

THE OFFICE OF THE STATE INSPECTOR GENERAL



Behavioral Health and Developmental Services

Complaint Line

Policy and Procedures Manual for Facilities/Providers

TABLE OF CONTENTS

Table of Contents	i
Definitions	1
Mission	3
Types of Complaints	4
Complaint Categorization	5
Complaint Actions	6
Actions Required for Complaint Resolution	8
Informing Facilities of Complaint Calls	9
Questions from Providers	10
Complaint Report Form	11
Complaint Response Form (Section 1)	13
Complaint Response Form (Section 2)	14

DEFINITIONS

Commitment Hearing – A legal process that occurs when a person has a mental illness and there is substantial likelihood that, as a result of mental illness, the person will, in the near future (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting or threatening harm and other relevant information, (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs and requires involuntary inpatient treatment.

Community Services Board (CSB) or Behavioral Health Authority (BHA) – Created to serve those with mental health, substance use disorders or intellectual\developmental disability needs under the oversight of the Virginia Department of Behavioral Health and Developmental Services (DBHDS). There are 40 CSBs/BHAs located throughout Virginia.

Competency Evaluation – A court-ordered mental health assessment to determine how much a defendant remembers and understands about his or her charges and alleged offense(s), as well as his or her capacity to understand court proceedings and assist a lawyer in their defense.

Department of Behavioral Health and Developmental Services (DBHDS) – Virginia state agency that serves Virginia's populations with mental health, substance use disorders or intellectual/developmental disability needs.

Emergency Custody Order (ECO) – A legal order issued by the court authorizing law enforcement to take a person into custody for a mental health evaluation. A qualified mental health clinician performs the evaluation through a local CSB/BHA. An ECO lasts up to eight hours for individuals over the age of 18.

Incompetent to Stand Trial – A person is mentally incompetent to stand trial if he or she is unable to understand the character and consequences of the proceedings against him or her, or is unable to properly assist in his or her defense. If a court finds an individual incompetent, the court orders the person to receive inpatient or outpatient treatment in an attempt to restore competency to stand trial.

Not Guilty By Reason of Insanity (NGRI) – A plea entered by a defendant in a criminal trial in which the defendant claims that he or she was so mentally disturbed or incapacitated at the time of the offense that he or she could **not** have intended to commit the crime. After this finding in court, the individual becomes a patient at a DBHDS facility until criteria is met for discharge.

Special Justice – An official who presides during a commitment hearing and determines whether the individual under consideration meets the criteria for involuntary commitment. The special justice delivers the decision and a plan that a CSB/BHA or other mental health care provider implements.

Temporary Detention Order (TDO) – A legal document requiring an individual to receive immediate hospitalization for further evaluation and stabilization, on an involuntary basis, until a commitment hearing can be arranged to determine their future treatment needs. A TDO lasts up to 72 hours.

Unrestorably Incompetent to Stand Trial (URIST) – The individual has been ordered for restoration and the evaluator has found that it is unlikely that the individual can be restored to competency in the foreseeable future. This is often due to cognitive limitations or decline. When the Court makes the URIST finding, the person can either be civilly committed or released and most charges can be dismissed or continued for up to five years depending on the decision of the Court.

Virginia Department of Corrections (VADOC) – Virginia state agency that operates secure facilities, and probation and parole offices to provide care and supervision for offenders under state custody.

THE BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (BHDS) COMPLAINT LINE

(Approved 05/01/20)

History of the BHDS Complaint Line

Pursuant to Code of Virginia § 2.2 – 309.1, the Office of the State Inspector General Behavioral Health and Developmental Services Unit introduced a Complaint Line in May 2017. According to this code section, the BHDS Unit shall inspect, monitor and review the quality of services provided in state facilities and by DBHDS-licensed providers, including DBHDS-licensed mental health treatment units in state correctional facilities.

Mission

Objective 1 - To ensure that patients in state mental health facilities or those being served by DBHDS-licensed providers are free from abuse, neglect and inadequate care.

Objective 2 – To provide protective oversight. It is OSIG's intent to listen to, review and address concerns of abuse, neglect and inadequate care.

Objective 3 – To prevent the escalation of identified concerns and eliminate the potential for any future occurrences. This includes identifying and addressing systemic issues.

BHDS Complaint Line Contact Information

Toll-free number: **833-333-OSIG (6744)**

TTY users: Dial 7-1-1 (translation services available)

Email address: OSIGBHDSComplaints@osig.virginia.gov

Website: <https://osig.virginia.gov>

Types of Complaints

The BHDS Complaint Line accepts reports of concerns of abuse, neglect and inadequate care in DBHDS-licensed mental health facilities or by licensed providers.

Definitions of Abuse, Neglect and Inadequate Care

Abuse	<p>"Any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to a person receiving care or treatment for mental illness, intellectual disability, or substance abuse." (12VAC35-115-30)</p> <p>Examples may include (but not be limited to):</p> <ul style="list-style-type: none"> • Rape or sexual assault. • Other criminal sexual behavior. • Use of language that demeans, threatens, intimidates or humiliates the person. • Use of excessive force when placing a person in physical or mechanical restraints. • Use of physical or mechanical restraints on a person that does not comply with federal and state laws, regulations and policies; professionally accepted standards of practice or the person's individualized service plan. • Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his individualized services plan.
Neglect	<p>"Failure by a person, program or facility operated, licensed or funded by the department, excluding those operated by the Department of Corrections, responsible for providing services to do so, including nourishment, treatment, care, goods or services necessary to the health, safety or welfare of an individual receiving care or treatment for mental illness, intellectual disability or substance abuse." (12VAC35-115-30)</p> <p>Examples may include (but not be limited to):</p> <ul style="list-style-type: none"> • Not receiving medications/treatments ordered by a physician. • Not receiving meals.
Inadequate Care	<p>Care that falls below established standards of care.</p> <p>Examples may include, (but not be limited to):</p> <ul style="list-style-type: none"> • Physician orders not followed.

Contacting OSIG through the Complaint Line

Complaint Line Phone: Hours of Operation

BHDS will answer the Complaint Line during normal OSIG business hours, which are Monday – Friday, 8:30 a.m. to 5:00 p.m. (excluding state holidays or closures).

After-hours

- If an individual calls with an emergency, the voicemail directs the individual to hang up and call 911.
- The caller may leave a message on the BHDS Complaint Line voicemail. BHDS processes messages the next business day.

Complaint Line Email:

- Complaints may be sent via email at any time. BHDS processes emails received after normal business hours the next business day.

Complaint Line Form:

- Complainants may use the online complaint form on OSIG's website: <https://www.osig.virginia.gov/program-areas/behavioral-health-and-developmental-services/complaint-form/>

BHDS Complaint Categorization

OSIG screens and categorizes complaints into one of the following levels:

CRITICAL

A complaint that is life threatening in nature and requires immediate reporting/intervention. This level includes harm to self or others, or threats thereof.

Examples:

- Any threat to harm self or others (family, peers, staff or strangers).

HIGH

A complaint serious in nature and may require immediate reporting/intervention. This level includes abuse, neglect or inadequate care.

Examples:

- Death (including suicide).

- Attempted suicide.
- Sexual abuse/assault.
- Physical abuse/assault.
- Serious injury from subsequent restraint or seclusion.
- Inadequate medical care.
- Acute medical injury/illness lacking appropriate intervention.

MEDIUM

A complaint less serious in nature (not an imminent threat), but still requiring reporting/intervention. This level would not have a direct impact on health and safety.

Examples:

- Violation of a facility/provider policy or procedure (not dangerous in nature).
- Disagreement with treatment team decisions.
- Alleged human rights violations that do not involve abuse, neglect or exploitation and do not pose imminent risk.

LOW

A complaint not serious in nature, but still requiring reporting/referral. This level would not have a direct impact on health and safety.

Examples:

- Under TDO, but wanting release.
- Change in privileges at facility.
- Request to change physician.
- Request to be transferred to another facility.
- Concern about personal property loss.

Complaint Actions

When OSIG receives a complaint, BHDS generates the Complaint Report Form (**Exhibit A**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. In some instances (i.e. critical or high category), the procedure may vary (see below).

CRITICAL

- In most cases, OSIG notifies the facility director, administrator or designee immediately. Due to the serious nature of this complaint, the facility director, administrator or designee may be required to provide information confirming that they addressed or rectified the incident or illness.

- OSIG generates an electronic copy of the Complaint Report Form (**Exhibit A**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. Depending on the resolution, OSIG may close out the complaint or request additional information from the DBHDS facility/CSB/licensed provider.
- OSIG will allow 30 calendar days for the response from the facility or provider.
- OSIG will make a determination of “substantiated” or “unsubstantiated.”

HIGH

- In some cases, OSIG will notify immediately the facility director, administrator or designee. OSIG may request that the person contacted provide information confirming that the incident or illness was addressed and/or rectified.
- OSIG generates an electronic copy of the Complaint Report Form (**Exhibit A**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. Depending on the resolution, OSIG may close out the complaint or request additional information from the DBHDS facility/CSB/licensed provider.
- OSIG will allow 30 calendar days for the response from the facility or provider.
- OSIG will make a determination of “substantiated” or “unsubstantiated.”

MEDIUM

- OSIG generates an electronic copy of the Complaint Report Form (**Exhibit A**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. Depending on the resolution, OSIG may close out the complaint or request additional information from the DBHDS facility/CSB/licensed provider.
- OSIG allows 30 calendar days for the response from the facility or provider.
- OSIG will make a determination of “substantiated” or “unsubstantiated.”

LOW

- OSIG generates an electronic copy of the Complaint Report Form (**Exhibit A**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. Depending on the resolution, OSIG may close out the complaint or request additional information from the DBHDS facility/CSB/licensed provider.

- OSIG allows 30 calendar days for the response (if needed) from the facility or provider.
- OSIG will make a determination of “substantiated” or “unsubstantiated.”

Actions Required for Complaint Resolution

CRITICAL

- OSIG completes documentation for all phone conversations, including the name of the staff member, date and time of conversation. OSIG may request additional documentation from the DBHDS facility/CSB/licensed provider.
- OSIG requests adequate documentation to confirm that DBHDS/CSB/licensed provider addressed or resolved the complaint. This may include a DBHDS 201 Investigation Report (state facilities only), DBHDS Licensing Investigation or Inspection Report; Administrative Investigation Report (Internal); interdisciplinary notes, treatment team notes or a patient advocate visit summary, if available.
- OSIG generates a Complaint Response Form (**Exhibit B**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. OSIG will indicate which section(s) should be completed on the Complaint Response Form. (Please adhere to the due dates as stated.)

HIGH

- OSIG completes documentation for all phone conversations, including the name of staff member, date and time of conversation. OSIG may request additional documentation or records from the DBHDS facility/CSB/licensed provider.
- OSIG requests adequate documentation to confirm that the DBHDS facility/CSB/licensed provider addressed or resolved the complaint. This may include a DBHDS 201 Investigation Report (state facilities only), DBHDS Licensing Investigation or Inspection Report; Administrative Investigation Report (Internal); interdisciplinary notes, treatment team notes or a patient advocate visit summary, if available.
- OSIG generates a Complaint Response Form (**Exhibit B**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. OSIG will indicate which section(s) should be completed on the Complaint Response Form. (Please adhere to the due dates as stated.)

MEDIUM

- OSIG completes documentation for all phone conversations, including name of staff member, date and time of conversation. OSIG may request additional documentation or records from the DBHDS facility/CSB/licensed provider.
- OSIG requests adequate documentation to confirm that the DBHDS facility/CSB/licensed provider addressed or resolved the complaint. This may include a DBHDS 201 Investigation Report (state facilities only), DBHDS Licensing Investigation or Inspection Report, Administrative Investigation Report (Internal), interdisciplinary notes, treatment team notes or a patient advocate visit summary, if available.
- OSIG generates a Complaint Response Form (**Exhibit B**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. OSIG will indicate which section(s) should be completed on the Complaint Response Form. (Please adhere to the due dates as stated.)

LOW

- OSIG completes documentation for all phone conversations, including the name of staff member, date and time of conversation. OSIG may request additional documentation or records from the DBHDS facility/CSB/licensed provider.
- OSIG requests adequate documentation to confirm that the DBHDS facility/CSB/licensed provider addressed or resolved the complaint. This may include a DBHDS 201 Investigation Report (state facilities only), DBHDS Licensing Investigation or Inspection Report, Administrative Investigation Report (Internal), interdisciplinary notes, treatment team notes or a patient advocate visit summary, if available.
- OSIG generates a Complaint Response Form (**Exhibit B**) and sends it to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. OSIG will indicate which section(s) should be completed on the Complaint Response Form. (Please adhere to the due dates as stated.)

Informing Facilities/CSB/Licensed Providers of Complaint Calls

After OSIG enters a complaint into Pentana, OSIG's electronic complaint tracking system, a Complaint Report Form (**Exhibit A**) is generated and sent to DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider.

In addition, a Complaint Response Form (**Exhibit B**) is generated and sent to the DBHDS Central Office for dissemination to the appropriate DBHDS facility/CSB/licensed provider. The facility director, administrator or designee will complete the form. Section One shall be completed for **all** complaints while Section Two will be reserved for incidents that are

more serious. For example, Section Two would be required for complaints involving abuse, neglect or inadequate care.

Questions from Providers

Any questions related to specific complaints, correspondence with the OSIG or elements contained within this provider manual should be directed to the Office of the State Inspector General Behavioral Health and Developmental Services Unit at:

Toll-free number: 833-333-OSIG (6744)

TTY users: Dial 7-1-1 (translation services available)

Email address: OSIGBHDSComplaints@osig.virginia.gov



COMMONWEALTH OF VIRGINIA
Office of the State Inspector General
BHDS Unit

Complaint Report Form (**Exhibit A**)

Behavioral Health Complaint Report

Date of Complaint Report

Reference Number:

Report number generated by OSIG.

Title/Victim:

Person making the complaint or is the subject of the complaint

Date of Call:

Date the call was received.

Scope (Facility):

Facility (Complaint Review)

Description:

Reason for the complaint.

Category:

How OSIG received the complaint (call, email, form).

Type:

Abuse/Neglect/Inadequate Care

Severity:

Severity Level (Critical/High/Medium/Low)

Actions:

Expected actions taken by DBHDS or community provider.

Comments:

Additional information or response instructions.

Complaint Response Form (Exhibit B)

CONFIDENTIAL

**OFFICE OF THE STATE INSPECTOR GENERAL
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES UNIT
INVESTIGATIVE/COMPLAINT REPORT**

Section One

(Must be filled out for all complaints)

- COMPLAINT NUMBER:** Generated by OSIG and included on the complaint form.
- LOCATION OF INCIDENT:** Location where the incident occurred.
- DATE/TIME OF INCIDENT:** Date and time the incident occurred.
- DATE OF REPORT:** Date this report is completed.
- INVESTIGATOR(S):** Person(s) who investigated the allegation and wrote the report.
- COMPLAINANT(S):** Person(s) who made the allegation or reported the allegation on behalf of the victim.
- VICTIM:** If different from complainant.
- SUBJECT(S):** Name(s) of the accused.
- ALLEGATION(S):** The synopsis contains a **brief** description of the incident or complaint. The basic questions of *who, what, how and why* should be answered about the primary incident or complaint. Information developed during the course of the investigation that identifies additional offenses or incidents should be described, including time, date and location.
- FINDINGS:** The outcome of the investigation supported by sufficient evidence.

Section Two

For allegations involving abuse, neglect or inadequate care.

1. **INTERVIEW OF COMPLAINANT(S):**

Name/title: Include **relevant** information from interview and written statement(s). All statements taken from the same individual should be listed together as one exhibit (attachment). Subsequent interviews of the same person will be placed chronologically in numbered paragraphs. Any additional significant witnesses can be identified and their interviews reflected in paragraphs numbered in chronological order. Indicate it is an exhibit with a number at end of the witness summary.

2. **INTERVIEW OF SUBJECT(S):**

Name/title: Same as above

3. **INTERVIEW OF WITNESSES:** List witnesses interviewed and a **summary of relevant information**. Number each witness same as above. Be sure to identify the individuals interviewed, but who could not provide information or the information was not significant. If they are unable to provide information, the names/titles or other identifying facts about these persons can be combined under one paragraph.

4. **PHYSICAL EVIDENCE COLLECTED:** In numbered sections, same as above, identify evidence collected at the incident scene or indicate N/A.

5. **VIDEO EVIDENCE AVAILABLE:** Yes No

6. **INJURIES:** Yes No

7. **DOCUMENTS/FILES REVIEWED:** [LIST] **All** documentary evidence reviewed that *supports* or *refutes* the allegations will be documented in this section. This includes policies, consumer records, abuse investigation data, personnel records, supervisory records, or other records. ***You do not need to list every document reviewed here.**

8. **EXHIBITS (ATTACHMENTS):** [LIST]

9. **FINDINGS:** State findings here. Example: *The preponderance of the evidence indicates that the offense occurred as alleged.*

10. **STATUS:** Show the status of the report and include any additional investigative or other action pending. Example: *This report concludes all investigation action pertaining to this matter.*