Chapter 20 Complaint Investigations – Overview

RCS is responsible for investigating failed practice within the care settings we license and regulate. This chapter addresses how RCS staff are expected to conduct and document complaints. For more information on receiving and processing complaints, refer to Chapter 2 (Complaint Resolution Unit) of the SOP Manual.

Related WACs and RCWs:

- **CHAPTER 18.20 RCW ASSISTED LIVING FACILITIES (ALF)**
- **CHAPTER 18.51 RCW NURSING HOMES (NH)**
- **RCW 43.43.830-845 BACKGROUND CHECKS-ACCESS TO CHILDREN & VULNERABLE ADULTS**
- **CHAPTER 70.128 RCW ADULT FAMILY HOMES (AFH)**
- **CHAPTER 70.97 RCW ENHANCED SERVICES FACILITIES (ESF)**
- **CHAPTER 71A.12 RCW DEVELOPMENTAL DISABILITIES STATE SERVICES**
- **RCW 74.39A.056 CRIMINAL HISTORY CHECKS ON LONG-TERM CARE WORKERS**
- **CHAPTER 388-76 WAC ADULT FAMILY HOMES**
- **CHAPTER 388-78A WAC ASSISTED LIVING FACILITIES (ALF)**
- **CHAPTER 388-97 WAC NURSING HOMES (NH)**
- **CHAPTER 388-101 WAC CERTIFIED COMMUNITY RESIDENTIAL SERVICES AND SUPPORTS (CCRSS)**
- **CHAPTER 388-107 WAC ENHANCED SERVICES FACILITIES (ESF)**
- **CHAPTER 388-110 WAC CONTRACTED RESIDENTIAL CARE SERVICES**
- **CHAPTER 388-111 WAC RESIDENTIAL HABILITATION CENTERS (RHC)**
- **CHAPTER 388-112 WAC RESIDENTIAL LONG-TERM CARE SERVICES**
- **CHAPTER 388-113 WAC DISQUALIFYING CRIMES AND PENDING CHARGES**
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This chapter contains the Standard Operating Procedures (SOPs) and supporting resources that RCS staff will use to conduct complaint investigations in all licensed settings.

**OVERVIEW**

A. **COMPLAINT INVESTIGATION STANDARD OPERATING PROCEDURES**

**APPENDIX A:**  **RESOURCES AND FORMS**

**APPENDIX B:**  **CHAPTER 20 CHANGE LOG**
This section contains the Standard Operating Procedures that RCS staff are required to follow when conducting complaint investigations in all licensed settings.

A. **STANDARD OPERATING PROCEDURES**

1. Complaint Investigations (all settings)
2. Writing ISRs
3. Accessing Investigation Information in TIVA
4. Use of Photography
5. Reporting Criminal Neglect
6. Protection of Resident Privacy and Data Security

Change Log

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BACKGROUND

RCS has primary investigative responsibility for alleged reports of provider practice violations in all licensed and or certified settings regulated by RCS.

Each complaint is unique and the investigation must focus on the areas where RCS has jurisdiction in that particular setting. Regulations and the population served by each setting vary a great deal so all these factors must be considered when developing an investigative plan.

This standard operating procedure outlines the expectations for staff conducting complaint investigations and provides the following guidance:

- How to call in complaints from the field
- How to process and review complaint assignments
- How to prepare an investigation and develop a plan
- What to do after leaving a facility and make a final determination
- How to write reports and submit/mail them within the required timelines
- When a complaint is considered closed

PROCEDURES

A. Filing a Complaint From the Field.

1. When an individual contacts RCS staff in a field office and shares concerns regarding the health or safety of a client, the nature of the complaint should be evaluated. The complainant should be given the toll-free number (1-800-562-6078) to make the report to the RCS Complaint Resolution Unit (CRU).

2. When RCS staff are making a mandatory report, Chapter 74.34 RCW requires the following information which RCS staff should obtain, when possible, and report to CRU immediately:
   a. The name and address of the person making the report;
   b. The name and address of the vulnerable adult and the name of the facility; or agency providing care for the vulnerable adult;
   c. The name and address of the legal guardian or alternate decision maker;
   d. The nature and extent of the abandonment, abuse, financial exploitation;
   e. Any history of previous abandonment, abuse financial exploitation, neglect, or self-neglect;
   f. The identity of the alleged perpetrator, if known; and
   g. Other information that may be helpful in establishing the extent of the abuse, financial exploitation, neglect, or the cause of death of the deceased vulnerable adult.
3. If needed, consult with your Field Manager first and then contact the CRU at 1-800-562-6078 or by email at (cru@dshs.wa.gov) and CRU will make any necessary referrals (APS, DOH, Law Enforcement, etc.).

4. Immediately notify law enforcement and the Field Manager if the issues are serious and immediate in nature. The Field Manager will immediately notify CRU and initiate appropriate and immediate investigation. Lack of an assigned complaint number or completed intake form shall not delay initiation of an investigation.

5. If concerns are discovered during a routine certification, survey or inspection, RCS staff and evaluators will:
   a. Immediately call the CRU and notify the RCS Field Manager if there is a reasonable cause to believe that abuse, neglect, abandonment, or financial exploitation of a client or resident has occurred. Otherwise, make reports to CRU via email when possible.
   b. Immediately notify law enforcement and the RCS Field Manager if there is a reason to suspect a client or resident is in immediate danger and needs further assistance for safety.
   c. RCS staff and evaluators will consult with the Field Manager regarding additional guidance.

B. Processing, Reviewing and Assignment of Complaints/Incidents:
   1. When a complaint intake from CRU is received by the program, the Field Manager or designee will:
      a. Immediately assign it for investigation to appropriate staff, with additional instructions, if necessary.
   2. Once assigned the Complaint Investigator will:
      a. Review the complaint/incident intake, the assigned CRU priority assignment, and any CRU referrals made at the point of intake.
   3. Consider requesting a priority change of the complaint intake based upon consideration of priority criteria and any known current issues with the client or provider. Requests for change in priority should be reviewed and approved by the Field Manager following the established protocol in each office. Then send an email, with a cc to the FM, to CRU at cru@dshs.wa.gov requesting the priority change following the established Processoing Complaint Referrals and Priority Changes Standard Operating Procedure, including providing a rationale based on harm or potential risk of harm to the client.
   4. Recommend that CRU make any additional agency referrals that were not made at the time that CRU processed the intake as appropriate.

C. Off-Site Preparation
   1. After a complaint has been assigned and reviewed, the investigator should identify any preliminary issues related to the allegation/s and begin the off-site preparation.
a. Upon notice/receipt of the intake, the Complaint Investigator will coordinate onsite visits with the assigned APS investigator when appropriate and follow the process as outlined in the Coordination and Communication with APS.

b. It is the expectation that complainants are called and interviewed prior to the initiation of an investigation. However, there may be times when this is not possible (urgency, travel, etc.). Investigators should discuss any situations where the complainant will not be contacted with their Field Manager.

c. Refer to the Communication Points to Use with Public Complainants for questions to consider using when interviewing a complainant.

d. Attempt to contact the complainant by telephone for additional information. Note the date and times of these attempts on the Investigation Summary Report (ISR). If the investigator is unable to make contact after three attempts, document this in the working papers.

D. Developing an Investigative Plan:

1. Prior to investigating the complaint onsite, the investigator should develop a brief investigative plan to include:
   a. Focused interview questions based on the specific allegations
   b. Plans for protecting the confidentiality of the complainant and other identified in the complaint/incident.
   c. Review elements of regulatory requirements pertinent to the allegation and select preliminary regulations that could potentially be cited.

2. Determine if local law enforcement should be contacted to coordinate investigative activities and before conducting any onsite investigation. Determine if the investigation should be conducted in coordination with other respective entities (APS, DOH, etc.). Consult with your Field Manager as needed and in accordance to office protocol.

E. Conducting the Investigation

1. The investigator must attempt to conduct the onsite visit so that the visit is made at the time of day and/or day of the week the issue is most likely to reoccur; when the alleged perpetrator/caregiver may be working; or when there might be inadequate staff to meet resident/client needs.

2. Initiate the on-site investigation within the priority timeframes established by the intake priority response time. All initiation must be done on-site. Initiation by phone may be considered on a case by case basis with approval from the Field Manager.

3. After initiating the investigation, focus planned onsite observations from the alleged issues. Protect the identity of the residents/clients who are alleged victims and the complainant by expanding the sample of residents/clients to be reviewed and or look at more than one area of concern in the home/facility. Do not disclose the information about the complainant, even if the complainant did not request to remain anonymous. Maintain confidentiality of all records including the CRU intake form.
4. The CRU complaint intake form must not be taken into the field at any time. Any information related to the investigation will be in the possession of the Complaint Investigator at all times. When Complaint Investigators have multiple investigations on the same day, documents may be secured in the trunk of a locked vehicle. If the vehicle doesn’t have a trunk, secure the documents in a locked car so they are not visible from the outside.

5. The Complaint Investigator must identify him or herself as a DSHS Investigator when they enter the home/facility. Explain the general purpose of your visit such as investigating a complaint and checking on the health and safety of residents/clients in the home or facility. The investigator is to provide a business card to the staff persons present and to residents as appropriate.

6. Interview each resident/client named as an alleged victim and/or their representative unless there are compelling reasons for not doing so. Those reasons must be documented in the investigation working papers. Also, when possible interview other potential victims in an attempt to maintain confidentiality of the reported alleged victim.

7. When interviewing the alleged victim(s), give him/her or their legal guardian a copy of the written Vulnerable Adult Statement of Rights Form. If needed to keep the identity of the alleged victim confidential, give the form to all residents who were interviewed. There are two different forms depending in which setting the complaint is taking place:
   a. DSHS 16-234A for CCRSS (Supported Living) and ICF/IID that are RHCs (Rainier School, Lakeland Village and Fircrest).
   b. DSHS 16-234 for all other settings (NH, AFH, ALF, ESF, non-RHC ICF/IIDs).
   Document in your working papers when the form was given or when the form was not given to residents/clients and the reason why. Both of these forms are available in the DSHS Forms Directory in several different languages.

8. If the resident/client named in the complaint is unavailable at the time of onsite visit and complaint initiation, the Complaint Investigator can interview a representative sample of residents/clients when appropriate. The Complaint Investigator must make two more attempts to interview the resident/client and document the date and time and how the attempts were made in the working papers. Consult with your Field Manager and document in the working papers if you are unable to interview the resident/client named in the report.

9. Investigate reported problems in a manner appropriate to the identified issues, including record review, resident/client, family and staff interviews, and direct observations.

10. Contact and interview appropriate staff persons employed by the provider/facility who are the subject of complaints. The staff member should be contacted during their regular working hours if possible. The investigator must preserve the anonymity of support staff or other staff who are acting as witnesses.
11. Prior to exiting the home/facility, let the provider/administrator or staff person on site know you are leaving and explain what to expect next and an approximate timeline.

**Note:** In the CCRSS setting: investigators will need to conduct an interview with the administrator or designee at the provider’s office which is always off site as the clients reside in their own home. Collect copies of client records relevant to the investigation at this time. Inform the administrator they will be contacted with a final determination.

**F. Off-site Activities and Final Determination:**

1. As identified by Chapter 74.34 RCW, the investigator may need to interview “independent sources of relevant information” after the onsite investigation is completed. However, these sources are not required to be part of each investigation, and should be kept to a minimum number. Contacts with independent contacts must be made in a timely manner.

2. The investigator must review and analyze all data pertinent to the complaint and determine if there is failed provider practice.

3. Coordinate enforcement recommendations with the Field Manager. Call the administrator to summarize the findings and to identify if there are deficiencies. If unable to reach the administrator on a direct telephone line, leave a voice message informing the provider of the final determination of the investigation. Note date, time of call and content of call or message in investigator working papers.

4. Call the public complainants/mandated reporter to summarize the investigative findings and inform the complainant that an ISR will follow if they requested one. The complainant must be called even if they did not request the outcome report. Note the date and time of the call in the working papers.

5. Make any necessary referrals following the established Standard Operating Procedures in RCS Chapter 4 - CRU:
   a. Processing Law Enforcement Referrals
   b. Processing Referrals to APS
   c. Processing Referrals to Agencies Other Than Law Enforcement and APS

**G. Report Writing**

1. When writing the Statement of Deficiencies (SOD) keep in mind that they must be:
   a. Mailed to the NH and ICF/IID providers within ten (10) working days of the exit date.
   b. Mailed to all other facilities/providers within 10 working days after the last day of data collection.
   c. Written according to Principles of Documentation for NH and ICF/IID (non-ALF) or the Principles of Documentation for Community Programs.
   d. Written according to the General Enforcement SOP.
   e. Only written after consultation with the Field Manager.

See section “I” below under Complaint Closure for more information on SOD reports.
2. For each complaint investigation completed, the investigator must write an Investigative Summary Report (ISR) written in a publicly disclosable format within fifteen (15) calendar days of the last day of data collection. The ISR should not repeat specific detailed information already contained in related statements of deficiency or consultation letters or include any information about other investigations related to the intake(s).


H. Report Notification:
   1. The investigator must forward the SOD to the Field Manager in the following manner:

<table>
<thead>
<tr>
<th>Facility Type</th>
<th>How to Notify FM SOD is Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nursing Homes &amp; ICF/IID</td>
<td>• Enter the electronic copy of the SOD into ASPEN</td>
</tr>
<tr>
<td></td>
<td>• Notify FM the SOD has been entered. How FMs are notified is up to the local offices.</td>
</tr>
<tr>
<td>Certified Community Residential Services &amp; Supports (CCRSS)</td>
<td>• Enter electronic copy of the SOD on the appropriate shared drive.</td>
</tr>
<tr>
<td></td>
<td>• Notify FM the SOD has been entered. How FMs are notified is up to the local offices.</td>
</tr>
<tr>
<td>ESF, AFH, ALF</td>
<td>• Enter the electronic copy of the SOD into FMS.</td>
</tr>
<tr>
<td></td>
<td>• Notify FM the SOD has been entered. How FMs are notified is up to the local offices.</td>
</tr>
</tbody>
</table>

I. Complaint Closure
   1. If a SOD has been written and approved by the Field Manager, the SOD must be mailed within 10 working days of the exit for NH and ICF/IID and within 10 days of the last date of data collection for all other settings. The administrative support staff will mail the SOD to the provider via USPS Certified Mail with Return Receipt Requested. If the SOD is not being mailed until the 9th or 10th day, the administrative support staff will fax (when a fax number is available) the SOD in addition to mailing it. It is also acceptable for staff to deliver SODs in person when necessary but the SOD must still be mailed via Certified Mail.

2. If the public complainant has requested to be notified as to the outcome of the investigation (the “Follow-Up Requested” box will be checked on the intake), the administrative staff will mail the public complainant a Public Outcome Letter generated in TIVA and provide a copy of the ISR. A copy of the “How to Read Your RCS Investigative Summary Report” and any related SODs, if applicable, will also be sent.

Note: The ISR should not be sent until the SOD report has been received by the facility and the green return receipt card has been received by the field office.

3. A complaint investigation is considered closed when:
   a. All required reports and letters have been sent.
b. All data has been entered into the appropriate tracking systems and approved by the Field Manager.

c. A Back in Compliance Letter has been sent to the provider.

4. Documentation from complaint investigations is to be sent to Central Files within 10 working days after the complaint investigation is considered closed.

**QUALITY ASSURANCE REVIEW**

A. This process will be reviewed at least every two years for accuracy and compliance.
BACKGROUND

This Standard Operating Procedure provides guidance to staff on how to document complaint activities so that Investigation Summary Reports (ISRs) clearly articulate the outcome of the investigation and are:

- Objective
- Consistent in appearance
- Concise in explaining investigative activities
- Publicly disclosable

The ISR provides a brief summary of investigative activities conducted by RCS staff in response to a complaint. The ISR will not:

- Contain information that would identify the resident/client or the complainant.
- Contain opinions of the investigator.
- Repeat specific information that was contained in a Statement of Deficiency (SOD) Report.

The SOD Report is a document that will specifically:

- Reflect the content of each requirement that is not met;
- Clearly identify the specific deficient practice and the evidence that supports the finding;
- Identify the extent of the deficient practice, including systemic practices where appropriate; and
- Identify the source(s) of the evidence (i.e. interview, observation and record review).

PROCEDURES

The Investigator will:

A. Complete an investigation summary report (ISR) within 15 working days of the exit or last day of data collection for each complaint/incident investigated. Timeframes may only be extended with management approval.

B. Create a separate ISR for each intake. Although more than one intake may have been investigated on the same visit, the ISR should not reference violations from other intakes.

C. Write investigation summary reports that meet standard operating procedures for report writing.

D. Use s/he throughout the ISR to maintain confidentiality of all parties.
E. Avoid the use of “see intake” as a descriptor in the ISR (ISR’s are meant for the public view, intakes are confidential and cannot be viewed by the public).

F. Avoid mention of Adult Protective Service (APS) and/or Child Protective Service (CPS) investigations. RCS can neither confirm nor deny the involvement of APS/CPS in cases.

G. Write related statement of deficiencies or consultations, assuring the SOD is mailed within 10 working days of exit or last day of data collection. Timeframes may only be extended with management approval.

The Field Manager or designee will:

A. Review complaint packets and ensure they are complete, spelling and grammatical errors are addressed, and all tasks were done within established timeframes.

B. Forward the completed complaint packets to Central Files. See Chapter 9 – Central Files Standard Operating Procedure for timelines for sending documents to Central Files.

QUALITY ASSURANCE REVIEW

A. This process will be reviewed at least every two years for accuracy and compliance.

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ISR Legend
  a. Complainant
  b. ICF/IID
  c. RCS Staff
  d. Supported Living

Complainants.doc  ICF/IID.doc  ISR Legend Staff.doc  ISR Legent SL.doc
BACKGROUND

This Standard Operating Procedure contains instructions, guidelines, and policies regarding access to information in the TIVA system related to Provider Practice (PP) and Adult Protective Services (APS) investigations.

A. Principles

A. Staff who access information in TIVA that was obtained during an investigation will be required to sign a confidentiality agreement prior to accessing the information.

B. Staff will not print (generate paper copies of) information related to APS investigations.

C. Staff will not transcribe or copy, manually or electronically, any information from APS investigations into working papers, notes, text fields within TIVA or other software applications, or other documents.

D. Staff will only access investigation information in TIVA if he or she has reason to believe the information would be relevant to an investigation of allegations of abuse, abandonment, financial exploitation, or neglect of a vulnerable adult unless explicitly permitted for other use by the RCS Director.

E. Staff who access investigation information in TIVA for purposes other than investigation without the express permission of the Director will be subject to a progressive disciplinary process up to and including immediate termination.

I. Procedures

A. Prior to setting access permissions to RCPP investigation information, TIVA administrative staff or designees will confirm that the individual has signed a confidentiality agreement.

B. TIVA software administrators will set access permission to PP and APS information in TIVA to:

1. Complaint Resolution Unit (CRU) intake staff;
2. Investigators, Licensors, and Surveyors;
3. Field Managers, and Regional Administrators
4. Administrative staff at field office with legitimate business function needs as determined by the Director, Office Chief, RA, FM on an individual basis; and
5. Headquarters staff with legitimate business function needs as determined by the Director, Office Chief, RA, FM on an individual basis.
C. TIVA administrative staff will set access limits to protected cases (e.g., investigations in which DSHS staff are involved) as directed by the RCS Director, Office Chief, RA, or RQIC.
BACKGROUND

Photography can be a useful tool when it comes to documenting evidence. The need for photographic evidence may occur during an inspection/survey/re-certification or during a complaint investigation so staff who conduct field visits should have photographic equipment available at all times. Some things to keep in mind when taking photographs include:

- RCS staff and contracted staff are not required to have specialized training in photography prior to photographing evidence. However, the staff must be sure to follow all steps outlined below when preparing to photograph and handling the photographs upon return to the office.
- Photographs do not substitute for documentation of any observation, interview or record review and are not a routine part of the inspection or investigation process.
- Staff should have equipment readily available and easy to access which may mean leaving it in the trunk of a locked car while out on inspections. The camera should be returned to a secure location in the office when the licensor/surveyor is done with the investigation.
- When taking pictures with measurements of certain markings on a resident/client (i.e. bruises, break in the skin), staff will not touch the resident/client.
- The preservation of resident/client rights, privacy and dignity are to be observed at all times.

PROCEDURES

A. Prep Before Photographing

The Licensor/Surveyor will:
1. Consult with the Field Manager about plans for photographing and explain the specific situation.
2. Obtain consent from the resident/client or his/her legal representative prior to photographing unless:
   a. Immediate photographing is necessary to preserve evidence; or
   b. The legal representative is the alleged perpetrator.
3. Use the Photography Release Form to document permission or refusal.
4. Obtain permission from the resident prior to photographing the resident room or resident possessions.
5. Make sure a staff person from the facility is present when taking pictures of the resident. Document the name and title of the staff person assisting.
6. For photographs of resident/client condition, RCS staff must use the macro to micro technique. Take a series of pictures to include: outside of residence to show address or location of resident/client, picture of resident/client in the
environment, and then photographs of any specific markings, bruising or resident/client condition.

7. Use a disposable tape measure when photographing markings on a resident/client. Place the tape measure next to the site in question, or have the facility staff assist in holding the tape measure above the area. The licensor/surveyor will ask the field manager regarding the process for obtaining the tape measure in his/her field office.

8. Not need to obtain consent from the facility/provider if photographing the environment. However, the licensor/surveyor should notify the facility/provider when taking pictures of the environment.

The Regional Administrator (for field offices) or Field Manager (for Supported Living and ICF/IID) will:

1. Develop a system to ensure that the following information is maintained for every photograph:
   a. Who took the picture;
   b. Who/what is the subject of the photograph
   c. Date and time the picture was taken;
   d. The complaint investigation number (if applicable)

2. Develop a procedure for securing and checking out all digital cameras.

3. Assure disposable tape measures are available at all time to the licensors/surveyors.

4. Work with the local Information Technology (IT) staff to create a system for processing and storing the photos

B. After Photographing:

The Licensor/Surveyor will:

1. According to the system developed by his/her field office, transfer the photograph(s) from the digital camera into a designated secured electronic folder located in the field office shared drive.

2. AFTER assuring all photographs have transferred, delete the photographs from the camera.

3. Make a notation in the working papers that photographs are associated with the investigation or inspection. Document the location of the photographs.

4. Store any hard copies of photographs in a secure manner (i.e. in a location precluding access by unauthorized persons) according to his/her field office process.

5. If sharing the photography with others such as the AG office:
   a. Document the name of the recipient and sufficient information to identify what photograph was shared.
   b. Do not send a photocopy of the photograph. Print an original copy from the electronic file.
   c. Include a narrative description with the photograph.
d. Assure all information is transferred in a confidential manner.
6. Follow RCS guidelines for investigation working papers on record retention of the photographs.

QUALITY ASSURANCE REVIEW
A. This process will be reviewed at least every two years for accuracy and compliance.

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BACKGROUND

This Standard Operating Procedure provides guidance to staff for the reporting of criminal mistreatment to local Law Enforcement (LLE) and the Medicaid Fraud control Unit (MFCU), so that RCS staff consistently:

- Utilize criteria that may be indicators of criminal mistreatment (See Appendix 20C1)
- Make timely referrals
- Communicate effectively with law enforcement and the MFCU, and
- Inform and update RCS Field Manager about field staff and LLE investigative coordination activities

RCS has the primary investigative responsibility for reports concerning allegations of vulnerable adult abuse, financial exploitation, abandonment, neglect, and misappropriation of resident funds in licensed and certified long-term care residential settings.

- The Complaint Resolution Unit (CRU) is the primary complaint/incident referral system for RCS. At the time of intake, CRU may refer the complaint/incident for investigation to a number of units/agencies (e.g. WA State Department of Health, law enforcement, local prosecutors, Adult Protective Services, etc.), based on the nature and detail of the intake report.

- RCS must report to LLE and the MFCU whenever there is reason to suspect that criminal mistreatment or criminal neglect has occurred. The determination of whether a person had the requisite criminal intent when s/he caused the injury to a resident or client is a legal determination that must only be made by a prosecuting attorney.

- However, during any RCS investigation, there may be multiple points in time at which a referral to LLE and/or Medicaid Fraud should be made. These points of time include:
  1. At initial intake;
  2. During the initial on-site visit to the facility or certified setting, where the investigator finds circumstances to be of greater seriousness, or markedly different than the original report to CRU had indicated;
  3. During the writing of the Statement of Deficiencies (SOD), where managers or staff notice a pattern to the areas of citation that create a picture of criminal neglect;
  4. During enforcement activities.

- Essentially, the key to effectively identifying criminal neglect is for RCS staff to identify those situations where a person who has responsibility (i.e. is paid to take care of a resident or client), or is employed to provide basic necessities of life to a dependent person, either recklessly or negligently withholds that basic necessity of life. That withholding or failure to act then creates an imminent and substantial risk of death, great bodily harm, substantial bodily harm, or extreme emotional distress for the resident or client.
PROCEDURES

A. Investigator/Licensor Responsibilities
   1. Investigators will familiarize themselves with the criteria for identification of situations that are indicative of criminal neglect (see attached “Criminal Mistreatment Indicators”).
   2. When conducting investigations, investigators will write detailed investigative notes and use quotes when documenting any statements from witnesses.
   3. Investigators will assist LLE to understand what resident or client care should have been provided, and will advise LLE about possible witnesses.
   4. In investigative notes, investigators will write down observations about the demeanor of licensees or caregivers.
   5. Any photographs of the resident/client will be taken consistent with RCS operational principles and procedures outlined in the RCS Operational Principles and Procedures for Enforcement Process: Use of Photography.
   6. Investigators will keep LLE and their Field Manager (FM) informed about the progress of the investigation.
   7. RCS staff will provide timely access to LLE for all records obtained during the normal course of business for RCS investigative work. As needed, RCS will also help LLE to understand and interpret RCS records.

B. Communication Between Investigating Entities
   1. RCS Field Managers are the initial and primary contact points between LLE, MFCU, and RCS staff.
   2. During an on-site investigation, if an investigator calls 911 to report criminal neglect, the investigator must also notify the Field Manager.
   3. It is an expectation that investigators will apprise the FM of any interactions/follow-up discussions or coordination activities with LLE or the MFCU so that the manager is informed of the progress of the investigation.

C. Field Unit Responsibilities
   1. All SODs will be reviewed by staff and FMs with the purpose of determining whether referrals to LLE or the MFCU should be made. Refer to the attached “Criminal Mistreatment Indicators” for assistance in determining whether a referral should be made.
   2. Field units should continue to notify the CRU when any LLE referrals need to be made from the field. Once the Critical Incident Tracking System (Fam-Link) is operational for RCS (June, 2012), field units will be expected to complete a LLE referral and tracking form in CIT’s prior to the sending of any documents or referral to LLE and to the MFCU.
BACKGROUND

This Standard Operating Procedure provides guidance to assure that resident-specific data is exempt from public inspection and copying, or inadvertent disclosure.

- A major goal of both federal and state privacy laws is to assure that resident health information is properly protected, while allowing the flow of health information needed to provide and promote high quality health care and to protect the public’s health and well-being.

- Health care information is personal and sensitive information. If improperly used or released, it may do significant harm to a resident’s interests.

- A central aspect of federal and state privacy rules is the principle of “minimum necessary”.

- In order to retain the full trust and confidence of residents, the department must assure that health care information is not improperly disclosed.

- While conducting complaint and incident investigations, department staff will implement reasonable safeguards for the security of all resident health care information.

- Individually identifiable resident information is information, including demographic data, that relates to:
  1. The individual’s past, present or future physical or mental health or condition,
  2. The provision of health care to the individual, or
  3. The past, present, or future payment for the provision of health care to the individual, and
  4. That identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. Individually identifiable health information includes many common identifiers (e.g. name, address, birth date, Social Security number, etc.).

PROCEDURES

A. RCS staff must not take either the original Complaint Resolution Unit (CRU) intake form or a copy of the intake into the facility while conducting investigation activities.

B. Investigators will not routinely make copies of resident records, but keep any copying to the “minimum necessary”.

C. During the course of a complaint/incident investigation, if the investigator makes any copies of resident records with individually identifiable resident information, copies will not be left unattended in a vehicle at any time.
D. If theft of any investigator’s personal property or department owned equipment results in the potential for inadvertent disclosure of resident individually identifiable health information, immediately contact the Field Manager and consult with the Assistant Director as indicated.
20 A6– COORDINATION AND COMMUNICATION WITH ADULT PROTECTIVE SERVICES

BACKGROUND

Residential Care Services staff must frequently coordinate complaint investigations with other investigative authorities such as Adult Protective Services (APS).

This Standard Operating Procedure is meant to provide RCS staff with direction for coordination, communication, and sharing of information with Adult Protective Services (APS) during investigations involving individuals alleged to have abandoned, abused, neglected, or financially exploited:

1. Clients receiving Certified Community Residential Services and Support; and
2. Residents of NHs, ALFs, AFHs, ICFs/IID, and ESF.

In nursing homes, misappropriation of property is also reviewed and investigated.

PROCEDURE

A. OFF SITE PREPARATION

1. Upon notice/receipt of intake/allegation, the RCS investigator will coordinate onsite visits with the APS investigator whenever deemed appropriate and possible.

B. INVESTIGATION

1. The RCS investigator will:
   a. Initially assess safety and risk of the alleged victim (AV) and other residents/clients from the alleged perpetrator (AP).
   b. Upon initiation of the onsite visit, evaluate resident safety and risk and call the Field Manager (FM) for implementation of necessary action to protect the residents/clients.
   c. If protective action is needed pending the investigation and no action has been taken by the provider, the RCS FM will contact the Compliance Specialist and will initiate enforcement action to protect residents/clients.
   d. Remain onsite at the facility when resident/client safety concerns exist and until they are resolved. Examples of how to resolve the immediate safety concerns include:
      i. Calling 911;
      ii. Calling Law Enforcement;
      iii. RCS may ask for a safety plan from the facility/provider (in community programs); and
      iv. The perpetrator or immediate safety concern is removed from the home.
   e. Collaborate with APS before making a final decision and escalate conflicting findings to the FM.
f. Write an Investigation Summary Report (ISR) when the investigation is complete and any statements of deficiencies (SOD) as needed to address failed practice.
g. Share and or request outcome reports with APS as deemed necessary.
h. Make a report to law enforcement if a crime is suspected to have occurred.
i. RCS investigators, managers and Compliance Specialist will coordinate with APS during legal proceedings resulting from investigations.

C. **MAKING REPORTS TO APS:**
   1. In cases where only RCS is assigned to investigate and new information leads to a need to coordinate the investigation with APS, the investigator will:
      a. Consult with the RCS FM.
      b. RCS FM will contact CRU and make a report.
      c. RCS investigator will collaborate with APS.

D. **STAFFING:**
   1. RCS FM and Compliance Specialist at their discretion may request a staffing with the APS supervisor to discuss issues with the investigation and/or potential enforcement action.

E. **NOTIFICATIONS OF APS FINDINGS**
   1. APS will inform the RCS Field Manager or RCS investigator of finding or outcome of APS investigation, including any appeal order. Refer to APS Chapter 6 Long term Care manual for guidelines for APS investigation.
   2. Field Manager will notify Compliance Specialist of outcome or finding from APS investigation.

F. **ENFORCEMENT ACTION**
   1. Compliance Specialist will search the name of the individual in the ADS Registry for possible enforcement action.

**QUALITY ASSURANCE REVIEW**

This process will be reviewed every two years for compliance and accuracy.

**AUTHORITY**
- RCW 70.128.090
- RCW 70.128.130
APPENDIX A – COMPLAINT INVESTIGATION RESOURCES AND FORMS

This section contains useful documents and links to resources, materials and forms to further develop processes that RCS staff are required to follow when conducting complaint investigations in all licensed settings.

B. COMPLAINTS RESOURCES (Docs and Links)

1. Appendices
   a. Criminal Mistreatment Indicators

2. ACTS Procedure Guide


4. Communication Points to Use with Public Complainants

5. Complaint/Incident Investigation Protocols
   a. Adult Family Homes
   b. Assisted Living Facilities
   c. Nursing Homes 1-19
   d. Enhanced Services Facilities (TB Developed)
   e. Certified Community Residential Services and Supports (CCRSS) aka “Supported Living” (TB Developed)

6. FREQUENTLY ASKED QUESTIONS

7. Reporting Guidebooks
   a. AFH Guidebook
   b. Assisted Living Guidebook
   c. NH Guidelines aka Purple Book
   d. ESF Guidelines (TB Developed)
   e. Certified Community Residential Services and Supports (CCRSS) aka “Supported Living” (TB Developed)

8. Key Triggers Reference Documents
   a. Exploitation
   b. Mental Abuse
   c. Neglect
   d. Physical Abuse
   e. Sexual Abuse

9. Forms & Letters (Links)
   a. DSHS 16-234A for CCRSS (Supported Living) and ICF/IID that are RHCs (Rainier School, Lakeland Village and Fircrest).
   b. DSHS 16-234 for all other settings (NH, AFH, ALF, ESF, non-RHC ICF/IIDs).
c. CRU Initial Letter to Complainant

d. Field C/I Results Notice Letter With Deficiencies

e. Field C/I Results Notice Letter Without Deficiencies

Change Log

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**APPENDIX A1 — CRIMINAL MISTREATMENT INDICATORS**

Report to local law enforcement and the Medicaid Fraud Control Unit (MFCU) whenever there is reason to suspect that criminal mistreatment has occurred.

The determination of whether a person had the requisite criminal intent when s/he caused the injury is a legal determination that must be made by a prosecuting attorney.

Presence of one (1) or more of the following are potential indicators of criminal mistreatment.

<table>
<thead>
<tr>
<th>Pressure ulcers</th>
<th>Unsanitary living conditions that pose significant danger to residents</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Untreated; infected, odorous, eschar</td>
<td>- Repeated falls (two or more falls in a one month period)</td>
</tr>
<tr>
<td>- Improperly treated</td>
<td>- Unexplained fractures</td>
</tr>
<tr>
<td>- On locations indicating improper placement i.e. on front of body</td>
<td>- Bruising or other injury to face, neck, ears, trunk, back, genitalia, buttocks, or soles of feet</td>
</tr>
<tr>
<td>- Stage III or IV Pressure Ulcers</td>
<td>- Insufficient staffing that negatively impacts residents</td>
</tr>
<tr>
<td>- Inappropriate medication (too much, too little, or contraindicated)</td>
<td>- Reports of falsified records</td>
</tr>
<tr>
<td>- Lack of treatment causing significant injury or death, or the risk thereof</td>
<td>- Missing multiple medical appointments (two or more in a two month period)</td>
</tr>
<tr>
<td>- Delayed treatment causing significant injury or death, or the risk thereof</td>
<td>- Untreated medical or mental conditions</td>
</tr>
<tr>
<td>- Significant injury or death following a fall</td>
<td>- Withholding assistive devices (walker, wheelchair, glasses, hearing aide, etc)</td>
</tr>
<tr>
<td>- Significant injury or death</td>
<td>- Use of restraints when none are indicated</td>
</tr>
<tr>
<td>- Withholding food</td>
<td>- Rapid weight loss</td>
</tr>
<tr>
<td>- Withholding or limiting oxygen contrary to physician’s orders</td>
<td>- Significant dehydration</td>
</tr>
<tr>
<td></td>
<td>- Urine burns</td>
</tr>
<tr>
<td></td>
<td>- Repeated infections at site of catheter, etc.</td>
</tr>
</tbody>
</table>
- Malnutrition (unless caused by resident’s underlying disease)
- Contractures developed while in the facility

**Criminal Mistreatment Defined**

Causing or creating an imminent and substantial risk of one of the following by withholding any basic necessity of life:

- Death
- Great bodily harm
- Substantial bodily harm
- Bodily harm/injury
- Extreme emotional distress

**Other Definitions**

**Basic necessities of life** – Food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

**Great bodily harm** -- bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

**Substantial bodily harm** -- bodily injury which involves a temporary but substantial disfigurement or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.

The determination of whether a person had the requisite criminal intent when s/he caused the injury is a legal determination that must be made by a prosecuting attorney.

Report any suspected crime to local law enforcement and the MFCU. To report to the MFCU, or if you have questions concerning criminal mistreatment, contact:

(360) 586-8888 or mfcureferrals@atg.wa.gov
## APPENDIX B – COMPLAINT INVESTIGATIONS CHANGE LOG

<table>
<thead>
<tr>
<th>EFFECTIVE DATE</th>
<th>CHAPTER SECT #</th>
<th>WHAT CHANGED? BRIEF DESCRIPTION</th>
<th>REASON FOR CHANGE?</th>
<th>COMMUNICATION &amp; TRAINING PLAN</th>
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<td>9/22/17</td>
<td>A6</td>
<td>Coordination with APS added</td>
<td>Workgroup product</td>
<td>MB issued R17-049</td>
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<td>5/1/2016</td>
<td>20A2 Writing ISRs</td>
<td>Last update prior to conversion to chapter format.</td>
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<td>Posted on-line for employee review. Announced in Weekly Update MB issued: R16-052</td>
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<td>4/2016</td>
<td>20A4 Use of Photography</td>
<td>SOP language updated from 2010 version and converted into chapter format. SOP changed to include all settings</td>
<td>SOP format changed SOPs consolidated to cover all settings so updates can be tracked.</td>
<td>Posted on-line for employee review. MB issued: R16-027</td>
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<td>3/2016</td>
<td>20A1 Complaint Investigation</td>
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<td>SOP was for multiple settings. One SOP developed for all settings to ensure consistency.</td>
<td>Posted on-line for employee review. Announced in Weekly Update MB issued: R16-025</td>
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<td>Per PTQA Office Chief, removed #9 referencing use of cell phones &amp; photography</td>
<td>Workgroup to review, determine next steps</td>
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