, time if unknown (only if able)
- concrete language
- avoid concluding the facts
- undisputable
- revise when needed

# Evidence

- Information that may describe, explain the allegation
- Evidence can be relevant or irrelevant
- Collect it as soon as possible
- Preponderance of the evidence
  - Greater likelihood that the allegation occurred
- Kinds of evidence
  - Forms
    - Physical
    - Demonstrative
    - Testimonial
    - Documentary
  - Types
    - Direct
    - Circumstantial

# Physical Evidence

Any tangible piece of information that may be relevant, including injuries

Collect, preserve as soon as possible

- Be mindful of chain of custody
  - Begins at the time the scene is secured
  - Tag/label
    - description, date & time, place, person collecting the evidence
    - include a unique identifier

Keep physical evidence according to policy/procedure (retention schedule)

# Physical Evidence: Injuries

Important  
piece of  
physical  
evidence

Considerations  
for collecting,  
preserving  
injuries:

view, and photograph  
when possible

ensure medical attention  
rendered for all impacted  
persons

obtain, review relevant  
medical records

ensure the accused is  
checked for injuries

do not assess, make a  
diagnosis

# Demonstrative Evidence

How physical evidence is preserved

- pictures
- diagrams
- maps

Tag/label per internal policy/procedure

Always review video footage, if available

# Testimonial Evidence

- Most common form of evidence
- Witness's recollection of the allegation
  - Collected in the form of an interview
- Non-aggressive, non-accusatory
- Types of interviews
  - Incident
  - Exploratory
  - Background
  - Follow-up

# Testimonial Evidence

## Prepping for the Interview

- As much as possible, ensure witnesses remain separated
- Observe the scene
- Create an outline of topics to discuss
- Identify the reason for the interview
- Identify appropriate setting

## Conducting the Interview

- Goal is to obtain relevant information
  - Do not lead the witness
- Communicate the purpose
- Ask relevant questions
- Create a comfortable environment
- Acknowledge, accept what the witness communicates

# Testimonial Evidence

Ensure privacy

Allow sufficient  
time

Keep witnesses  
separated,  
when/if possible

Remain calm, be  
mindful of  
presentation

Be clear, concise,  
direct

Ask open-ended  
questions

Do not ask  
leading  
questions

Ask follow-up  
questions

Remain neutral

# Documentary Evidence

- Best to collect after collecting physical evidence
- Types include:
  - Witness statements
  - Agency protocols
  - Charts, records
- Preservation of testimonial evidence:
  - Interview first, then document
  - Do not leave witness alone to write the statement
  - Do not edit witness's statement
  - Appropriate to assist a witness to read/write their statement:
    - Write the statement as witness dictates their recollection
    - Have another individual read the statement and obtain witness's validation

# Collecting Evidence

- Observe, review the scene at the time of arrival
- Interview the person making the report
- Collect physical evidence
  - Create demonstrative evidence if unable to preserve the physical evidence
- **Interview the victim**
- Interview the other direct evidence (eyewitnesses)
- Interview the circumstantial evidence witnesses
- Interview the alleged target of the investigation
- Collect documentary evidence for review later

# Types of Findings

## Substantiated

- Preponderance of the evidence amassed
- Finding does not have to reflect the reported allegation
  - investigation may have uncovered additional, different type(s) of ANE
- Corrective action required

## Unsubstantiated

- Preponderance of the evidence NOT amassed
- Corrective action not required, but can still be implemented
  - increase staffing
  - revision of policies/procedures
  - re-training of staff

# Investigation Summary

- A written report of the results of the investigation
- Due 10 working days from date investigation began, unless extension granted
  - summary in CHRIS
  - full reported maintained as part individual's file
- Must contain
  - whether ANE occurred
  - type of abuse
  - whether the act resulted in physical or psychological injury

# Investigation Summary

- Elements of a comprehensive report include:
  - an introduction
  - a timeline of the investigation
    - include processes followed
  - a summary of collected evidence
  - a conclusion
- A well written report is:
  - factual
  - accurate
  - objective
  - complete
  - includes actions taken
  - concise
  - clear
  - mechanically correct
  - legible

# Reminders & Considerations

Begin the investigation as soon as possible

Visit the scene

Interview witnesses early

- 1.reporter
- 2.victim
- 3.eyewitnesses
- 4.perpetrator

Identify any conflict of interest

# Regional Advocate Manager Contacts

## Key

- |                       |                   |
|-----------------------|-------------------|
| 1 Alexandria          | 21 Lynchburg      |
| 2 Bristol             | 22 Manassass      |
| 3 Buena Vista         | 23 Manassass Park |
| 4 Charles City County | 24 Martinsville   |
| 5 Charlottesville     | 25 Newport News   |
| 6 Chesapeake          | 26 Norfolk        |
| 7 Colonial Heights    | 27 Norton         |
| 8 Covington           | 28 Petersburg     |
| 9 Danville            | 29 Poquoson       |
| 10 Emporia            | 30 Portsmouth     |
| 11 Fairfax City       | 31 Radford        |
| 12 Falls Church       | 32 Richmond       |
| 13 Franklin           | 33 Roanoke        |
| 14 Fredericksburg     | 34 Salem          |
| 15 Galax              | 35 Staunton       |
| 16 Hampton            | 36 Suffolk        |
| 17 Harrisonburg       | 37 Virginia Beach |
| 18 Hopewell           | 38 Waynesboro     |
| 19 James City County  | 39 Williamsburg   |
| 20 Lexington          | 40 Winchester     |

## State Facilities:

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Central State Hospital/Western State Hospital/Eastern State Hospital/Catawba Hospital/Piedmont Geriatric Hospital  
Southern VA Mental Health Institute/Northern VA Mental Health Institute/Southwest VA Mental Health Institute  
Hiram Davis Medical Center/Commonwealth Center for Children & Adolescents/VA Center for Behavioral Rehabilitation  
Southeastern Virginia Training Center

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## OHR Regional Manager Contact Information

Virginia Department of Behavioral Health & Developmental Services

Office of Data, Quality and Visualization

# Additional Contact Information

Please refer to the Human Rights Staff Contacts list and the Regional Map in the Contact Information section of the OHR web page for up-to-date contact information.

<https://dbhds.virginia.gov/clinical-and-quality-management/human-rights/ohr-contact-information/>