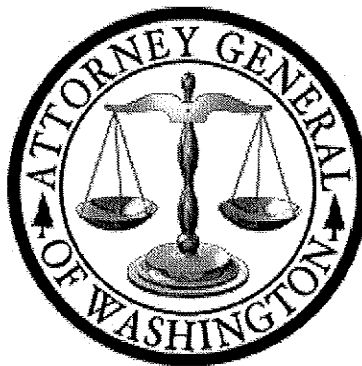
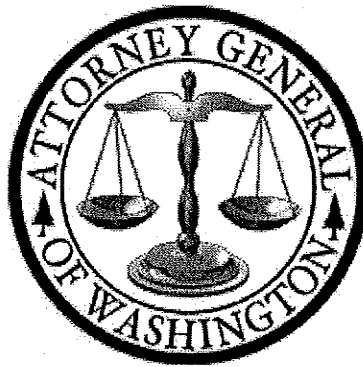


**Vulnerable Adult Abuse
Investigation Manual
for
Law Enforcement**



Rob McKenna
Attorney General of Washington

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This manual was prepared by the Medicaid Fraud Control Unit of the Attorney General's Office to assist in the investigation of cases involving abuse or neglect of vulnerable adults.

If you are investigating abuse or neglect committed by a Medicaid provider or that occurred in a Medicaid funded facility, please contact the Medicaid Fraud Control Unit for assistance:

(360) 586-8888

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APPENDICES

- A. Vulnerable Adult Financial Exploitation Investigations Checklist
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- C. Body Diagrams
- D. Releases
- E. Sample Search Warrant Language
- F. Mini-Mental State Examination
- G. Health Insurance Portability and Accountability Act “Miranda” Card

VULNERABLE ADULT ABUSE GUIDELINES FOR LAW ENFORCEMENT IN WASHINGTON STATE

I. INTRODUCTION

Vulnerable adults who have been victimized need and deserve the protection of law enforcement and the criminal justice system. This protection begins with a responsive and thorough investigation. These types of investigations can be challenging and time consuming, yet extremely rewarding.¹

Vulnerable adult abuse and/or neglect investigations are similar to other cases investigated by law enforcement: the investigator must ask who, what, where, when, why, and how in order to develop a solid case for prosecution. The guidelines outlined in this manual are designed to maximize the success of investigations into the abuse, neglect, or exploitation of vulnerable adults in Washington State.²

This manual identifies tools and methods for law enforcement to use while investigating crimes against vulnerable adults. Understanding unique methods for investigating crimes against vulnerable adults can result in the development of local procedures and protocols, as well as coordination with other agencies and professionals, to ensure that the needs of vulnerable adults are met. There are special circumstances to be aware of when performing these types of investigations that will be explained later in this manual.³

II. TERMINOLOGY

A. Definition of Vulnerable Adult

When an officer responds to a crime, s/he has many things to consider: protecting the crime scene, aiding the injured, apprehending the suspect, etc. The thought of defining a victim as a vulnerable adult would not always come to mind because an officer's duty typically is to protect all victims. Yet, law enforcement officers need to be aware that there is an adult population that is more vulnerable and requires protection.

Law enforcement officers are accustomed to reviewing the criminal code to determine what crimes are supported by a particular set of facts. Law enforcement must also use the criminal code to determine whether a victim is a vulnerable adult in order to define abuse and/or neglect. Washington statutes and case law defines vulnerable adult, abuse, and neglect.⁴

¹ Law Enforcement Response to Child Abuse • Portable Guide • Contributing Authors: Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Published May 1997; March 2001 • pgs 2-27.

² Id.

³ Law Enforcement Response to Child Abuse • Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Published May 1997 • pgs 1-4.

⁴ Law Enforcement Response to Child Abuse • Portable Guide • Contributing Authors: Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Published May 1997 ; March 2001 • pgs 2-27.

Under Washington law, a vulnerable adult is defined as:

- A person 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself;
- A person found incapacitated;
- A person over the age of eighteen who has a developmental disability;
- A person admitted to a licensed long-term care facility or one that is required to be licensed under state law;
- A person receiving services from a licensed home health, hospice, or home care agency, or one that is required to be licensed under state law.⁵

Statutes that protect vulnerable adults may also refer to the vulnerable adult as a “dependent person.” A dependent person is defined as:

A person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life...⁶

There are specific instances when a person is presumed to be a dependent person. An individual is presumed to be a dependent person if they are:

- A resident of a nursing home, as defined in RCW 18.51.010;
- A resident of an adult family, home as defined in RCW 70.128.010; and/or
- A frail elder or vulnerable adult, as defined in RCW 74.34.020(13).⁷

Washington State has specific statutes to protect this population. The term “vulnerable adult” is used to refer to an adult who has unique vulnerability issues regardless of whether the narrow legal definitions are satisfied. Understanding the legal definition of vulnerable adult is necessary so that the officer can identify the potential crimes that are being investigated.

1. Prevalent Causes of Vulnerability

There are many different ways that a person can be vulnerable. The most common causes of vulnerability are:⁸

Dementia: Dementia is an acquired usually progressive condition characterized by a decrease in short term memory, a reduction in another cognitive sphere such as judgment, language, math, reading or writing, and a reduction in acquired skills such as: employment skills, social skills, or the ability to take care of oneself. Dementia is not an illness; it is a

⁵ RCW 74.34.020(13).

⁶ RCW 9A.42.005.

⁷ RCW 9A 42.010(4).

⁸ Provided by Bryan Kemp, PhD • Center for Excellence of Elder Abuse & Neglect • www.centeronelderabuse.org.

syndrome that is caused by other diseases, the most common being Alzheimer's disease. People with dementia are susceptible to other health problems that make them even more vulnerable. They are especially prone to falls, infection, dehydration, non-compliance with prescription medications, as well as psychiatric conditions such as paranoia and agitation. It is the leading cause of vulnerability among older persons that then leads to abuse, neglect, and other forms of mistreatment. People with dementia tend to be forgetful, have poor judgment and reasoning, can become easily confused and difficult to care for on an on-going basis. It is important to be able to accurately assess the presence of dementia and how long the victim has had it to guard against the perpetrator arguing that the victim seemed perfectly normal to him/her. Accurate diagnosis of dementia requires a full medical exam, a neurological evaluation, and a neuropsychological assessment.

Depression and Grief: Grief is a normal response to loss such as the death of a loved one. Depression is an abnormal response to loss and stress. Both are common in later life. The process of grief takes approximately one year to resolve. Grief produces intense feelings, and can also produce confusion, exhaustion, loneliness, dependence, and indecision. This can make a grief stricken person vulnerable. Depression causes severe emotional, cognitive, behavioral, and psychological symptoms that can make the person incapable of making sound judgments, resisting the influence of others, caring about what is happening to them, and having the motivation to look after themselves. Depression can last indefinitely. It can be masked or displayed in various ways making it difficult to detect. Like dementia, the diagnosis of depression requires a full medical exam, a neurological evaluation, and a psychological assessment.

Disability: Disability means a lessened ability to perform skilled tasks. Disabilities are caused by among other things, strokes, Alzheimer's disease, low vision, heart disease, depression, and arthritis. The primary ways that disability causes vulnerability are through a decreased ability to defend oneself, an increased physical dependence on other people for daily survival, and a fear of abandonment by people who provide the care.

Drugs: Elders have decreased physiological reserves and decreased drug clearance. They are more likely to have drugs present in their bodies for longer periods of time compared to younger individuals. Many drugs that older persons take are psychotropic with substantial effects on their cognition. Many over-the-counter drugs also contain ingredients that produce substantial effects on cognition. Elders who have neurological illnesses such as Alzheimer's disease or strokes are sensitive to small amounts of medicines. The most common over-the-counter drug is alcohol. Sensitivity to alcohol increases with age. This means the same

abused by others. Fear makes people vulnerable because it makes them look for and believe in anything that will reduce the fear. If the elderly person fears the loss of love from their children, for example, he or she may go to great lengths to prevent the loss of that love, even enduring abuse.

Personality Characteristics: Personality traits that make a person vulnerable to abuse includes: long standing insecurity, dependency, inadequacy, and naiveté. When circumstances of life occur such as the death of a spouse, disability, or the threat of withdrawal of support these individuals may turn to others who promise to meet their psychological needs. The people they turn to can be well-meaning and helpful or they can be exploitive and manipulative.

B. Crimes Relating to Vulnerable Adults or Dependent Persons

Now that you have an understanding of the definition of vulnerable adult and dependent person, it is important to understand the four criminal statutes that were specifically designed to protect these populations. These four criminal statutes are:

1. Criminal Mistreatment

There are four degrees of Criminal Mistreatment. Criminal Mistreatment in the first degree is a class B felony. The elements of Criminal Mistreatment in the first degree are that:

- The suspect withheld any of the basic necessities of life from a dependent person.
- By withholding any of the basic necessities of life, the suspect recklessly caused great bodily harm to the dependent person; and the suspect is a person entrusted with the physical custody of the dependent person.
- A person employed to provide the dependent person with the basic necessities of life.⁹

Criminal Mistreatment in the second degree is a class C felony. The elements of Criminal Mistreatment in the second degree are that:

- The suspect withheld any of the basic necessities of life from a dependent person.
- By withholding any of the basic necessities of life, the suspect recklessly created an imminent risk of death or great bodily harm or causes substantial bodily harm by withholding the basic necessities of life.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹⁰

Criminal Mistreatment in the third degree is a gross misdemeanor. The elements of Criminal Mistreatment in the third degree are that:

⁹ RCW 9A.42.020.

¹⁰ RCW 9A.42.030.

- The suspect withheld any of the basic necessities of life from a dependent person.
- By withholding the basic necessities of life, the suspect with criminal negligence created a substantial risk of death or great bodily harm or caused great substantial bodily harm by withholding any basic necessities of life.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹¹

Criminal Mistreatment in the fourth degree is a misdemeanor. The elements of Criminal Mistreatment in the fourth degree are that:

- The suspect withheld any of the basic necessities of life from a dependent person.
- By withholding the basic necessities of life, the suspect with criminal negligence creates an imminent risk of bodily injury or extreme emotional distress manifested by more than transient physical symptoms by withholding any of the basic necessities of life.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the necessities of life.¹²

2. Abandonment of a Dependent Person

There are three degrees of Abandonment of a Dependent Person. Abandonment of a Dependent Person is a class B felony. The elements of Abandonment of a Dependent Person in the first degree are that:

- The suspect recklessly abandoned the dependent person.
- As a result of being abandoned the dependent person suffered great bodily harm.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹³

Abandonment of a Dependent Person in the second degree is a class B felony. The elements of Abandonment of a Dependent Person in the second degree are that:

- The suspect recklessly abandoned the dependent person.
- As a result of being abandoned, the dependent person suffered substantial bodily harm, or abandoning the dependent person created an imminent and substantial risk that the dependent person would die or suffer great bodily harm.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹⁴

¹¹ RCW 9A.42.035.

¹² RCW 9A.42.037.

¹³ RCW 9A.42.060.

¹⁴ RCW 9A.42.070.

- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹³

Abandonment of a Dependent Person in the second degree is a class B felony. The elements of Abandonment of a Dependent Person in the second degree are that:

- The suspect recklessly abandoned the dependent person.
- As a result of being abandoned, the dependent person suffered substantial bodily harm, or abandoning the dependent person created an imminent and substantial risk that the dependent person would die or suffer great bodily harm.
- The suspect is a person entrusted with the physical custody of the dependent person or a person employed to provide the dependent person with the basic necessities of life.¹⁴

Abandonment of a Dependent Person in the third degree is a gross misdemeanor. The elements of Abandonment of a Dependent Person in the third degree are that:

- The suspect recklessly abandoned the dependent person.
- As a result of being abandoned, the dependent person suffered bodily harm; or abandoning a dependent person created an imminent and substantial risk that the dependent person would suffer substantial bodily harm.
- The suspect is a person entrusted with the physical custody of a dependent person or a person employed to provide the dependent person with the basic necessities of life.¹⁵

3. Endangerment with a Controlled Substance

Endangerment with a Controlled Substance is a class B felony. The element of Endangerment with a Controlled Substance is that:

- Knowingly or intentionally permitting a dependent person to be exposed to, inhale, ingest, or have contact with methamphetamine, ephedrine, pseudo ephedrine, or anhydrous pneumonia that are being used in the manufacture of methamphetamine.¹⁶

4. Sexual Offenses – Rape in the Second Degree and Indecent Liberties

Rape in the second degree is a class A felony. Indecent Liberties is a class B felony. The elements of Rape in the second degree are that:

¹³ RCW 9A.42.060.

¹⁴ RCW 9A.42.070.

¹⁵ RCW 9A.42.080.

¹⁶ RCW 9A.42.100.

- The defendant engaged in sexual intercourse with the victim;
- The defendant is not married to the victim;
- The victim has the following characteristics:
 - Incapable of consent by reason of being physically helpless or mentally incapacitated;
 - Developmentally disabled and the defendant has supervisory authority over the victim; or
 - Is a frail elder or vulnerable adult and the defendant has a significant relationship with the victim.

OR

- The perpetrator is a health care provider who engaged in intercourse during a treatment session, consultation, interview, or examination.¹⁷

A defendant has supervisory authority over a vulnerable adult if s/he is a proprietor or employee of a care or treatment facility.¹⁸

The only difference between the elements necessary to prove indecent liberties as compared to those necessary to prove rape in the second degree is the requirement of intercourse (rape) as opposed to sexual contact (indecent liberties).¹⁹

III. VULNERABLE ADULT ABUSE INVESTIGATIONS

While vulnerable adults are specifically protected under the aforementioned statutes, it is necessary to remember that vulnerable adults are protected by all criminal statutes. Moreover, a senior citizen who does not satisfy the definition of vulnerable adult may still be vulnerable due to age, mobility concerns, living arrangements, or other circumstances. Therefore, it is essential to consider all crimes as possible charging alternatives when investigating a case in which a vulnerable adult is the victim. Additionally, documenting the basis for vulnerability is important even if the victim's vulnerability is not an element of the crime because those facts can form the basis for alleging aggravating circumstances that can be used to increase the perpetrator's sentence.²⁰

A. Basic Investigation

Now that we have established the definition of a vulnerable adult and identified the crimes specifically designed to protect them, the next step in protecting these

¹⁷ RCW 9A.44.050.

¹⁸ RCW 9A.44.010(11).

¹⁹ Cf. RCW 9A.44.100 and RCW 9A.44.050.

²⁰ See RCW 9.94A.535(3)(a)(b).

individuals is identifying how law enforcement can effectively investigate these crimes. The three types of abuse that vulnerable adults encounter most often are:²¹

- Financial
- Physical
- Sexual

There are three things to consider when investigating a crime against a vulnerable adult.²²

- How is the person vulnerable?
- What are the characteristics of the perpetrator?
- What are the dynamics of the interaction between the perpetrator and vulnerable adult?

Whether the abuse is financial, physical, or sexual, there are usually five elements present in abuse situations:²³

- There is another person who wants something and takes advantage of that specific vulnerability.
- There are methods used to try to control or isolate the vulnerable adult to prevent them from having contact with other people.
- There is overt abuse, for example the taking of assets or the physical infliction of harm.
- There are attempts to keep the abuse secret by additional threats or promises to make things better.
- There is no concern on the part of the perpetrator of the consequences of the abuse on the victim.

Vulnerable adult investigations are unique compared to other types of investigations law enforcement encounter on a regular basis. As a result of this uniqueness, it is critical to use the following touchstones when you start a vulnerable adult investigation:²⁴

- Do not prejudge whether a case is civil or criminal. At the beginning of your investigation, a situation that clearly seems like a civil matter may really be a criminal matter.

²¹ Provided by Bryan Kemp, PhD • Center of Excellence in Elder Abuse & Neglect • www.centeronelderabuse.org.

²² Provided by Bryan Kemp, PhD • Center for Excellence in Elder Abuse & Neglect • www.centeronelderabuse.org • presentation on September 13, 2005, Eugene OR.

²³ Provided by Bryan Kemp, PhD • Center of Excellence in Elder Abuse & Neglect • www.centeronelderabuse.org.

²⁴ Recognition, Investigation & Prosecution of Financial Crimes Against the Elderly • Lynn Prunhuber JD • January 18, 2005 • North Sound Winter Conference presentation • pgs 2-22.

- Do not prejudge the competency of the victim, either as competent or incompetent. Competency involves a broad spectrum of activities and changes over time. This is not always a yes/no question. If competency is an issue, you should seek an expert evaluation that uses functional tests to develop competency. (See below).
- Do not be discouraged if incompetence is established. There are many things you are still capable of doing to prove a crime was committed. Incompetent individuals are our most vulnerable adults and must be protected by the law. Without your work individuals who can be as vulnerable as children would be forgotten and left unprotected.
- Document the victim's ability to communicate. Clear? Confused? Can they communicate verbally? Things such as asking the victim to name the months of the year, the sitting president, and counting from 10 backwards, would be good indicators on whether the victim is competent and able to effectively communicate with you.
- Treat every case as a potential homicide from the beginning. The victim may not be capable of being interviewed or may become disabled during the investigation. This makes documentation, photographs, and evidence collection even more central to the success of your investigation.
- Remember to photograph the scene and, include any injuries to the vulnerable adult. Make sure that photographs are marked with the date, time, victim's name, photographer's initials, and case number and turned over to you as evidence. Photographs can be taken by police officers, investigators, Adult Protective Services (APS) workers, physicians, nurse examiners, or other parties if they are transported to the hospital. Copies of the photographs taken by other law enforcement, APS workers, physicians, nurse examiners, or other parties should be obtained early in the investigation. A good rule of thumb in cases like these is to have any photographs of the victim taken by someone of the same sex.²⁵
- Contact APS for the victim. APS social workers investigate allegations of abuse, neglect, abandonment, and financial exploitation. Based on the outcome of their investigation, they may offer legal and social protection services to victims. Working together can enhance your investigation while providing needed

²⁵ Law Enforcement Response to Child Abuse • Portable Guide • Contributing Authors: Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Published May 1997; March 2001 • pgs 2-27.

services to the victim with their consent. APS can seek protection orders and assist in establishing a guardian if needed.

(RCW 9A.24.039 requires law enforcement officers to notify APS when the officer arrests a person for criminal mistreatment of a dependent person).

- If an individual is unwilling to speak with you, remember that there may be underlying factors. Examples of why an individual maybe unwilling to speak with you include: threats made by the suspect, affection for the suspect, fear of abandonment, and/or fear of the criminal justice system.²⁶
- Be aware of the caregiver's actions: can the victim be interviewed outside of his/her presence? Does s/he speak for the victim? Do they talk about how great they are as a caregiver? If the caregiver won't leave and won't let the victim talk there may be a problem of control over the victim. The victim must be allowed to talk without the presence of the caregiver.²⁷
- Obtain a medical release from the victim or their guardian as soon as you can. This will allow you to obtain the medical records of the victim and speak with the victim's physician in order to obtain a medical history.²⁸
- Document all medications belonging to the victim. Talk with the victim's physician about possible side effects associated with the medication.
- Arrange for a medical examination and transportation to the hospital when applicable. Coordinate with APS if they are available, to determine if you or the APS worker will accompany the vulnerable adult to the examination.²⁹

B. Special Considerations

In an attempt to be as thorough as possible in a vulnerable adult investigation, it is important to address the following issues regarding the victim's ability to participate in the investigation and their potential fear and/or other limitations.

²⁶ Investigation and Prosecution of Elder Abuse and Neglect • Diane Wherley, Detective, Seattle Police Department • Page Ulrey Senior Deputy Prosecuting Attorney, King County Prosecutor's Office • North Sound Winter Conference presentation • January 18, 2005 • pg 6.

²⁷ Id.

²⁸ Id at 17.

²⁹ Author Unknown.

1. Victim Issues/Concerns

a. Capacity

When looking at capacity, the basic question to answer is: did the victim have the mental capacity to give consent or agree knowing the consequences of their actions? This will be important if the suspect argues that the victim knew what was taking place and gave his/her consent.

Under RCW 11.88.010 a person is incapacitated when:

- The superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety;
- The superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs (this relates to a person's estate).

Incapacity under RCW 11.88.010 is a legal definition, not a medical decision. However, medical records and a medical evaluation can be instrumental in determining capacity. Moreover, medical records are instrumental in determining capacity to testify. Therefore, a victim's medical records and evaluation should be obtained as soon as possible after an incident has occurred.³⁰

b. Reliance on Others/Pressures/Fears

While capacity is one issue, there may be other underlying reasons why a victim may not want to cooperate with an investigation. For example, the victim may have capacity, but may be limited physically. Here are some basic questions that need to be answered during the investigation.³¹

- Does the victim believe s/he has been victimized? Why? By Whom? How discovered? What is missing?
- What is the relationship with the suspect? When and how met? If s/he is a relative, when and how has the frequency of contact changed? What did the victim authorize the suspect to do? Duties? Salary? Responsibilities regarding finances? What did the suspect tell the victim? Did the suspect initially do as required? When did that change? Changes in salary? Gifts? Loans?
- What is the victim's attitude toward suspect? Has it changed? How?

³⁰ Provided by Bryan Kemp, PhD • Center of Excellence in Elder Abuse & Neglect • www.centeronelderabuse.org.

³¹ Investigation and Prosecution of Elder Abuse and Neglect • Diane Wherley, Detective, Seattle Police Department • Page Ulrey Senior Deputy Prosecuting Attorney, King County Prosecutor's Office • North Sound Winter Conference presentation • January 18, 2005 • pg 2-22.

- Does the suspect control who sees and speaks with the victim?
- What medications is the victim taking? Who administers them? Who prescribed them? What are the side effects? Why were they prescribed?
- What are the names of victim's doctor, lawyer, banker, close friends and relatives? Have any of these changed since the suspect has been involved? Interview previous doctors, lawyers, bankers, etc.
- What was the victim's spending pattern before the suspect was involved?
- What is the victim's current knowledge of spending pattern, financial status? Use checks and documents to ask questions regarding knowledge and/or refresh recollection.
- What did the victim authorize?
- What is the victim's level of functioning? What can s/he do for himself/herself? What does s/he need help with? Does the victim have difficulty understanding or remembering things? Does the victim become easily confused?

c. Unique Physical Concerns

Another reason why a victim may not want to cooperate with the investigation are unique physical concerns.

- Is the victim bed bound or can they move about freely?
- Can they see and/or hear without limitations?
- Are there on-going medical concerns and treatments that have to be attended to?
- Are the basic necessities of life such as food, water, and medical treatment available to them?

The vulnerable adult's reliance on others plays a big part during an investigation. As a child has to depend on others for the basic necessities of life, so do vulnerable adults. Threats and promises are also used against the victim in order to force cooperation. This dependence puts the vulnerable adult in a position where they may have to choose between cooperating in an investigation and losing the person who has been assisting them, or protecting a person who may have been doing them harm. As you can imagine these are difficult choices to make. This is why we must protect the victim from harm by conducting an investigation as thoroughly as possible.³²

2. Neglect

Complaints of neglect can be difficult cases to investigate. Here is an example. An officer is called to the scene of a neglect complaint and does not really know where to begin. The victim cannot speak to tell you what has been happening. The complainant is a relative or close friend who sees the person is having physical problems. The victim is extremely thin and appears to have been mistreated. There are bruises on the victim and

³² Investigation and Prosecution of Elder Abuse and Neglect • Diane Wherley, Detective, Seattle Police Department • Page Ulrey Senior Deputy Prosecuting Attorney, King County Prosecutor's Office • North Sound Winter Conference presentation • January 18, 2005 • pg 2-22.

the officer discovers that the victim has bedsores. This could be neglect or this could be a medical condition. An officer typically needs to answer the basic questions of who, what, when, why, and how when investigating issues of neglect.

- Who has the duty of care for this person? Is the victim being supplied with the basic necessities of life?
- What is the victim's medical history and what is the caregiver's history or the facility's history?
- What is the condition of the home? For instance, is the home equipped with devices for the disabled? Is it wheelchair accessible?
- When did the caregiver or facility begin providing care?
- Where was the victim before entering the facility or needing a caregiver?
- Why does the victim need care?
- How often is the victim being fed and given hydration? Is there food in the refrigerator at home? Is it food the victim can eat?
- Are medical needs being properly attended to?³³

Answering these questions will supply quite a bit of background information. In cases where the victim is Medicaid eligible and is living at home a Comprehensive Assessment Reporting and Evaluation (CARE) would have been completed. A CARE assessment is an assessment of the victim's needs and establishes hours that Medicaid will pay a caregiver to meet those needs. For instance, if a person is found to have skin breakdown problems the CARE assessment will address it. If a client is not ambulatory and is bed bound, the assessment will state that they are to be turned every two hours, more or less, to prevent skin breakdown. This assessment addresses areas of need for a client. If for instance, the assessment is not followed and the client is not turned, bedsores may appear. This would be neglect.

IV. GATHERING EVIDENCE

A. Records/Documents

When responding to a call of abuse and/or neglect at a facility such as a nursing home, boarding home, or adult family home the officer should be cognizant that the facility is a crime scene.³⁴ An investigation should be conducted accordingly. In a residential care setting such as a nursing home, boarding home, or adult family home, most complaints of abuse or neglect against a vulnerable adult are investigated by the Department of Social and Health Services (DSHS) division of Residential Care Services (RCS). RCS are complaint investigators with a nursing background who are trained to investigate a facility's response to abuse and/or neglect complaints lodged against them.

³³ Investigation and Prosecution of Elder Abuse and Neglect • Diane Wherley, Detective, Seattle Police Department • Page Ulrey Senior Deputy Prosecuting Attorney, King County Prosecutor's Office • North Sound Winter Conference presentation • January 18, 2005 • pg 6.

³⁴ Law Enforcement Response to Child Abuse • Portable Guide • Contributing Authors: Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Published May 1997; March 2001 • pgs 2-27.

they could face triple civil damages. Law enforcement during the course of an investigation may ask for the needed documents. The facility is not required to make those documents available without a search warrant. A HIPAA tip sheet can be found in Appendix G.

1. Medical Release

The victim's medical records are crucial to an effective investigation. The best way to access medical records is to obtain a signed release from the victim or the victim's guardian. If the victim is not competent and there is no guardian one needs to be established. Contacting APS or the Division of Developmental Disabilities (DDD) may help in this regard. They have the power in certain situations to petition for a guardianship, or if they cannot help they can typically help you find an agency that can.

If the victim has Medicaid funding the DSHS Home & Community Services division or the DDD may be involved. If they are, the victim will have an assigned case manager. The case manager can assist you in obtaining copies of documents and provide you with a client history. Make sure and obtain the case manager's Service Episode Report (SER) notes about the victim.

If the facility receives Medicaid monies and the investigation involves Medicaid fraud or abuse and/or neglect of a vulnerable adult, the Attorney General's Office Medicaid Fraud Control Unit (MFCU) is a covered entity under HIPPA and can access medical information without a search warrant.

Typically the victim can sign the medical release. If the victim is not competent then the guardian or power of attorney can sign. If there is no guardian or power of attorney, then contact APS or the DDD for assistance.

2. Obtaining Search Warrants

At times, a situation will require you to obtain a search warrant. Make sure and list all pertinent documents needed. The items sought through a search warrant will vary depending on the facility or person being searched.

Hospital or Health Care Provider

Be sure to request records pertaining to patient/resident for the specific time period you are inquiring about. Include in your request the following information, whether for inpatient and/or outpatient records:

- Admission records, both nursing and physician
- Emergency room records and support service documentation
- Laboratory records
- Imaging reports
- Pathology reports
- Support services reports such as nutrition or social work
- Medication records including the Medication and Administration records
- All Progress notes, including physician, nursing and allied health
- Problem lists, which include diagnosis, allergies and problems
- Dictated reports including History and Physical, Operative reports, Consultations and Discharge Summaries
- Clinic notes
- Progress notes

Emergency Management Team/Fire Department Personnel

- Run reports and any documents included with them.

Nursing Home

- Incident Report
- Progress Notes
- Nurse's Notes
- Doctor's Notes
- Floor/Assignment Sheets
- Schedule

Adult Family Home or Boarding Home

- Victim's negotiated CARE plan
- Victim's file
- Provider's file

Although a search warrant will be based on information needed for a specific investigation, the documents mentioned above are good starting points in any vulnerable adult investigation. It is always better to be expansive in your request in order to avoid missing relevant evidence.

C. Interviews

1. Alleged Perpetrator

When interviewing the alleged perpetrator, the investigator:³⁵

- Identifies himself/herself and describes the investigator's responsibility to investigate;
- Informs the alleged perpetrator that a report of abuse, neglect or exploitation has been received, and explains the role of the investigator and the purpose of the investigation. The investigator shall not reveal the reporter's name;
- Specifies the allegation(s) contained in the report and requests the alleged perpetrator's response;
- Informs the alleged perpetrator that there may be a need to interview other individuals in order to complete the investigation, and requests the name of any individuals whom the alleged perpetrator believes should be interviewed;
- Informs the alleged perpetrator that there may be a need for more interviews with him/her in order to obtain additional information and/or to discuss the results of the investigation; and
- Informs the alleged perpetrator that the information regarding the investigation is confidential.

2. Collateral Contacts

The Investigator should interview any individual who is believed to have information on the reported allegation(s), including, but not limited to the following:³⁶

- The alleged victim's guardian, if any;
- The individuals who have been identified on the reporting form as having information on the allegation(s) specified in the report;
- The individuals whom the alleged victim and/or alleged perpetrator, if any, have identified as having information; and
- Other individuals who have come to the investigator's attention as having information regarding the allegation(s).

When interviewing collateral contacts, the investigator:³⁷

- Identifies himself/herself and describes the investigator's responsibility to investigate;
- Informs the collateral contact(s) that a report of abuse, neglect, or exploitation has been received, and explains the role of the investigator and the purpose of the investigation. The investigator shall not reveal the reporter's name;
- Specifies the allegations contained in the report and requests the collateral contact's response;

³⁵ Author Unknown.

³⁶ Author Unknown.

³⁷ Author Unknown.

- Informs the collateral contacts that there may be a need for more interviews with him/her in order to obtain additional information; and
- Informs the collateral contacts that the information about the alleged victim and the investigation is confidential.

3. Vulnerable Adult Victim

There should always be an attempt to interview the victim of a crime. We should never assume that a vulnerable adult cannot be interviewed, although some victims may not be. There are some basic rules to follow when attempting to interview a vulnerable adult:

- Be aware of relevant developmental issues such as dementia or Alzheimer's as well as the need for interpreters or assistive devices;
- Be aware that a person with dementia can still be interviewed depending on their level of disability;
- The interviewer is comfortable, neutral, eye-level, and a safe distance from the victim;
- Assess and establish competency at the time of interview. Ask a few simple questions like time of day, months of the year, who is the sitting president, to establish competency;
- If the victim insists on someone else being in the room, make sure it is not the perpetrator or someone representing the perpetrator;
- As in child abuse cases, interviews should begin with general questions, move to more specific questions, and finish with general questions. Expect to have to repeat what is said. Patience, patience, patience;
- Inform the victim that there may be a need to interview other individuals in order to complete the investigation and ask for the names of any individuals whom the victim believes should be interviewed.

V. CONCLUSION

"A society is ultimately judged by how it treats its weakest and most vulnerable members." - Anonymous

Vulnerable adults who have been victimized need and deserve the protection of law enforcement and the criminal justice system. This protection begins with a responsive and thorough investigation and ends with holding those who would prey on vulnerable adults accountable for their actions.

This manual was created to provide you with an understanding of the many factors that may cause an adult to become vulnerable. In addition, this manual can assist in showing how law enforcement, working together with partner agencies, can deal successfully with those factors while conducting a thorough investigation of crimes perpetrated against vulnerable adults. Investigating crimes against vulnerable adults poses many challenges: victims who may be incompetent or unstable, professionals violating trust by preying on others, and facing our own end of life issues. Thorough investigations followed by prosecutions and accountability ultimately can allow everyone in Washington to mature with dignity, respect and honor.

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- 5. Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh • Title: "Law Enforcement Response to Child Abuse" • Series: "Portable Guide" • Published May 1997 ; March 2001 Pgs 2-27.**
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- 7. Author Unknown.**

APPENDICES CONTRIBUTORS

Appendix A - Lynn Prunhuber JD, Senior Deputy Prosecuting Attorney, King County Prosecutor's Office.

**Appendix B - Diane Wherley, Detective, Seattle Police Department. Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, Bill Walsh.
Author Unknown**

Appendix C - Washington State Department of Social & Health Services (DSHS)

Appendix D - Washington State Office of the Attorney General

Appendix F - Folstein M, Folstein S, McHugh P. *Mini-Mental State. A practical method for grading the cognitive state of patients for the clinician.* J Psych Res 1975;12:189-198. This is copyright protected and should not be copied with authorization.

Appendix G - U.S. Department of Justice, Criminal Division (September 2006)

GLOSSARY OF TERMS

Abuse is 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, and exploitation of a vulnerable adult.

Administrator is the manager of a nursing home facility.

***Aging & Disabilities Service Administration (ADSA)** the Aging and Disability Services Administration assists children and adults with developmental delays or disabilities, cognitive impairment, chronic illness and related functional disabilities to gain access to needed services and supports. The ADSA manages a system of long-term care and supportive services that are high quality, cost effective, and responsive to individual needs and preferences.

Adult family home is a home-like setting for two or more residents over the age of 18 with a disability that requires staff support and/or supervision.

Alzheimer's Disease is a progressive disease that attacks the brain and results in impaired memory, thinking, and behavior. It is the most common form of dementia.

***Ambulatory Status** is the status of a person's mobility.

***Adult Protective Services (APS)** is a division of DSHS Aging & Disability Service Administration that protects vulnerable adults by investigating allegations of abuse, neglect, abandonment, and financial exploitation. Based on the outcome of the investigation, APS may offer legal and social protective services that the victim can either refuse or accept.

Basic Necessities of Life are food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

Boarding home is a community based facility that provides residential support to the elderly and to adults with disabilities. They can support anywhere from six to more than one hundred fifty people.

CARE (Comprehensive Assessment Reporting and Evaluation) Assessment-an assessment tool used by a case manager or social worker to determine the level of care services that make a person functionally eligible to receive Medicaid assistance.

Charge Nurse is a Registered Nurse (R.N.) who is the shift supervisor at a nursing home.

***Certified Nurse's Aid (C.N.A)** an employee of a facility that assists the nurses and aids in the care of residents.

Consent is an express written consent granted after the vulnerable adult or his/her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

Dementia is a loss of intellectual ability (thinking, remembering, and reasoning) so severe that it interferes with an individual's daily functioning, and eventually results in death.

Department of Health is a department whose programs and services help prevent illness and injury, promote healthy places to live and work, provide education to help people make good health decisions and ensure the state is prepared for emergencies.

***Department of Social & Health Services (DSHS)** As a single agency, DSHS is able to provide services from several programs to meet the multiple needs of the majority of clients.

Dependent Person is a person is dependent upon another person to provide the basic necessities of life.

Diagnosis is the process of identifying and determining the nature of a disease through examination. This provides needed information concerning various physical ailments. This would assist in an investigation involving bed sores, which are caused by many different things. A person's physical health will have a causal effect when determining if bedsores are the result of neglect or not.

Director of Nursing Services (DNS)-a R.N. who is the head of the nursing staff at a nursing facility.

***Division of Developmental Disabilities (DDD)** The Division of Developmental Disabilities (DDD) assists individuals with developmental disabilities and their families to obtain services and supports based on individual preference, capabilities and needs.

Doctor's Notes-chart notes made by the resident's physician or physician on duty.

Duty of Care-A person or entity with a duty of care includes, but is not limited to, the following:

- (1) A guardian appointed under RCW 11.88; or
- (2) A person named in a durable power of attorney as the attorney-in-fact as defined under RCW 11.94.
- (3) A person or entity providing the basic necessities of life to a vulnerable adult [adults] where:
 - (a) The person or entity is employed by or on behalf of the vulnerable adult; or
 - (b) The person or entity voluntarily agrees to provide, or has been

providing, the basic necessities of life to the vulnerable adult on a continuing basis.

See WAC 388-71-0105.

Emotional abuse-misuse of power, authority or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of an incapacitated adult.

Exploitation-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.

Floor/Assignment Sheets-sheets that show what floors employees are assigned.

Good Samaritan-any individual or group of individuals who: (a) is not related to the dependent person; (b) voluntarily provides assistance or services of any type to the dependent person; (c) is not paid, given gifts, or made a beneficiary of any assets valued at five hundred dollars or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.

***Home & Community Services Division (HCS)** The Home and Community Services (HCS) Division of DSHS promotes, plans, develops and provides long-term care services responsive to the needs of persons with disabilities and the elderly with priority attention to low-income individuals and families. They help people with disabilities and their families obtain appropriate quality services.

Incapacity in the context of guardian proceedings a person may be deemed incapacity if a superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety. A person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs. A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate.

Incident Report-report generated by nursing homes that are required by federal law to conduct an investigation.

Licensed Provider is the person who obtains the license.

Licensors is the entity who issues the license, typically DSHS or DOH.

***Licensed Practical Nurse (L.P.N)** is a nurse who has not yet completed the necessary requirements to become a register nurse.

Medical Director is a physician in charge of the medical needs of a skilled nursing facility.

Mental Capacity is the ability to adequately process information in order to formulate an independent decision based on that information, and to understand the implications of that decision.

Mental state will be important when determining allegations of crimes where there typically is no physical evidence or eye witnesses, such as an allegation of a sex crime.

Negotiated Care Plan is a plan of care that the provider offers to provide to the resident and is agreed upon by the resident.

Neglect is (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.

Nursing home is a care center, convalescent center, or skilled nursing facility.

Nurse's notes are chart note entries made by the nurse on duty.

Personal Physician-the personal physician of the victim.

Physical Abuse is 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. It also includes the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and restraints that are otherwise being used inappropriately.

Power of Attorney-a person assigned by the resident to make decisions for the resident.

Progress Notes-chart notes kept by staff regarding the progress of a resident.

***Residential Care Services (RCS)** is a division of DSHS that promotes and protect the rights, security and well-being of individuals living in licensed or certified residential settings.

Residents are people who live in nursing facilities, boarding homes, or adult family homes.

Resident Manager is an on-site manager of a boarding home or adult family home.

***Registered Nurse (R.N.)** is a graduate trained nurse who has passed a state registration examination.

Schedule is the work schedules of employees.

Self Neglect is an act of omission by an incapacitated adult which results or could result in the deprivation of essential services necessary to maintain his minimum mental, emotional or physical health and safety.

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 RCW 71A.12, and a vulnerable adult living in that facility or receiving service from a program authorized under RCW 71A.12, whether or not it is consensual.

Vulnerable Adult- A vulnerable adult is a person:(a) sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or found incapacitated under RCW 11.88; or who has a developmental disability as defined under RCW 71A.10.020; or admitted to any facility; or receiving services from home health, hospice, or home care agencies licensed or required to be licensed under RCW 70.127; or receiving services from an individual provider.

APPENDICES

APPENDIX A

Vulnerable Adult Financial Exploitation Investigations Checklist

Upon arrival

- Establish date and time of the offense.
- Contact DSHS Adult Protective Services (APS), or if abuse or neglect occurred in a facility, DSHS Residential Care Services (RCS) if that has not been done.

Victim Interview

- Does the victim believe he/she has been victimized? Why? By Whom? How discovered? What is missing?
- Relationship with the suspect. When and how met? If relative, when and how has the frequency of contact changed? What did the victim authorize the suspect to do? Duties? Salary? Responsibilities re: finances? What did the suspect tell the victim? Did the suspect initially do as required? When did that change? Changes in salary? Gifts? Loans?
- Victim's attitude toward suspect now and earlier.
- Does the suspect control who sees and speaks with the victim?
- What medications is the victim taking? Who administers them? Who prescribed them? What are the side effects? Why were they prescribed?
- Names of victim's doctor, lawyer, banker, close friends and relatives? Have any of these changed since the suspect has been involved? Interview previous doctors, lawyers, bankers, etc.
- Spending pattern before the suspect was involved?
- Victim's current knowledge of spending pattern, financial status?
- What did the victim authorize?
- Does the victim recall the transaction? Did he/she sign the document or say the words? Why?
- What representations or promises did the suspect say to get the victim to sign the document or write the check?
- How much did the victim understand about the document signed and its legal effect? Have him/her explain what the document is and what it does, and what the document's effect is. E.g., what does it mean that your caregiver's name is on the deed? Can the caregiver evict you now that you signed the deed?
- Victim's level of functioning (what can she/he do for himself/herself, what do they need help with) confusion, understanding, forgetfulness.

Bank Records and Other Financial documents

- Inventory of victim's assets, and recent changes, usually obtained from sources other than the victim such as a guardian, relative or victim's attorney.
- Who has records? Documents? Who currently controls finances? Are they protected from further theft?

- Obtain key documents, copies: Power of Attorney. Deeds. Will and prior will. Vehicle title and registration? Credit cards? Loan documents? Insurance contracts? Checkbooks or access to bank accounts?
- Obtain records of the victim's bank accounts and Certificates of Deposit, stocks, mutual funds, credit cards. Level of detail: Signature cards, monthly/periodic account statements, deposit slips and deposit items, withdrawal slips/authorizations and checks and withdrawal items, correspondence regarding the account.
- Spending patterns of the victim over time: compare before and after suspect became involved. Attorneys and accountants may be helpful with this.
- Search warrants for documents in suspect's possession and bank accounts.

Medical Records and Evidence of Competency or Incompetency

- Mini-mental status exam as screening device.
- If the competency is questionable arrange an expert geriatric examination. Include an evaluation of victim's past medical records, which may allow your expert to testify as to the victim's status in the relatively recent past. An expert can educate your judge/jury on the spectrum of mental functioning, functioning deficits over time, why short term visitors might not notice but a caretaker would, and issues particular to this case.
- Videotape the victim if possible. This would be for witnesses to compare with how the victim was during the time period of the crimes and/or for a judge and jury.
- Examine medical records leading to additional witnesses (of suspect's knowledge of victim's incompetency, undue influence, trust relationships, etc.)

Suspect Interview

- May admit significant portions of the facts (trust relationship, knowledge of victim's incompetence or reliance on suspect), or provide provably false exculpatory statements.
- If suspect offers a defense, interviewing them early allows you to investigate the merits of the defense, and may preclude other defenses. Sometimes the suspect commits to an ineffective defense (intent to repay, gift under a power of attorney.)
- Go unannounced if possible, it gives less opportunity for suspects to prepare. If suspect is a caregiver, see how the house has been kept, and take pictures.
- Start with non-threatening subject areas. Get suspect to tell you how much the victim relied upon the suspect (suspect's justification for taking the victim's money.) This statement will establish a fiduciary relationship.
- Collect any evidence the suspect offers to provide. (documents, handwriting exemplar.)
- Get consent to obtain suspect's bank records, search residence, storage lockers, safe deposit box. Also IRS form 8821 for suspect's income tax return filed with the IRS.
- Tape (audio or video) interviews of the suspect.

- Review transactions one at a time. Get a response regarding each incident.
- Have suspect initial and date each document he/she reviews. Remember to identify (for tape) the document suspect is being shown and asked about..
- How did the suspect and victim meet?
- Suspect's knowledge of victim's abilities. Health. Memory.
- Suspect's knowledge of victim's assets and financial affairs.
- Who handles victim's financial affairs?
- What is a day in the victim's life like? Does the victim participate in outside activities, have regular visitors?
- How does the suspect spend a typical day?
- Is the victim the suspect's sole source of income? If not, what are other sources?
- Where is the victim's retirement, SSI or other income check received and how is it handled?
- Who pays the bills? What is the typical amount spent by the victim in a month? Has this changed? When? Why?

Interviewing Witnesses

- Many of the witnesses may also be elderly, and/or will need help remembering what they saw/ heard a year or two previously. Help them help you with written signed statements to refresh their recollections and using documents in witness interviews.
- Doctors, lawyers, witnesses—many professionals do not know as much about the elderly, dementia or incompetence as they think. They may have made an incorrect conclusion or given incorrect advice. They may be embarrassed or defensive
- You need to get a really good medical expert, to educate yourself, educate the jury, and give you tools for successful cross examination.

Putting Your Case Together

- To show what happened, corroborate weak witnesses, impeach the defendant, show motive (\$ need)
- Presentation-spreadsheets and actual checks (front and back)
- Timelines-rough out time of key events, documents.
- Comparison of victim's spending patterns over time-before and after suspect was involved. Credit card accounts, checking account, investment accounts, etc.
- What did the defendant spend the money on? Comparison of defendant's assets/bank accounts over time.

Think, Focus, & Clarify

- Focus on elements & facts of the case. Do not necessarily grab everything.
- Witnesses testimony and records to prove each.
- Correct dates.
- Correct time periods for bank records.
- Problem solve to plug holes. What is the likely defense? How can it be disproved?
- Summarize. No need to be fancy or computerized.
- Explain bank account or record summaries. What does it mean? What does it show?
- Plain English translations of accounting terms.
- Obtain a release for financial/medical records (form included)
- If you understand it and can't summarize it in a few seconds the prosecutor's office will not get it.

APPENDIX B

Vulnerable Adult Abuse and/or Neglect Investigations Checklist

Upon arrival

- Treat every scene as a potential homicide scene. Many times the victim will not be interviewable so observations, photographs, and evidence collected will be key for prosecution.
- Establish date and time of the offense.
- Contact DSHS Adult Protective Services (APS), or if abuse or neglect occurred in a facility, DSHS Residential Care Services (RCS), and/or DSHS Division of Developmental Disabilities (DDD) if the victim is disabled.
- Look for signs of abuse or neglect: bruises, black eyes, welts, lacerations, open wounds, cuts, punctures, signs of physical restraint, untreated bed sores, poor dental hygiene, overgrown nails, soiled clothing, dirty bedding, malnutrition, dehydration, improper or dirty bandages on the victim, etc., and document. Use a body map to document location of injuries.
- Interview the victim and all others present at the scene.
- Observe availability of basic necessities of life or lack of: food, water, medications, and bathroom facilities? Document.
- Document victim's ability to communicate. Clear? Confused? Can't communicate verbally? Be aware of dementia issues.
- Photograph the scene and all injuries.
- Be aware of surroundings and document. Condition of the location. Dirty? Odorous? Unkempt?
- Document any and all medications belonging to the victim.
- Obtain a medical & financial records release from the victim or guardian as soon as possible.

Preserving the Crime Scene

- Treat the scene as a crime scene (even if it is in a facility) and not as the site of a social problem. If the crime scene is at a facility be aware of persons other than employees, such as contracted professionals, temp employees, visitors, clergy, and so on who freely come and go.
- Secure any physical evidence of abuse or other corroborative evidence that is identified at the scene.
- Photograph the scene and the home. Check the refrigerator and cupboards for food items. Document.
- Obtain a list of current medications that the victim is taking.
- Obtain a medical history as soon as possible.
- Obtain a medical examination when applicable. Have a medical professional do an injury assessment: bruise, bedsores, fractures, burns, or cuts and abrasions. Document and photograph.

- Coordinate with APS if victim is in a private home, or RCS if victim is in a facility.
- Note dates to set the timeline for when abuse and/or neglect may have occurred.

Handling the Evidence

- Make sure all evidence collected is properly marked with the time, date, victim's name, officer's initials and case number.
- Make sure that photographs are marked with the date, time, victim's name, photographer's initials, and case number and turned over to you as evidence.
- Photographs can be taken by police officers, investigators, APS workers, physicians, nurse examiners, or other parties. Copies of the photographs taken by other law enforcement, APS workers, physicians, nurse examiners, or other parties should be obtained early in the investigation. A person of the same sex may be called upon to photograph, depending on the comfort level of the victim.

Follow-up Investigation

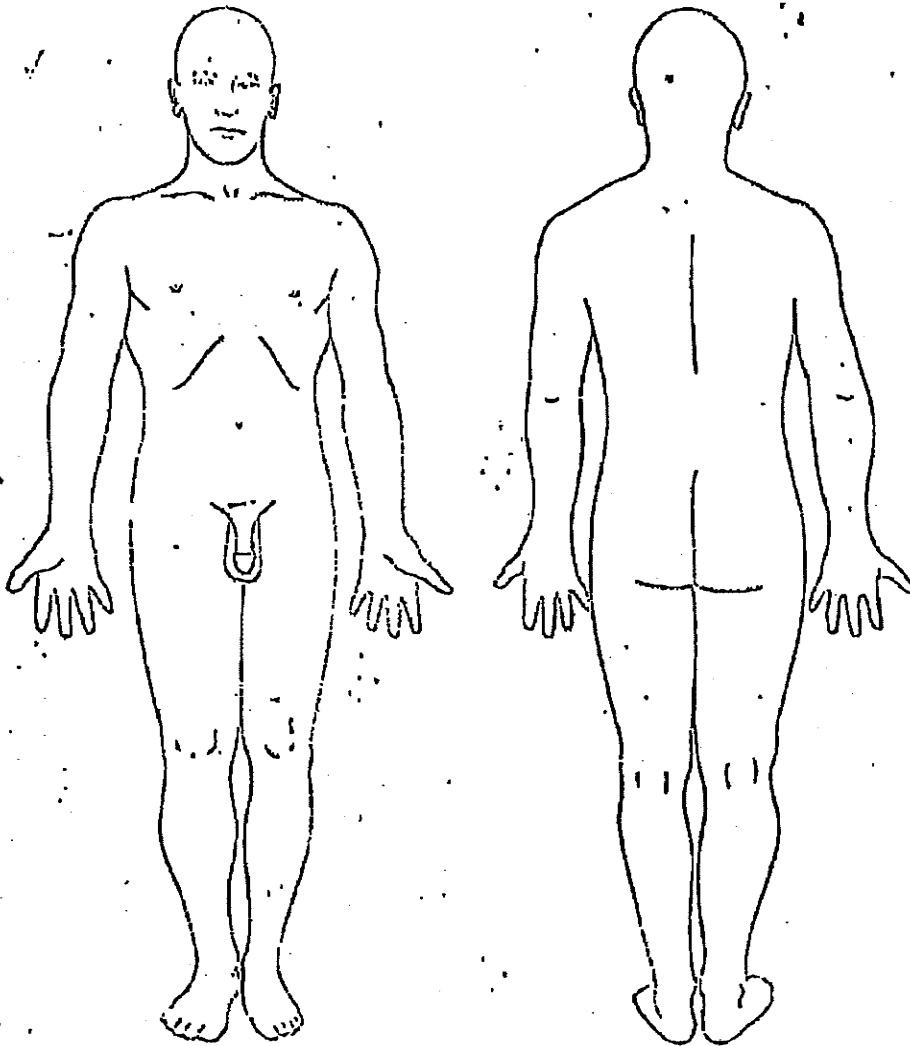
- Be supportive and optimistic to the vulnerable adult and the family.
- Check for previous criminal charges against the abuser.
- Be sure the vulnerable adult and family have been linked to support services or therapy.
- Be sure the family, or other care providers, know how to reach a detective to disclose further information.
- Obtain a medical history from the vulnerable adult's primary physician.
- If the victim was located in a facility, obtain all facility information regarding the victim.
- Obtain a copy of the victim's CARE assessment or CARE plan.
- Obtain the 911 tapes and medic/ambulance run reports.
- Check for contacts between victim and suspect or other facility employees-be aware of those attempting to influence or further victimize the victim.

APPENDIX C

Body Diagram-Male



Full Body: Male-Anterior and Posterior Views (Ventral and Dorsal)



Name _____ Case No. _____

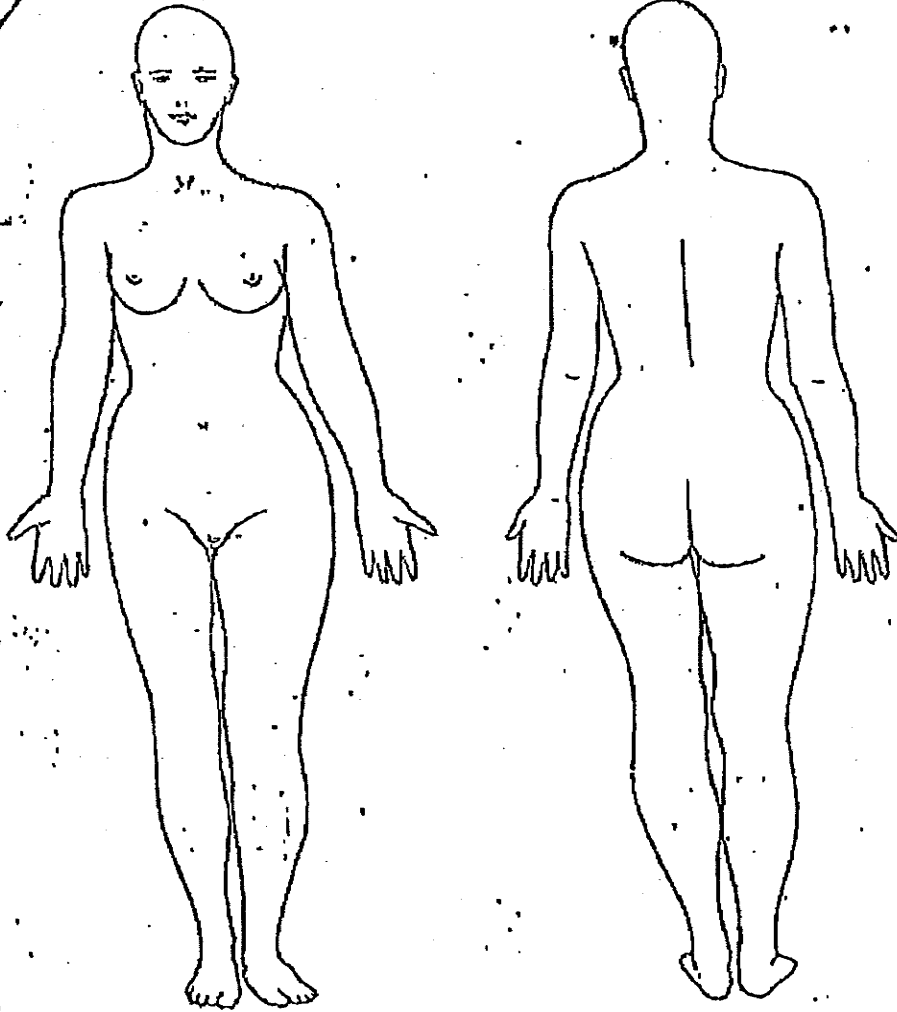
Date _____



Body Diagram-Female



Full Body: Female-Anterior and Posterior Views



Name _____ Case No. _____

Date _____



APPENDIX D

Medical Release

**WAIVER FOR RELEASE OF MEDICAL INFORMATION
TO MEDICAID FRAUD CONTROL UNIT AND RESIDENT ABUSE SECTION**

Resident/Patient: _____

Address: _____

City: _____ State: _____ Phone: _____

SSN: _____

1. SUBJECT MATTER OF THIS DOCUMENT

This waiver applies to any and all medical information, hospital records, treatment records, x-rays, diagnostic studies or any other information protected as confidential and privileged. It is to cover ALL medical information including diagnosis and treatment for HIV/AIDS, or other sexually transmitted diseases, drug and/or alcohol abuse or psychiatric treatment. There are no limitations or exclusions to this waiver.

2. PURPOSE OF DOCUMENT

The purpose of this document is to authorize any health care provider, including hospitals and physicians, to release to the Office of the Attorney General, Medicaid Fraud Control Unit, any and all medical information, documents or studies of every nature otherwise protected as confidential and privileged. The Medicaid Fraud Control Unit may be reached at 1019 Pacific Avenue, 3rd Floor, Tacoma, WA 98402, (253) 593-2154.

3. NON-REVOCAION OF EARLIER MEDICAL WAIVERS

This document is not intended to revoke any earlier medical waiver. This is intended to supplement and be in addition to any prior waivers. Any prior waiver, which restricted the dissemination of information, is revoked by this specific waiver in favor of the Medicaid Fraud Control Unit only.

4. TIME LIMIT FOR RELEASE

This authorization shall be valid for a period of six months from the date hereof unless sooner revoked in writing.

5. VALIDITY OF COPY

This document shall be valid and have the same legal authority whether it bears an original signature or is a copy.

6. RELEASE OF LIABILITY

I hereby release any medical health care provider from all legal responsibility or liability that may arise from the release of this information and these records..

Date: _____

Signature: _____

Printed name: _____

Relation to resident/patient: _____

Financial Release

X. AUTHORIZATION TO RELEASE INFORMATION
[Generic, for financial or other information except IRS records]

Name:

DOB:

Social Security Number:

I hereby authorize _____

_____ to release the following information and/or records:

-
-
-
-

To: [Your name and/or agency, address]

Dated this _____ day of _____, 2007.

Signature

Print Name

Street Address

City/State/Zip

APPENDIX E

Sample Search Warrant Language

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON
IN AND FOR THE COUNTY OF

SEARCH WARRANT
(Evidence)

STATE OF WASHINGTON)		NO.
) ss.		SEARCH WARRANT
County of)		

THE STATE OF WASHINGTON TO THE SHERIFF OR ANY PEACE
OFFICER OF SAID COUNTY:

WHEREAS, has this day made complaint of oath to the undersigned, one of the judges of the above-entitled court in and for said county, that during the period of time between in County, Washington, felonies, to-wit:

is material to the investigation or prosecution of the above-described felonies, and that the said verily believes said evidence is concealed in or about a particular house, person, place or thing, to-wit:

THEREFORE, in the name of the State of Washington, you are commanded that within ten days from this date, with necessary and proper assistance, you enter into and/or search the said house, person, place or thing, to-wit:

And then and there diligently search for said evidence, and any other, and if same, or evidence material to the investigation of prosecution of said felonies, or any part thereof, be found on according to law. A copy of this warrant shall be served upon the person or persons found in or on said house or place, and if no person is found in or on said houses or place, a copy of this warrant shall be posted upon any conspicuous place in or on said house, place, or thing, and a copy of this warrant and inventory shall be returned to the undersigned judge or his agent promptly after execution.

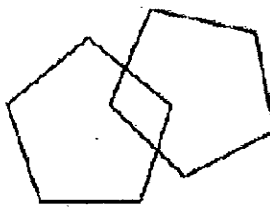
GIVEN UNDER MY HAND this _____ day of _____, 20

Time: _____

JUDGE

APPENDIX F

Mini-Mental State Examination

Maximum Score	Score	
ORIENTATION		
5	()	What is the: (year) (season) (date) (day) (month)
5	()	Where are we: (state) (county) (town) (facility) (floor)
REGISTRATION		
3	()	Name three objects and have person repeat them back. Give one point for each correct answer on the first trial. 1. _____ 2. _____ 3. _____ Then repeat them (up to 6x) until all three are learned. [Number of trials _____]
ATTENTION AND CALCULATION		
5	()	Serial 7's. Count backwards from 100 by serial 7's. One point for each correct answer. Stop after 5 answers. [93 86 79 72 65] Alternatively spell "world" backwards. [D - L - R - O - W]
RECALL		
3	()	Ask for the names of the three objects learned above. Give one point for each correct answer.
LANGUAGE		
9	()	Name: a pen (1 point) and a watch (1 point) Repeat the following: "No ifs, ands, or buts" (1 point) Follow a three-stage command: "Take this paper in your [non-dominant] hand, fold it in half and put it on the floor". (3 points) [1 point for each part correctly performed] Read to self and then do: "Close your eyes" (1 point) Write a sentence [subject, verb and makes sense] (1 point) Copy design [5 sided geometric figure; 2 points must intersect] (1 point)
Score: <u> </u> /30 Alert Overtly Anxious Concentration Difficulty		
Drowsy		
CLOSE YOUR EYES		
		
Sentence:		

APPENDIX G

HIPPA Medical Privacy Rules: EXCEPTIONS Which PERMIT a Covered Entity to Disclose Patient
Medical Information to **LAW ENFORCEMENT**
NOT DOING HEALTH OVERSIGHT INVESTIGATION (45 C.F.R. 164.512)

1. **REQUIRED BY LAW** – mandatory reporting laws (164.512(f)(1)(i))
2. **COURT ORDER, OR WARRANT OR SUBPOENA OR SUMMONS ISSUED BY A JUDICIAL OFFICER** (164.512(f)(1)(ii)(A))
3. **GRAND JURY SUBPOENA** (164.512(f)(1)(ii)(B))
4. **ADMINISTRATIVE SUBPOENA** if it complies with these 3 specific requirements (164.512(f)(1)(ii)(C)):
 - A. **“Information sought is relevant and material to a legitimate law enforcement inquiry”**. [i.e. Only ask for information that you need for a real investigation.] **AND**
 - B. **“The request is specific and limited in scope** to the extent reasonably practicable in light of the purpose for which the information is sought.” [i.e. Do Not ask for the kitchen sink.] **AND**
 - C. **“De-identified information could not reasonably be used.”** [i.e. If person’s name, SSN, etc. removed from record, would be useless to the investigation.]
5. **LOCATE AND IDENTIFY** (Suspect, fugitive, material witness or mission person): You can only request and obtain 8 types of information; name/address; date/place of birth; SSN; blood type/Rh factor; type of injury; date/time of treatment; date/time of death; observable physical characteristics such as eye and hair color, tattoos, gender, race, height, weight; facial hair.) (164.512(f)(2))
6. **CRIME ON PREMISES** (164.512(f)(5))
7. **INFORMATION ABOUT VICTIM OF A CRIME** when information will not be used against the victim; law enforcement activity will be adversely and materially affected by delay until the victim able to agree. . . **AND** giving law enforcement the information is in the best interest of the victim, (victim is incapacitated or other emergency circumstances exist). (164.512(f)(3))
8. **EMERGENCY HEALTH CARE WORKER CAN REPORT CRIMES/VICTIMS/PERPETRATORS** (164.512(f)(6))
9. **VICTIM OF ABUSE, NEGLECT OR DOMESTIC VIOLENCE IF**
 - A. disclosure is required by law, or
 - B. the individual has agreed to the disclosure, or
 - C. expressly authorized by law & disclosure is necessary to prevent serious harm, or
 - D. authorized by law and the law enforcement agency represents that the information will **NOT** be used against the individual **and** law enforcement activity depends on the disclosure and would be materially and adversely affected by waiting until the individual is able to agree. (164.512(c))
10. **DISCLOSURE TO CORONER OR MEDICAL EXAMINER** (164.512(g))
11. **TO AVERT SERIOUS THREAT TO HEALTH/SAFETY** (164.512(j))
12. **NATIONAL SECURITY AND INTELLIGENCE** (164.512(k)(2))
13. **PROTECTIVE SERVICES FOR THE PRESIDENT AND OTHERS** (164.512(k)(3))
14. **JAILS, PRISONS, LAW ENFORCEMENT CUSTODY** (164.512(k)(5))

PROTECT THE CONFIDENTIALITY OF YOUR INVESTIGATION:

In all cases, health oversight or otherwise, when it’s necessary to stop a medical provider from telling patients that you have requested their medical information (164.528(a)(2)):

- 1) make an oral request that the provider not disclose, and
- 2) follow up with a written request within 30 days, on law enforcement stationery

Remember: When Requesting Patient Medical Information show your badge, and if possible, make requests in writing on official letterhead.

NOTE: SUBSTANCE ABUSE PATIENT RECORDS: Stricter protections are afforded to the records of *bona fide* providers of substance abuse treatment. See 42 C.F.R. Part 2.

NOTE: HEALTH OVERSIGHT: Disclosure permitted even when conducted by law enforcement agency (164.512(d))

