

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

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| SUBJECT:<br><b>Special Investigations</b>       | PAGE <u>1</u> OF <u>5</u>  |
|   | NUMBER: 09-INV-03  |
| RULE/CODE REFERENCE:<br><b>5120.30, 5120.31</b> | SUPERSEDES:<br>09-INV-03 dated 07/28/14  |
| RELATED ACA STANDARDS:                          | EFFECTIVE DATE:<br><br>August 18, 2015   |
|   | APPROVED:<br><br> |

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to establish procedures for investigating special incidents occurring in a facility, office or other location within the control, supervision or responsibility of the Department of Rehabilitation and Correction.

**III. APPLICABILITY**

This policy applies to all employees of the Department involved in investigating an incident and reporting the results of a special investigation.

**IV. DEFINITIONS**

**Investigation** - A process that attempts to draw conclusions of fact in a complex or disputed matter, or when known facts are ambiguous. An investigation is distinguished from problem-solving processes designed to evaluate and improve administrative procedures after collecting undisputed facts. An investigation is an undertaking that seeks to clarify or discover factual information. A problem-solving process is an undertaking that collects undisputed information in order to seek improvements in the efficiency of programs. An investigation should not be substituted or blended with a problem-solving process in most cases, particularly if the incident itself is controversial or complex, unless this blend is specifically desired.

**Special Investigation** - An investigation conducted by the Chief Inspector's Office or requested by the Director, Managing Officer, or Managing Director in response to an incident when it is directed that it be conducted according to this policy. It is the policy of the Department to conduct special investigations when an incident is of great importance or consequence to the institution, the office, or the Department, or when the issue is particularly complex.

**Special Incident** – For purposes of this policy, an incident that seriously threatens the health, safety and/or security of a person or facility, regional offices, Operation Support Center (OSC) bureaus, Corrections Training Academy, or Ohio Penal Industries (OPI). Examples of special incidents include, but are not limited to:

1. Escapes, escape plans, walkaways, escape attempts, and erroneous releases;
2. Death of an employee;
3. Death of offender in custody in an institution;  
Death of offender being supervised by the Division of Parole and Community Service, which could result in media coverage, or is considered a high notoriety case.
4. Major Disturbances – A disruption to the orderly operation of the facility that causes a risk of serious physical harm to persons or a risk of serious physical harm to employees in attempting to restore order;
5. Power outages;
6. Staff or inmate/offender assaults;
7. Life threatening injuries to offenders, employees, volunteers, or contractors;
8. Major property loss or damage;
9. Loss of/or missing Class A tools, equipment or keys;
10. Major contraband (i.e. drugs, cell phones, weapons, tobacco, etc.);
11. Firearms drawn or pointed;
12. Workplace Violence;
13. Other incidents that will likely have external ramifications and/or media interest.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to conduct investigations in order to resolve allegations of wrongdoing, to identify the cause of an incident when the cause is unknown, or to resolve questions of fact when the known information is contested, ambiguous or complex. It is also the policy of the Department to conduct special investigations when an incident is of great importance or consequence to the institution, the Division of Parole and Community Services, or the Department, or when the issue is particularly complex.

## VI. PROCEDURES

- A. **Initiating and Assigning Special Investigations:** The Director, Managing Directors, and Managing Officers shall evaluate incident reports, allegations and unusual occurrences to determine the desirability of conducting an investigation. In the event that an investigation is appropriate, the requesting official shall identify an appropriate individual or several individuals who are qualified by experience and/or education to conduct a special investigation. The use of subject matter experts (SME) when necessary is encouraged. The Chief Inspector shall also have the authority to initiate and conduct special investigations. No employee is permitted to conduct an investigation without the approval of the Appointing Authority or Chief Inspector.

## B. Purpose of Investigation

The staff member who authorizes a special investigation shall designate the purpose of the investigation and communicate that purpose to the investigator.

1. A special investigation may be conducted for a variety of purposes:
  - a. To determine whether or not a crime or a disciplinary violation has occurred;
  - b. To identify whether the Department's policies and procedures were implemented;
  - c. To determine whether policies and procedures played a causal role in some incident;  
or
  - d. Any other legitimate purpose.
2. To the extent possible, the requesting official shall describe the purpose of the special investigation to the investigator and shall identify the issue or factual dispute to be explained or clarified. It may be appropriate to investigate one incident for a variety of purposes. These purposes should all be specified as clearly as possible. If a single incident leads to multiple investigations, those persons leading the investigations should plan to communicate about the scope, progress, and results of their investigations/investigators.

## C. Criminal Investigations

Investigations of incidents that are already known or suspected to be criminal in nature shall not be initiated by the Department's officials unless the Ohio State Highway Patrol is aware of the nature of the incident and has granted the Department consent to conduct an administrative investigation. Investigations that uncover suspected criminal activity shall be halted pending notification and consent of OSHP to continue. Such notification and consent shall be documented in a supplemental incident report.

## D. Responsibility of Investigator in Conducting the Investigation

1. Ensure that the scope and objectives of the special investigation are clear. The investigator shall contact the requesting official if the developments of the investigation tend to suggest a change in purpose, when a separate investigation might be desirable, or whenever the original purpose of the investigation seems unclear.
2. Identify persons who possess relevant information. The investigator shall identify the factors involved in an incident, those who directly observed the incident and those who did not participate or witness the event but who still have information necessary to the evaluation, and the role of each person in this latter group.
3. Determine the location or possessor of relevant documents and physical evidence. Consider documents or evidence which records or illustrates someone's physical condition, their location at the time of the incident, their purpose for being at that location, their responsibilities, and any related history contributing to the incident.

Documents may include medical records, housing assignments, post orders, shift assignments, logs, photographs or a variety of other things.

4. Collect the relevant evidence from persons who possess it. The investigator shall take notes when interviewing the subject and witnesses, or record the interview(s). The investigator should consider asking the witness to sign a written summary of the interview, however brief, immediately at the conclusion of the interview. The investigator should consider the need for diagrams and floor plans of the area involved, and photographs of persons or places. The investigation shall be conducted in compliance with all applicable laws, regulations, and collective bargaining agreements. Care must be taken to store the evidence collected in a way that it is protected from tampering and is catalogued or filed for easy retrieval.
5. Assess the credibility of persons reporting information. The investigator shall consider and assess the credibility of the testimony of each witness.
6. Assess the reliability of the documentary and physical evidence.
7. Draw logical conclusions from the reliable information collected to the extent that conclusions are warranted. Investigators must be careful to identify assumptions. Investigators shall also be careful to develop their factual conclusions from specific, known evidence. Assumptions are not necessarily wrong, but must be stated as such. Conclusions based on an inference may be appropriate if the inference is stated. If the evidence will not support a conclusion, that must also be stated. The investigator may wish to consult a professional to clarify any technical issue involved. The investigator shall also recognize the need to check his or her conclusions and, when appropriate, return again to the process of identifying additional witnesses and collecting additional evidence for a re-evaluation of the conclusions.

#### E. Report Format

A special investigation report shall be organized into the following format and use the following headings.

1. Title of Investigation – The name of the investigation and case number shall be listed. The principal author of the written report and all participating investigators shall be identified.
2. Background – A brief overview stating the preliminary facts. The investigator shall list the initial facts known about the occurrence at the time the investigation is requested. This “point of departure” can be very brief, and will help orient the reader to some basic facts leading to the investigation
3. Scope of Investigation - The purpose and objective of the investigation shall be stated clearly. The scope provides the direction for the investigation and shall always be taken into consideration when acquiring evidence and choosing individuals to interview.

4. Witnesses, Documents and Physical Evidence – This section shall include all witnesses interviewed and material analyzed for the investigation such as policies, administrative rules, procedural manuals, video/audio evidence, photographs, etc.
5. Findings – This area of the report includes findings from the investigation that includes all relevant evidence that was discovered and findings from interviews. Findings from the review of evidence shall be clearly stated with detail, e.g. referencing supporting documentation, video evidence etc. Findings from interviews shall list each individual, their title and relationship to the investigation; responses included in the investigative report shall be summarized and relevant to the scope of the investigation.
6. Conclusions - Logical inferences from known facts are expected but the investigator should identify all inferences and assumptions explicitly. Unsupported speculation, gratuitous or irrelevant personal opinions (not pertaining to the assigned scope of the investigation) and statements on legal liability or other legal issues are inappropriate. Conclusions shall be clearly stated with reference to appropriate policy, administrative rules, procedures, etc.
7. Recommendations - The investigator shall describe further action needed, if any. Examples of recommendations could include training, revisions to policies, administrative rules, practices and procedures.
8. Attachments – A detailed listing of documents and/or other evidence directly referred to in the course of the investigation. The attachments can be submitted with the investigative report or combined and placed in an additional document, e.g. binder.

F. Report Timeframe and Distribution

The report shall be completed and submitted to the Director, Managing Director, or Managing Officer who requested it within thirty calendar days or in a documented agreed upon timeframe appropriate to the complexity of the investigation.