

DEVELOPMENTAL DISABILITIES ADMINISTRATION  
Olympia, Washington

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TITLE: RHC INCIDENT INVESTIGATIONS POLICY 12.02

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Authority: [42 CFR 483.13](#) and [483.420](#)  
[Chapter 26.44 RCW](#) *Abuse of Children*  
[Chapter 43.20A RCW](#) *DSHS*  
[Chapter 70.124 RCW](#) *Abuse of Patients*  
[Chapter 71A RCW](#) *Developmental Disabilities*  
[Chapter 74.34 RCW](#) *Abuse of Vulnerable Adults*

Reference: [Executive Order 96-01](#), *Providing for the transfer of criminal and major administrative investigations involving DSHS employees to the State Patrol*  
DSHS-WSP Interagency Agreement for Criminal and Administrative Investigations  
DSHS Administrative Policy 8.02, *Client Abuse*  
DSHS Administrative Policy 9.01, *Incident Reporting*  
DSHS Administrative Policy 9.03, *Administrative Review – Deaths of Residential Clients*  
[DDA Policy 5.13](#), *Protection from Abuse – Mandatory Reporting*  
[DDA Policy 7.05](#), *Mortality Reviews*  
[DDA Policy 12.01](#), *Incident Reporting*

Note: For ICF/IID CFR definitions of abuse and neglect refer to W127 and W149 in Appendix J of the State Operations Manual for ICF/IID.

For Nursing Facility CFR definitions relating to and including abuse and neglect, refer to F223, F224 and F225 in Appendix PP of the State Operations Manual for Long Term Care Facilities.

## **BACKGROUND**

Federal regulations require that Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) and Nursing Facilities (NF) have evidence that all incidents of suspected abuse, neglect, financial exploitation, or other serious incidents involving clients are thoroughly investigated, and that an immediate protection plan is implemented. The Developmental Disabilities Administration (DDA) established a Statewide Investigation Unit (SIU), independent

of the Residential Habilitation Centers (RHCs), to conduct investigations of suspected client abuse, neglect, financial exploitation, or other critical client incidents.

### **PURPOSE**

This policy establishes the statewide process for critical incident identification, investigation, and follow-up at the RHCs. Refer to [DDA Policy 12.01, \*Incident Reporting\*](#), for instruction on reporting critical incidents, including alleged abuse, neglect, financial exploitation, and abandonment. See also [DDA Policy 5.13, \*Protection from Abuse – Mandatory Reporting\*](#), for more information regarding mandatory reporting.

### **SCOPE**

This policy applies to SIU investigators and RHC staff for critical client incident investigations. The DDA-SIU investigates Category I incidents. The DDA-SIU does not investigate safety hazards, personnel performance, or major administrative allegations, unless they are directly related to the Category I incident list. SIU investigators may investigate other cases deemed necessary by the DDA Assistant Secretary or his/her designee, in conjunction with the SIU Unit Manager.

### **DEFINITIONS**

**Abuse** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation of a vulnerable adult and improper use of restraint which have the following meanings:

**Improper Use of Restraint** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

**Mental abuse** means any willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, intimidating, yelling, or swearing.

**Personal Exploitation** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

**Physical abuse** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

**Sexual abuse** means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under [Chapter 71A.12 RCW](#), and a vulnerable adult living in that facility or receiving service from a program authorized under [Chapter 71A.12 RCW](#), whether or not it is consensual.

**Financial exploitation** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity's profit or advantage other than for the vulnerable adult's profit or advantage.

**Neglect** means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under [RCW 9A.42.100](#).

**Category I Incident** refers to the most critical incident classification.

**Category II Incident** refers to a second class of incidents that require investigation. **Category II** incident investigations follow the procedures and reporting format described in this policy.

**DDA Statewide Investigation Unit (DDA-SIU)** refers to the DDA independent investigation unit made up of investigators that are assigned to DDA Central Office (with duty stations at the RHCs) who conduct investigations of Category I incidents at the RHCs.

**SIU Investigator** means the DDA Compliance and Investigation Managers (CIMs) who report to the DDA Statewide Investigation Unit Manager.

**Washington State Patrol DSHS Special Investigation Unit (WSP-SIU)** refers to the unit of the Washington State Patrol (WSP) that is assigned to DSHS.

## **POLICY**

- A. The RHCs must have systems in place to provide immediate/initial protective responses to incidents so that no further injury or harm occurs.

- B. Incidents that may occur at the RHCs which require an investigation are classified into two categories: **Category I** and **Category II**. The RHCs must refer all **Category I** incidents to the DDA-SIU for investigation.
- C. All **Category I** incident investigations of suspected criminal acts by current or former DSHS employees must be completed by local law enforcement and/or WSP-SIU.
1. When the WSP is conducting an investigation, the DDA-SIU will suspend its investigation until notification is received by the RHC administration.
  2. WSP-SIU will complete the administrative investigation for allegations that could lead to employee demotion or termination. Do not refer cases of progressive discipline to the WSP-SIU.
- D. All investigations must be conducted in a timely and thorough manner consistent with state and federal law, and administration policies and protocols.
- E. The RHC Superintendents are responsible to ensure plans of correction are developed and implemented.

F. **Incident Classification**

1. **Category I Incidents**

The following types of incidents/allegations are considered **Category I**:

- a. Abuse
  - 1) Improper use of restraint
  - 2) Mental Abuse
  - 3) Personal Exploitation
  - 4) Physical Abuse
  - 5) Sexual Abuse
- b. Client to client altercations when there is suspected staff or facility neglect;
- c. Death - Suspicious or unusual (including suicide);
- d. Financial exploitation;
- e. Medication error - which causes, or is likely to cause, injury/harm as assessed by a medical or nursing professional;
- f. Medication errors - reported patterns;

- g. Neglect;
- h. Physical intervention or restraint resulting in injury requiring treatment beyond minor first aid;
- i. Suicide attempt or threat (defined as the attempt or threat to take one's own life by an individual with the capacity to do so. "Capacity to do so" means the individual has the physical ability and resources available to carry out the threat.)

## 2. **Category II Incidents**

The following types of incidents/allegations are considered **Category II**:

- a. Client to client altercation(s);
  - b. Client who leaves the grounds of the RHC without needed support or supervision when suspected neglect is not involved;
  - c. Death (other than suspicious or unusual);
  - d. Physical intervention or restraint resulting in injury to the client that required basic first aid; and
  - e. Vehicular accident with client injury when operated by a state employee when suspected neglect is not involved.
- G. The DDA-SIU must conduct all **Category I** incident investigations. The DDA Assistant Secretary or his/her designee, in conjunction with the SIU Unit Manager, may request other incident types be investigated by the DDA-SIU.
- H. The RHC appointing authority or designee is responsible for the release of all SIU investigative documents, reports, evidence, etc., as required and according to state laws and regulations regarding confidentiality and disclosure.

## **PROCEDURES**

### **A. Initial RHC Actions Following an Incident**

- 1. Protect the person(s) and develop and implement an immediate protection plan;
  - a. Ensure everyone is safe;
  - b. Assess for injury or trauma; and

- c. Refer for treatment or provide care as needed.
3. Reporting
    - a. All incidents involving suspected abuse, improper use of restraint, neglect, self-neglect, personal or financial exploitation, abandonment and/or mistreatment of children or vulnerable adults must be reported to the proper authorities pursuant to [RCW 26.44](#), *Abuse of Children* and [RCW 74.34](#), *Abuse of Vulnerable Adults*.
    - b. Follow the incident reporting procedures described in [DDA Policy 12.01](#), *Incident Reporting*, and:
    - c. Report to local law enforcement and the WSP-SIU if the incident is criminal in nature.
    - d. Report an incident to the WSP-SIU if the allegation was proven to be true would result in employee demotion or dismissal.
    - e. Inform the client's legal representative and/or family;
  4. Initial Investigation
    - a. Begin an immediate (initial) investigation for incidents while notification to the SIU and/or other investigation units is in process.
    - b. Ask witnesses to write a statement of what occurred. Document if a staff refuses to make a statement. Do not ask for a statement from the accused employee(s) if this person has been identified.
    - c. Enter the incident into the appropriate incident management systems or databases (e.g., local RHC IR system or database, DDA Electronic IR System, Employee Investigation Management System (EIMS)).
  5. Secure and preserve evidence (see *Attachment A* for guidelines). For internal investigations or in the event there will be a delay in the arrival of an outside investigator, it may be necessary to secure:
    - a. Physical evidence;
    - b. Documentary evidence; and
    - c. Demonstrative evidence.

6. Ensure that the identities of reporters of **Category I and Category II** incidents under this policy remain confidential and not subject to disclosure, except as permitted by [RCW 74.34.035\(8\)](#) and [RCW 74.34.095\(1\)](#).
7. The Superintendent is responsible to:
  - a. Ensure all procedures as noted above have occurred; and
  - b. Manage disclosure and release of investigation records according to state law and department policy.

**B. Referral to the DDA-SIU**

1. Refer all **Category I** incidents to the DDA-SIU; and
2. When law enforcement/WSP is conducting an investigation, DDA-SIU will complete the initial *5-Day Investigation Report*, [DSHS 16-202](#), without interviewing the accused staff.
3. If law enforcement/WSP-SIU either decline to take the investigation or complete the investigation, the RHC will then notify the DDA-SIU for continuation of the 5-Day Investigation Report.
4. The DDA-SIU will then submit the final *5-Day Investigation Report*, [DSHS 16-202](#), which will include all involved individual testimonies.
5. The RHC may determine to return the accused staff to provide client care after the investigation by DDA-SIU is complete.
6. If at any time the appointing authority or the DDA-SIU is in doubt about the criminal context of an incident, contact the WSP-SIU for assistance.
7. See also *Attachment B, RHC Referral Flow Chart*.

**C. DDA-SIU Investigation of Category I Incidents**

1. The DDA-SIU investigator must, at a minimum:
  - a. Interview clients, witnesses and other involved parties. Do **not** interview the accused employee(s) in cases when law enforcement/WSP-SIU investigation is pending.
  - b. Interview staff witnesses in compliance with all Collective Bargaining Agreements (CBA) for representation during an investigation;

- c. Document interviews and obtain written statement, as appropriate;
- d. Review all related documentation;
- e. Collaborate as needed with outside agencies;
- f. Identify regulations, procedures, and standard operating procedures, etc., that may be applicable to the incident/allegation;
- g. Maintain client confidentiality according to state laws;
- h. Report immediately to the Superintendent or designee and the SIU Unit Manager both verbally and by email information that:
  - 1) Reveals a current or new threat to the health or safety of RHC clients or staff;
  - 2) May necessitate immediate action by the RHC or may be relevant to known pending administrative or personnel action(s); and/or
  - 3) Report to the Residential Care Services' Complaint Resolution Unit (CRU) if there is reason to believe that further abuse, neglect, exploitation, etc., are occurring.
- i. Complete and submit *5-Day Investigation Report*, [DSHS 16-202](#), and supporting documents, to the Superintendent or designee and the DDA-SIU Unit Manager within five (5) working days of the incident [per 42 CFR 483.420\(d\)\(4\)](#) and [42 CFR 483.13\(c\)\(2\)](#).

#### D. Investigation of Category II Incidents

- 1. The RHC conducts **Category II** incident investigations, unless the DDA Assistant Secretary or their designee, in conjunction with the SIU Unit Manager, request other incident types be investigated by the DDA-SIU.
- 2. The RHC investigator must follow incident reporting requirements and, at a minimum, do the following:
  - a. Interview clients, staff, and other involved parties;
  - b. Review all related documentation;
  - c. Collaborate with outside agencies, as needed;



- d. Identify regulations, procedures, and standard operating procedures, etc., that may be applicable to the incident/allegation; and
  - e. Complete and submit *5-Day Investigation Report*, [DSHS 16-202](#), to the Superintendent within five (5) working days of the incident per [42 CFR 483.420\(d\)\(4\)](#) and [42 CFR 483.13\(c\)\(2\)](#).
3. If at any time new information is discovered which indicates abuse, neglect, or suspected criminal acts may have occurred, the RHC will immediately upgrade the incident to a **Category I** and refer to the DDA-SIU and to the local law enforcement/WSP-SIU per policy requirements.

#### E. **RHC Administrative Review and Plan of Correction**

1. Upon receipt of the *5-Day Investigation Report*, [DSHS 16-202](#), the RHC will:
  - a. Document the corrective actions that will be taken to address each of the findings in the SIU investigation report on a *Plan of Correction (5-Day Investigation)*, [DSHS 16-202A](#). For a **Category I** incident, send the completed form to the SIU investigator within ten (10) working days.
  - b. The Plan of Correction (POC) must contain, at a minimum, the following elements:
    - 1) The specific correction/actions to be taken;
    - 2) The person who is responsible to ensure the correction/action is completed; and
    - 3) The date(s) the corrective action is expected to be completed.
  - c. Enter the follow-up / outcome into the appropriate incident management systems or databases (e.g., local RHC IR system or database, DDA Electronic IR System, EIMS).
2. The facility will record the completed date for each corrective follow-up/action step in the completed date(s) section. The facility will send the completed POC and any related documentation to the SIU investigator within thirty (30) calendar days of receipt of the final 5-Day Investigation Report.
3. The DDA-SIU investigator or RHC investigator, as appropriate, must conduct a thirty (30) day review of the status of the RHC's POC and complete Part C of *Plan of Correction (5-Day Investigation)* [DSHS 16-202A](#). The DDA-SIU investigator will continue to review the POC until its completion.

**F. DDA-SIU Quality Assurance Functions**

The DDA-SIU Unit Manager or designee must:

1. Review all **Category I** investigation reports to determine that investigations are thorough, complete, and that investigation procedures are being followed consistently;
2. Maintain a system for tracking trends and patterns, analyze, and prepare regular reports on **Category I** incidents. Reports are provided to and reviewed by the Office Chief, Office of Quality Assurance and Communications, RHC Superintendents, RHC Program Manager, and the Special Assistant to the Deputy Assistant Secretary.
3. Conduct quarterly reviews of RHC data on **Category II** incidents and review a sample of these investigation reports to assure that investigation procedures as specified in this policy have been implemented consistently and to identify staff training needs; and
4. Review incident reports sent from the RHCs to DDA Central Office to assure they are properly identified as **Category I** or **Category II**.

**EXCEPTIONS**

No exceptions to this policy may be granted without the prior written approval of the DDA Assistant Secretary or their designee.

**SUPERSESSSION**

DDD Policy 12.02

Issued September 4, 2012

Approved: /s/ Donald L. Clintsman  
Deputy Assistant Secretary  
Developmental Disabilities Administration

Date: January 15, 2017

Attachment A, *Guidelines to Secure and Preserve Evidence*

Attachment B, *RHC Referral Flow Chart to Law Enforcement / WSP-SIU / DDA-SIU*

## GUIDELINES TO SECURE AND PRESERVE EVIDENCE

For internal investigations or in the event there will be a delay in the arrival of an outside investigator, it may be necessary to secure and preserve evidence. RHC and ICF/IID staff must follow these guidelines:

- A. **Physical Evidence** (objects, property, possessions, other materials):
1. **Do not touch or move any item that was used as or could have been used as a weapon. Wait for law enforcement to arrive.**
  2. **If possible, secure/protect the incident scene and do not disturb evidence.**
  3. **If evidence has to be disturbed, follow this guide:**
    - a. **Porous Materials** (e.g., clothing, sheets): Store in porous containers such as paper bags.
    - b. **Non-porous Materials** (e.g., plastics, metals, glass, latex gloves): Store in non-porous containers such as plastic bags.
    - c. **Secure all Physical Evidence: *The chain of custody is critical.*** The investigator must show exactly where the evidence has been from the moment of collection to its presentation at a hearing.
  4. **Secure Location:** Maintain all evidence collected in a secured double locked location with limited access (e.g., locked closet or file cabinet secured by a locked exterior door). Record or track all evidence in writing, including the names of all persons who had access to the evidence.
- B. **Demonstrative Evidence** (photos, diagrams, maps, drawings, audio tapes, videotapes):
1. **Photograph** the area of the body where the alleged injury has occurred. This should be done whether or not signs of injury are visible.
  2. **Photograph or sketch** the area of a possible incident scene when the scene cannot be secured.
- C. **Documentary Evidence** (staff statements, incident reports, attendance records, progress notes, nursing/medical assessments, etc.):
- D. **Staff Inquiries:** It may be necessary to talk with witnesses and other staff immediately to develop a protection plan necessary for client safety. Be sure to document key information disclosed during these initial inquiries for the

## ATTACHMENT A

investigator. Record the names and phone numbers/contact information of any persons in the area (i.e., witnesses, responders). Formal interviews and written statements should be coordinated with the investigator.

E. **Investigation Kits**: The facility must maintain an investigation kit and staff must be aware of its location and content. A basic investigation kit includes, at a minimum, the following items:

1. A camera (and film if necessary);
2. Clean paper and plastic bags; and
3. A notebook and pen.

### RHC Referral Flow Chart To Law Enforcement / WSP-SIU / DDA-SIU

