



Virginia Department of  
Behavioral Health &  
Developmental Services

COMMUNITY LOOK BEHIND  
State Fiscal Year 2016

OFFICE OF HUMAN RIGHTS  
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# Community Look Behind

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State Fiscal Year 2016

## Introduction

In 2016, the Office of Human Rights (OHR) established the Community Look-Behind (CLB), a retrospective review of human rights investigations designed to ensure that providers conduct their investigations in compliance with the OHR regulations. OHR implemented this process to identify areas where training or follow-up technical assistance are needed in order to improve the investigative process and outcomes reported to OHR. This report provides an analysis of the findings from the first year of the CLB process.

## Background

DBHDS mandates that providers report human rights allegations into the Computerized Human Rights Information System (CHRIS). Human rights allegations include the following:

- Sexual Abuse
- Verbal Abuse
- Physical Abuse/Restraint
- Neglect/Neglect Peer to Peer
- Exploitation
- Other - A human rights allegation not in an otherwise defined category

Providers must investigate all allegations and determine whether to substantiate the allegation. Once the provider enters an allegation into CHRIS, it is incumbent on the human rights advocates in that region to monitor and review the investigation and 'close' it in CHRIS when they have determined the process to be complete and the corrective action appropriate.

Through the OneSource Data Warehouse, DBHDS has access to information in a format that enables systematic evaluation. The following provider investigations of abuse, neglect, or exploitation (ANE) allegations (henceforth referred to as "cases") were included in this study:

- Incident date in SFY2016 (July 1, 2015-June 30, 2016) and
- Service Type of DD<sup>1</sup> as listed on the CHRIS report and

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<sup>1</sup> DD refers to Developmental Disability and is inclusive of Intellectual Disability (ID) services.

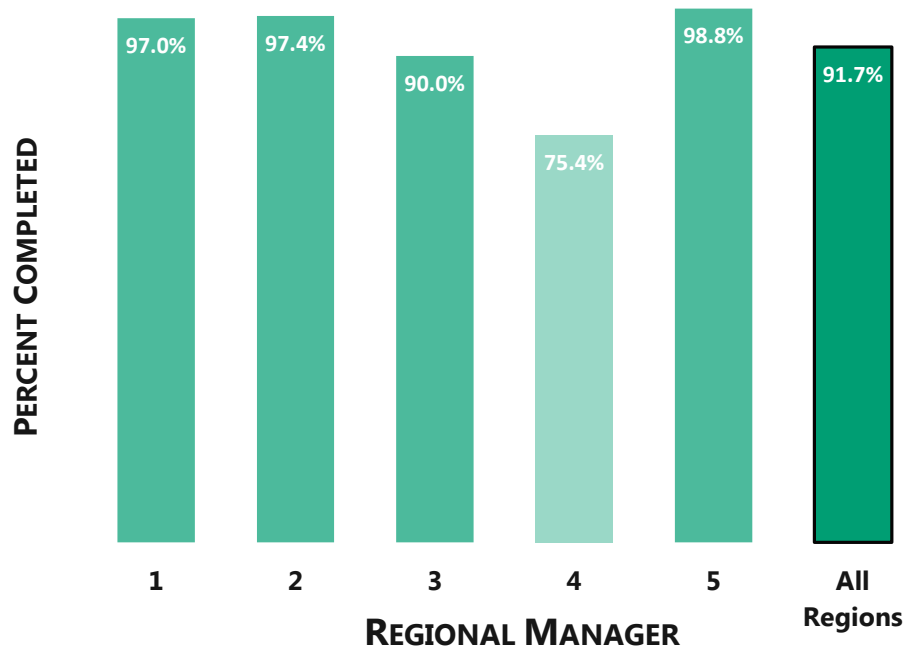
- Allegation submitted by a Community Services Board (CSB) or licensed private provider and
- Investigation was deemed “closed” by the respective advocate

The resultant sample consisted of 1,693 cases from which three hundred cases were randomly selected. Three hundred cases provides enough statistical power to generalize the results across all DBHDS closed human rights ANE investigations for individuals receiving DD services with a +/-5% margin of error.

## Results

The CLB review process began in January 2017. After a planned thirteen month follow-up period, the final data was collected with a return of 275 (91.7%) completed forms. Figure 1 displays the percentage completed per region. Two hundred and seventy-five reviews provide a margin of error of +/-6% when generalizing across the population defined above.

**Figure 1: Community Look-Behind Sample Completion Rates by Region**



Reviewers left forms incomplete due to a variety of reasons including:

- Providers no longer licensed by DBHDS
- Cases involved allegations of abuse against a different provider, or involved allegations against a non-licensed agency. In these cases the reviewer verified there was an investigation done by the appropriate providers/agency;

- Neglect peer-to-peer cases were entered incorrectly under the aggressor's name; and
- Cases involved individuals not receiving a DD service.

When the circumstances arose, reviewers should have requested a replacement case to review however; this was not effectively communicated to the reviewers during this first iteration. This barrier resulted in a higher percentage of blank reviews than OHR would have otherwise expected. In addition, Region 4 had a lower response rate than other regions due to staffing changes.

## Look Behind Questions

The questions on the look behind form followed by the number and percent that answered "Yes" for each of the twelve "Yes/No" questions is outlined in Figure 2. OHR established a benchmark of 86% as an acceptable level for this study, except for questions 7, 8, and 9. OHR based this number on the acceptable level that the Centers for Medicare and Medicaid use for their performance measures, several of which are similar to measurements in this look-behind. Further explanation of this measure is located in the OHR Interpretation and Conclusions section.

## Confidence Intervals

The likelihood ratio confidence interval (CI) can provide insight into the amount of certainty that can be attributed to the "Percent Yes" column. The more narrow the bound, the greater the precision of the estimate.

**Example:** In Question 2, the 'Yes' response rate is 91.5% and the confidence interval is 87.3 - 94.7%. This means that the percentage may fall anywhere within that range but since that range is narrow the estimate can be considered fairly precise.

Confidence intervals are directly affected by the number of valid responses; a lower number of valid responses result in a large CI range.

**Example:** Question 4 has a low number of responses thus the confidence range is 39.0-69.1%.

If the 86% benchmark falls within the likelihood ratio, conclusions should be made with caution.

**Example:** In Question 11, the 'Yes' response rate is 85.9% with a confidence interval of 80.9 – 90.0%. Because the confidence interval includes predetermined 86% threshold the result is not (statistically) significantly higher than the 86% threshold.

**Figure 2: Number and Percent of Responses by Question**

#	Question	Yes	Percent Yes	Likelihood Ratio CI	Blank or N/A	Valid Total	Grand Total
1	Incident was reported in CHRIS within 24 hours of discovery	174	70.2%	64 - 75.8	27	248	275
2	Investigation was completed within timeframes	227	91.5%	87.3 - 94.7	27	248	275
3*	Notifications made (AR/Guardian, DSS, Police, Licensing)	201	84.1%	78.8 - 88.5	36	239	275
4*	Serious Injury received medical care	25	54.3%	39 - 69.1	229	46	275
5	Interviews or written statements for investigation	185	74.6%	68.7 - 79.9	27	248	275
6	Facts of investigation support findings	230	93.1%	89.2 - 95.9	28	247	275
7	Evidence of action taken by the provider	150	67.6%	61 - 73.7	53	222	275
8	OHR provided technical assistance	81	32.8%	27 - 39	28	247	275
9*	Documentation of Corrective Action Plan issued by Licensing**	7	2.8%	1.1 - 5.7	27	248	275
10	Investigation finding(s) provided to individual and/or AR/Guardian	116	46.8%	40.4 - 53.2	27	248	275
11	Documentation other than information in CHRIS	213	85.9%	80.9 - 90	27	248	275
12	Documentation of investigation training	126	51.0%	44.6 - 57.4	28	247	275

\*An N/A may be an appropriate response

\*\*Requires issuance of a CAP by the Office of Licensing (substantiated cases )

## Inter-Rater Reliability

Inter-rater reliability (IRR) involves measuring the amount of agreement between reviewers to assess whether they come to the same conclusions. To measure agreement in this study, 20% of the sample cases (60 investigations) across all five regions were randomly assigned to a second manager for review. These duplicate reviews are part of a process to quantify the degree of agreement between independent assessments made by the reviewing managers.

During this look-behind process, one of the reviewers left their position; resulting in the completion of less than the required minimum of 60 duplicate reviews. Therefore, this report does not include an inter-rater reliability measure. OHR will include another IRR process in the next CLB study.

## OHR Interpretation and Conclusions

Because the subject matter is serious i.e. abuse, neglect and exploitation of individuals receiving licensed services, there is no satisfactory threshold below 100%. However, all things being equal, there may be times when it is reasonable for a negative (No) response or for questions to be left blank to denote 'Not Applicable' (N/A). For the sake of consistency with other measuring standards, OHR has established a compliance level of 86% or higher as successful. This percentage can be applied to each of the questions to guide where remediation may be necessary.

The percentage true for all cases that **met or exceeded** the 86% benchmark:

2. Investigations were completed within the allotted timeframe (87.3 - 94.7%)
6. Facts of investigation support findings (89.2 - 95.9%)

The percentage true for all cases that **fell short** of the 86% benchmark:

1. Provider reporting in CHRIS within 24 hours of discovery (64 - 75.8%). Reviewers answered 'Yes' to this question if the report was entered into CHRIS on the same day or next day of the date of discovery.
5. Documentation of interviews or witness statements from the investigation (68.7 – 79.9%);
7. Evidence of action taken by the provider (61 - 73.7%)
  - This is not to say the provider did not appropriately address the alleged ANE, but that there was no evidence observed during the onsite review.
8. OHR provided technical assistance (27 - 39%)

- OHR staff “touch” (review, monitor and close) each single entry of ANE; such an action may be considered passive. OHR defines technical assistance in this study as active and is not a required part of a provider’s investigation. With this in mind, 1/3 of all cases identified advocate involvement conducting an independent investigation, responding to individual/ARs with concerns about a provider’s finding and technological support due to issues with CHRIS.
10. Evidence that investigation findings were provided to the individual and/or their AR/guardian (40.4 - 53.2%)
  12. Documentation of investigation training by the person conducting the investigation (44.6 - 57.4%)

The percentage true for all cases that were **not statistically significant** are:

11. The provider had a copy of investigation documents, including written statements, photographs, and incident reports on site (80.9 - 90%)

The following questions include “**N/A**” as a potential response so OHR could not assess compliance. Future CLB iterations will include clarification of such questions to ensure appropriate data capture:

3. Notifications being made to appropriate parties (78.8 - 88.5%)
  - Reviewers responded “Yes” to this question if all of the applicable notifications were made. Challenges with this measure include providers not documenting notifications to DSS and Police, determinations about these types of measures are often subjective, and because the boxes are not required to be checked in CHRIS.
4. Serious injuries receiving medical care by a licensed physician (39 - 69.1%)
  - The fact that less than half of the reported serious injuries received medical attention by a licensed physician should be further assessed. This may say more about provider understanding of the definition of serious injury than it does about whether appropriate medical attention was provided. The majority of individuals did not see a licensed physician but received first aid. This means providers incorrectly entered the reports into CHRIS, as these incidents did not by definition, constitute a serious injury.
9. Documentation that the Office of Licensing issued a Corrective Action Plan (CAP) to the provider in substantiated cases of abuse, neglect, or exploitation (1.1 - 5.7%).

## Barriers

There have been several challenges and barriers identified during the CLB process; some of which will warrant further investigation, clarification, and possible remediation.

1. Some providers admitted to checking boxes in CHRIS without having actually completed the associated action at all or within the timeframe. DBHDS designed CHRIS as a repository for provider information. The check boxes ask specific questions to discern compliance with regulatory reporting and investigatory requirements; however, there is no requirement for corresponding evidence. For example, acknowledgment of written notification of findings sent to the individual/AR may be checked in CHRIS, but there is no requirement for providers to maintain a copy of this evidence.
2. Some cases of Peer-to-Peer were misreported as physical abuse (versus Neglect) or under the name of the aggressor.
3. There are various types of investigator training, such as web-based, in-person shadowing, private provider workshops, and DBHDS online modules. Not all of these trainings provide rosters or certificates to prove that such training has occurred and there is no regulatory standard for type of training or type of evidence of training.
4. There are inconsistencies regarding what a provider maintains from their investigation. There are no regulatory requirements concerning what investigative documentation providers must maintain. CHRIS is the DBHDS repository of information but it does not allow for uploading pertinent documents like witness statements, case notes or photographs.
5. In the past OHR was not always aware that the Office of Licensing issued a Corrective Action Plan to the provider. In cases of abuse known to OHR, the recommendation to cite comes directly from the advocate.

## OHR Follow-Up

Based on these first year CLB findings, OHR has begun to implement changes to how they do business overall as well as how they educate the providers. The following is a list of OHR actions that are completed or are in development:

### OHR Practices

- Updated the New Provider process to include on-site review of Human Rights policies and CHRIS training (specific to reporting requirements) within 30-days of becoming licensed by DBHDS
- Developed unified guidance documents used by advocates during provider training to include guidance for Behavior Treatment Plans, Restrictions, and Peer-to-Peer reporting
- Developed the ANE Decision Tree and the Complaint Resolution process map



- Revised OHR Protocol to clarify advocate expectations for review and confirmation of adequacy of provider corrective action prior to closing a case in CHRIS
- Updated and clarified protocol between OHR and Office of Licensing to require all Human Rights citations issued to the provider in a Corrective Action Plan, occur as a result of a recommendation or review with the assigned advocate.
- Established interagency protocol with VA DSS to outline process for exchange of ANE referral information and joint investigations. A monitoring tool has been developed for review and tracking of these referrals.

## **Provider Education**

- OHR Reviewers educated providers during onsite visits concerning regulatory requirements for reporting criminal activity to the Police and cooperating with local DSS investigations.
- OHR Reviewers educated providers during onsite visits concerning what constitutes a reportable incident and informed providers to notify the Regional Manager or assigned Advocate in order to have an unnecessary CHRIS entry removed. OHR staff were instructed to notify the State Human Rights Director or Assistant State Human Rights Director in these instances, to officially delete the unnecessary entry.
- OHR Managers and Advocates were advised to initiate conversations with providers around the idea that an investigation can be seen as an extension of an individual's service record and, subsequently, maintaining accurate documentation of the investigation (i.e. notification to the individual/AR , evidence collected etc.) may be meaningful to the individual's overall health and safety.
- Effective April 2017, OHR Manager have been expected to attend and participate in regional quarterly DD Provider Roundtable Meetings to review Human Rights regulations (topics included requirements for CHRIS reporting, Human Rights investigations)

## **Next Steps**

The CLB process is scheduled to resume on July 1, 2018. OHR plans to finalize revisions to the form and process based on this study and move on to quarterly reviews beginning with the first quarter 2018. Analyses will occur immediately following each review, intended to elicit more "real time" follow up action that will essentially be one quarter behind. A comprehensive analysis including interpretations and conclusions will follow in one year and be presented by OHR to the Quality Improvement Committee.