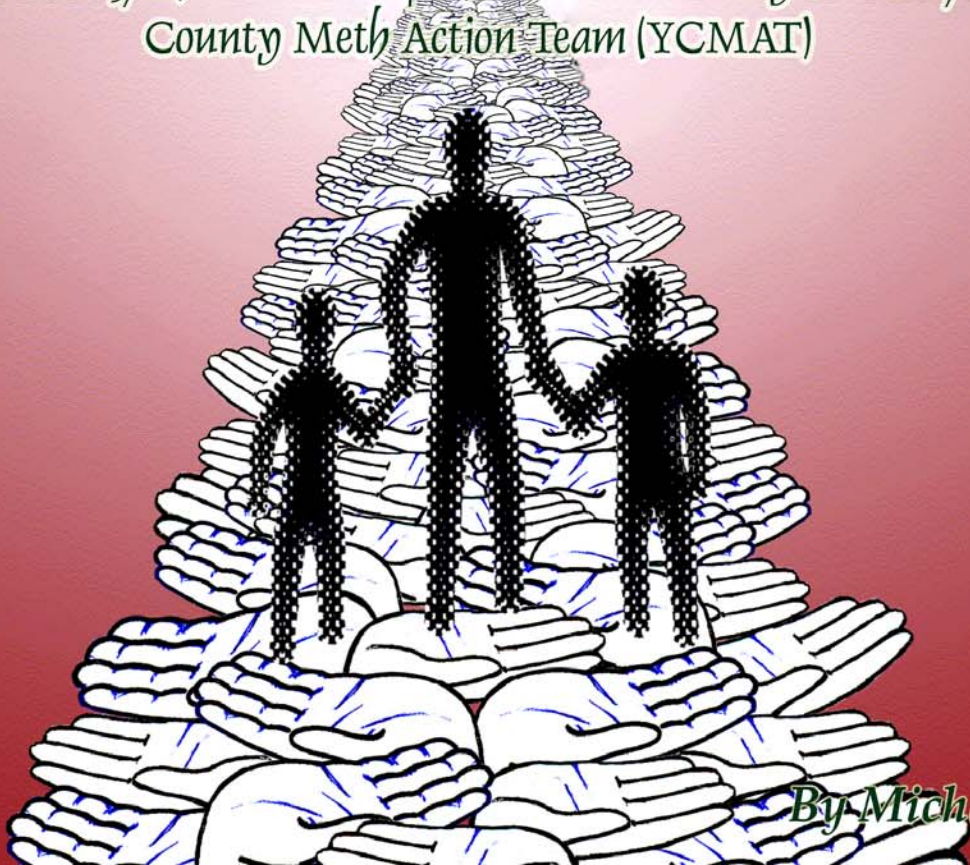


Drug Endangered Children (D.E.C.) Investigation Handbook

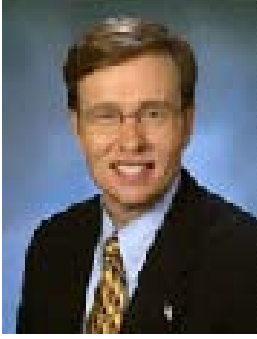
In Cooperation with: Yakima County Sheriff's Office, Yakima Police Department, Yakima County Prosecuting Attorney, Yakima County Drug Court, Educational Service District 105, The Division of Children and Family Services, and Yakima County Meth Action Team (YCMAT)



By Michael Schueller

Table of Contents

Chapter Title	Page Number
Foreword	1
Introduction	2
Historical Perspective	3
Law Enforcement Response	4
State Child Protective Services or C.P.S.	7
Prosecutorial Response	9
Medical Response	10
<i>Appendix A</i> Investigative Guidelines And Equipment for C.P.S. and Law Enforcement	14
<i>Appendix B</i> Pertinent laws	18



Foreword

by Washington State Attorney General Rob McKenna

Every day, assistant attorneys general from around the state represent DSHS and their clients, drug endangered children, in dependency and parental rights termination cases. Methamphetamine use is at epidemic levels in this state and our dependency courts are overflowing with children whose parents have simply abdicated their parental responsibilities due to drug abuse.

We have all seen pictures of law enforcement and emergency response personnel entering clandestine drug labs dressed in hazardous materials suits, only to emerge with children clad in diapers or pajamas. We know that producing even a single dose of methamphetamine is enough to pollute everything in the room, including children who may be present.

The Washington State Methamphetamine Initiative has taken the lead in helping local communities adapt the “*We care*” matrix of DEC best practices to local circumstances. With the Drug Endangered Children Investigation Handbook, Yakima County has taken the “*We care*” template to a whole new level.

Congratulations on an outstanding effort. My office looks forward to assisting you with the successful implementation of this manual.

Sincerely,

A handwritten signature in black ink that reads "Rob McKenna". The signature is written in a cursive, flowing style.

Rob McKenna
Washington State Attorney General

Introduction

In Yakima County, protecting our children is paramount to all other duties that our systems are designed to perform. These agencies include: law enforcement, Child Protective Services (C.P.S.), medical professionals, the judicial system and other services that have collaborated to create our version of the Drug Endangered Children (D.E.C.) guidelines. These guidelines are designed so that the above agencies can provide a coordinated response to children who are exposed to illegal substances.

It is the mission of the Yakima County Meth Action Team to:

- Educate the public on the impact of methamphetamine on businesses, families, children and the environment; and**
- Organize and activate government, agencies, businesses and citizens in a collaborative effort to address the elimination of manufacturing, distribution and use of methamphetamine.**



Collaboration between all participants will enhance the total effectiveness of the intervention and will demonstrate our dedication to the protection of children exposed to the world of drug abuse.

The children in our community will be the leaders of tomorrow and form the foundation for the path to a more productive, safe and healthy future.



We are pleased to contribute to our community by establishing solid guidelines that can be used by all agencies contacting children who are endangered by drugs and their effects.

These guidelines will serve as a useful tool for all who employ them to protect children, facilitate healthy families and foster interagency cooperation and collaboration.



Historical Perspective

Clandestine drug labs are a significant problem in Washington State. The Department of Ecology responded to approximately 350 drug lab incidents in 1998 compared to nearly 1500 in 2003. Currently, Washington ranks sixth in the United States in the number of illegal methamphetamine labs identified by law enforcement. Since a considerable number of illegal labs operate within residential homes and other locations that are readily accessible to children, youths living in these residences are at particular risk. In response to this problem, the Governor's Methamphetamine Coordinating Committee appointed a Drug Endangered Children (D.E.C.) subcommittee to examine existing national and local D.E.C. programs, research pertinent legal issues and identify best practices that address the children's needs. The subcommittee's work resulted in the development of the "We Care Plan".

For a successful D.E.C. program, three fundamental elements were identified:

- Collaboration between law enforcement, Child Protective Services (C.P.S.), medical facilities and prosecutors;
- On-scene response by C.P.S. or their designee;
- Collection of urine samples within four hours of assuming custody whenever possible.

The Plan includes six guidelines:

1. Law Enforcement Guidelines
2. C.P.S. Guidelines
3. Prosecutor Guidelines
4. Medical Guidelines
5. *Appendix A* – Investigative Information
6. *Appendix B* – Applicable Laws

The Yakima County Drug-Endangered Children (D.E.C.) guidelines are intended to address the immediate needs of the drug-endangered child and do not detail the responsibilities of drug courts, treatment services, continuum of care and/or site remediation. These responsibilities are recognized as integral components, implemented after the child's immediate needs have been addressed. It is our intention to write guidelines that will provide a uniform response in Yakima County. It is important to note that pertinent evidence and information relating to the children and their environment should be freely shared between law enforcement, C.P.S. and the prosecutor. This collaboration is viewed as a primary function of the D.E.C.

Law Enforcement Response

Washington State has enacted new legislation designed to protect children whose parents expose them to the hazards and dangers of methamphetamine and/or clandestine labs. This new legislation enables law enforcement to more effectively protect children from the health and safety risks associated with meth and meth labs.

These guidelines primarily outline law enforcement's response to children exposed to methamphetamine, its precursors and manufacture. A child exposed to any dangerous drug demands the same care and requires a thorough and professional investigation.

It is our objective that every law enforcement agency in Yakima County embrace these principles and develop their own policies and procedures tailored to the communities they serve. By using this guide, law enforcement will ensure a uniform professional response in every community.

The new law, RCW 9A.42.100 "ENDANGERMENT WITH A CONTROLLED SUBSTANCE" specifies: *[A] a person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine. Endangerment with a controlled substance is a class B felony.*

Children exposed to methamphetamine production and/or use frequently have multiple needs that cannot be met adequately by one agency or discipline. When the presence of children at a meth lab is known prior to a planned enforcement, C.P.S. should be notified to assist with the initial response as well as to share information with law enforcement that is relevant to the case prior to the response.

At the time of response law enforcement will take the children into protective custody, arrange for any necessary decontamination and transfer custody to C.P.S. Law enforcement should collect urine, hair, clothing and other like evidence from the children whenever possible. C.P.S. will receive the children and transport them to medical services for evaluation, necessary treatment and the collection of medical evidence. Blood, urine and/or hair samples, shall be properly stored and secured by medical personnel for collection by law enforcement.

Detailed procedures followed by all participating agencies for proper evidence collection are necessary. The appropriate and consistent training of personnel should be provided. See *Appendix A* for investigative guidelines.

RCW 26.44.050 states:

A law enforcement officer may take or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such child for the purpose of providing documentary evidence of the physical condition of the child

In addition, RCW 13.34.060(1)(b) provides:

Whenever a child is taken into custody pursuant to this section, the supervising agency may authorize evaluation of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care.

Parents do not have the right to limit an examination of their children when the children have been taken into protective custody for abuse or neglect.

It is strongly recommended that law enforcement, or C.P.S. not release children removed from a meth lab to friends or relatives of the suspects without first thoroughly checking for criminal and child abuse histories. This should reduce the overall risk of the children returning to an environment of drugs or toxic exposure. The agency placing the child will check the criminal and child abuse/neglect history of potential caregivers. Law enforcement will take the lead to obtain and review criminal history. C.P.S. will be responsible for checking for a child neglect or abuse history. This information will be communicated to the placing staff person and/or supervisor. These checks will ensure that the relative or adult taking custody of the children has not been involved in the illicit drug trade, violent crimes, crimes against children or any other criminal activity that may pose a hazard to the child's wellbeing.

If, after conducting interviews and utilizing other investigative tools, it is still unclear whether the relative is involved in illicit drugs or other worrisome crimes, it is always best to err on the side of safety and place the children elsewhere.

C.P.S. should assist law enforcement by pointing out to detectives' evidence and other conditions that would be useful during a dependency hearing. Follow-up investigation by law enforcement for criminal prosecution should be conducted by personnel trained in this specialized area.

The Yakima County Health Department can also provide useful information and evidence resulting from their investigation of the site.

Each law enforcement agency is charged with carrying the tools necessary to assist C.P.S. in gathering the evidence needed for the dependency hearing, which is held within 72 hours of the removal of the children. A recommended list of investigative tools and supplies can be found in *Appendix A*. Liberal use of digital and video photography is recommended to thoroughly document the conditions of the environment from which the children were removed. The court can review this documentation at the dependency hearing.

At least one detective should be assigned and one C.P.S. responder trained in the documentation. A collection of evidence needed for prosecution should be accomplished at the lab scene. It is strongly suggested that personnel from both C.P.S. and from any law enforcement agency or drug unit charged with responding to meth labs be trained in D.E.C. investigations. It is highly suggested that medical personnel receive training in proper medical protocol for meth lab victims, both children and adult, including evidence collection and preservation.

Universal training currently available through the Drug Endangered Children Alliance is available locally through the Yakima County Meth Action Team. "Train the Trainer", a community meth awareness course provides local instructors to educate the public regarding the rationale of the D.E.C. response statewide. Each participating agency is responsible for arranging for the proper training of necessary personnel. Guidelines for protecting children are agreed upon by the agencies. Law enforcement personnel, Yakima County Prosecutor, C.P.S. and emergency medical personnel throughout Yakima County should adhere to these guidelines to provide a uniform and coordinated response.

In addition, the site safety officer for the lab response team will notify the Washington State Department of Ecology and the Yakima County Health Department for the removal of contaminated materials and the initial disposition of the involved property. When necessary, private contractors may be called for cleanup. Under no circumstances will children or dependent adults be allowed to remain in the structure until the site has been cleared by the Health Department.

The C.P.S. worker, law enforcement and prosecutor should always reference the original investigative case number, as there is potential for numerous charges. The purpose of this practice is to allow any new disclosures of other allegations by the children to be charged separately from the initial D.E.C. investigation. This will help avoid double jeopardy when the D.E.C. case is in multiple jurisdictions or has both felony and misdemeanor components. In other words, this practice allows all charges that are pertinent to be heard before the appropriate court without technicalities.

Child Protective Services or C.P.S. Response

The primary purpose of State Child Protective Services or C.P.S. within the D.E.C. structure is to protect children and facilitate their placement and comfort. C.P.S. must also collaborate with and assist law enforcement in evidence collection and sharing of information as well as be available to present evidence in juvenile (dependency) court as well as in criminal court.

C.P.S. will receive the children taken into custody and place them. C.P.S. should be available to provide law enforcement with a check on any possible non-licensed, alternative placement being considered for the child such as primarily relatives. Likewise, law enforcement should also assist C.P.S. with criminal histories on such placements.

It is strongly recommended that law enforcement or C.P.S. not release children removed from a meth lab to friends or relatives of the suspects without first thoroughly checking for criminal and child abuse histories. This will reduce the overall risk of the children returning to an environment of drugs or toxic exposure. The agency placing the child will check the criminal and child abuse/neglect history of potential caregivers. Law enforcement will take the lead in checking criminal history. C.P.S. will be responsible for checking for a child neglect or abuse history. This information will be communicated to the placing staff person and/or supervisor. These checks will ensure that the relative or adult taking custody of the children has not been involved in the illicit drug trade, violent crimes, crimes against children or any other criminal activity that may pose a hazard to the children in placement.

If, after conducting interviews and utilizing other investigative tools, it is still unclear whether the relative is involved in illicit drugs or other worrisome crimes, it is always best to err on the side of safety and place the child or children elsewhere.

If the presence of children at a meth lab is known ahead of time, C.P.S. should be called to provide relevant advance information and may respond with the initial investigative team whenever possible. C.P.S. may assist law enforcement in gathering the evidence needed for a dependency hearing and may share evidence for the purpose of criminal prosecution. Pertinent evidence as it relates to the children and the environment should be freely shared between law enforcement, C.P.S. and the prosecutor.

Hand washing or a sanitary cleanser should be used prior to the collection of any evidence. A clean pair of latex gloves or equivalent should be used during the collection of evidence from each individual child to avoid cross-contamination. If law enforcement is not able to collect the urine sample, then the C.P.S. worker should collect the sample according to ***Appendix A*** of this document (p. 16).

It is important to emphasize that all items present at a contaminated site are presumed to be toxic. Under no circumstances will ANY items be transported from the contaminated site with the child. This includes, but is not limited to: clothes, blankets, toys, hygiene items, shoes or any other item related to the site. Treat the child as if he or she were contaminated and take precautions and use personal protective measures to avoid contamination until the child has been decontaminated.

Universal precautions should always be followed when handling any bodily fluids such as soiled diapers, urine specimens, open injuries or sores, saliva or tears. Barriers consistent with personal protection devices must be used such as latex gloves.

Right to Limited Examination:

Parents do not have a right to limit an examination of their children when the children have been taken into protective custody for abuse or neglect. RCW 26.44.050 governs when law enforcement may take a child into custody and provides:

A law enforcement officer may take or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

RCW 13.34.060(1)(b) addresses medical care for children taken into custody pursuant to RCW 26.44.050 and provides:

Whenever a child is taken into custody pursuant to this section, the supervising agency may authorize evaluation of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care.

Child Protective Service is authorized to approve routine and emergent medical care for children taken into custody by law enforcement. At that time, C.P.S. may sign the medical consent for treatment and is entitled to copies of all relevant medical information gleaned from the hospital visit. C.P.S. will also arrange for payment of medical expenses related to the D.E.C. exam, if necessary.

Completion and Submission of the Case:

The C.P.S. worker, law enforcement and prosecutor should always reference the original investigative case number, as there is potential for numerous charges. The purpose of this practice is to allow any new disclosures of other allegations by the children to be charged separately from the initial D.E.C. investigation. This will help avoid double jeopardy when the D.E.C. case is in multiple jurisdictions or has both felony and misdemeanor components. In other words, this practice allows all charges that are pertinent to be heard before the appropriate court without technicalities.

Information sharing between all Children's Services social workers is extremely important. Social workers who are involved with Yakima County D.E.C. cases need to convey any and all allegations regarding D.E.C. between each other so they may be handled in a manner consistent with the recommendations of Yakima County's D.E.C. Guidelines.

Prosecutorial Response

Prosecutors shall review the evidence collected in a timely manner. At a minimum, evidence should include:

- Law enforcement reports
- Medical reports
- Reports from C.P.S.
- Lab reports
- Reports from the Yakima County Health Department
- Interview witnesses as necessary
- Photographs

Prosecutors should then reference the appropriate statutes and case law as it applies to the facts. Whenever possible, prosecutors should seek sentencing enhancements such as:

- **9.94.A.605** – Manufacturing of methamphetamine with child on premises
- **RCW 69.50.435** – Protected zone

Prosecutors should then make every effort to apply the facts to the law and file any applicable charges, along with enhancements, as quickly as possible, keeping in mind the specific timelines for those suspects who are in custody. The case should continue to be worked so that it may be brought to trial in an expeditious manner. During this time, prosecutors should work with the victim/witness unit to keep parties informed. Throughout the trial preparation process, prosecutors should continue to work in conjunction with C.P.S., DSHS, and Dependency Court etc., to take appropriate actions and make decisions that are in the best interest of the children or dependent adult.

The C.P.S. worker, law enforcement and prosecutor should always reference the original investigative case number, as there is potential for numerous charges. The purpose of this practice is to allow any new disclosures of other allegations by the children to be charged separately from the initial D.E.C. investigation. This will help avoid double jeopardy when the D.E.C. case is in multiple jurisdictions or has both felony and misdemeanor components. In other words, this practice allows all charges that are pertinent to be heard before the appropriate court without technicalities.

Medical Response

The purpose of the medical component within D.E.C. is to preserve the lives, health and wellbeing of child victims of substance exposure by conducting a thorough and standardized assessment of their presenting condition while cooperating with law enforcement and C.P.S. in gathering forensic evidence to support the child in the long term.

I. Initial medical contact

Emergency medical and first responders should immediately assess the children for any emergent medical needs. If the child is medically compromised, s/he should immediately be stabilized and transported to the nearest appropriate medical facility.

All responders and medical staff need to insure their potential exposure to toxic substances is minimized and child is decontaminated prior to transport from the scene if medically possible.

Preservation of evidence should also be taken into consideration but does not supercede child safety.

II. Emergency Rooms

A. Protection of staff

Patients who have not been decontaminated require that health care personnel wear Nitril gloves and isolation gowns for their safety. Protection for the face and eyes should be utilized while bathing or showering the patient. Shoe covers should be worn to protect the staff's shoes. A respirator mask will be available for use if a patient should arrive that is saturated with chemicals and vapors are an issue.

It is strongly recommended that gloves, gowns and other protective articles be changed between handing patients and/or their specimens, clothing or other possible evidence to prevent possible cross contamination between patients.

B. Decontamination of patient

1. Wash patient with mild non-perfumed soap and water or moist towelettes, or shower in decontamination shower if not already decontaminated at the scene.
2. The decontamination solution of choice is mild soap and water. If anything else is required it will be determined by the physician with the help of the detective at the scene after the chemical has been identified.
3. Bag all clothing using red plastic biohazard bags and seal tightly. Clothing may be used as evidence. The disposition of clothing will be at law enforcement's discretion.
4. Personal protective equipment is not needed for protection against methamphetamine contamination as long as the patient has been decontaminated and is wearing clean clothing.

C. Evaluation of patient

General Exam: Head-to-toe assessment of child for:

- Signs of physical abuse: Contusions, abrasions, chemical/thermal burns, skin discoloration, and any other suspicious or unexplained marks;
- Signs of malnutrition or other neglect (consider general developmental issues);
- Behavioral signs of emotional abuse. Note any developmental delays or problems with language and speech. Note any delays in socialization;
- Unusual odors (chemical odors may indicate contamination/exposure to methamphetamine cooking process);
- Genital exam to consider abusive injuries (a forensic sexual abuse exam may be scheduled for later);
- Verbal interview with child (if age appropriate). Document statements made to physician for purposes of medical diagnosis or treatment, describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment;
- Height and weight should be recorded on the medical record;
- Vital signs and O₂ saturation.

Rarely some production processes produce toxins that cause pulmonary injury. O₂ saturation is considered an adequate screening. If saturations are low, a chest x-ray should be done;

- Photographs to document injuries/abnormalities;
- Laboratory;
 1. Urine drug screen (for use with a standard toxicology screen-law enforcement will submit evidentiary urine to the W.S.P. toxicology lab for detection of minute amounts of illegal drugs);
 2. Liver enzymes (as a determiner of general toxic exposure);
 3. CBC (consider if bone marrow suppression appears a possibility);
 4. Hair sample analysis is not currently recommended as a medical procedure although Law Enforcement may require for evidence of drug exposure;

5. Consider heavy metal contamination (this determination should be made with the assistance of the detective involved at the scene). This is indicated only if the methamphetamine lab was NOT an ephedrine-reduction or cold-cook method lab (e.g. if phenyl-2-propanone (P₂P) method was used, or if otherwise clinically indicated). Lithium Aluminum Hydride is one of the toxic wastes produced and should be included in the heavy metal screening;⁷
6. A complete neurological exam may be indicated (especially if head injury and/or heavy metal poisoning is suspected);
7. A skeletal survey may be indicated if physical abuse is suspected.

III. Non-Emergent care

- All children should see their primary care provider or other routine medical provider to evaluate development, growth and neurological status as soon as may be routinely scheduled. If children are placed, this may be done by the social worker.
- Referral for sexual abuse evaluation may be made based on preliminary medical exam or disclosure by child.

IV. C.P.S. involvement

Child Protective Service is authorized to approve routine and emergent medical care for children taken into custody by law enforcement. At that time, C.P.S. may sign the medical consent for treatment and is entitled to copies of all relevant medical information gleaned from the hospital visit. C.P.S. will also arrange for payment of medical expenses related to the D.E.C. exam if necessary.

V. Evidence Collection Procedures

Hand washing or a sanitary cleanser should be used prior to the collection of any evidence, and a clean pair of latex gloves or equivalent should be used during the collection of evidence from each individual child to avoid cross-contamination. Collect urine and hair samples. Document the date and time the samples were collected.

If there is an infant still in diapers, take off what they are wearing and replace it with a clean cloth diaper and sterile plastic pants if C.P.S. or law enforcement has not already done so. Feed the infant juice or water to assist in the urination process. If you have a young boy or girl that is potty trained but unable to successfully urinate into a pee cup, place a sterile urine tray over the toilet and have them urinate into the tray. Drain the tray into the pee cups and close the lid. Older children, who can successfully urinate in a pee cup, should do so. Immediately label the urine cups as to which child the urine belongs, along with the date, time and name of the collecting detective. The urine samples should be delivered to the WSP Toxicology lab as soon as possible. If there is a time delay, the urine should be frozen. Urine can remain frozen for as long as necessary.

Twenty to fifty mL of urine should be collected in a specimen collection container. Note that specimen containers available at hospitals are not designed for shipment and may leak in transit, potentially losing all samples. The toxicology lab can provide urine cups that will not leak.

Blood should be collected in 10 to 20 mL glass gray top Vacutainer-type specimen collection tubes. These are the identical tubes supplied to law enforcement officers for sample collection in DUI blood draws.

In the unlikely event medical personnel are requested by law enforcement to collect hair samples, it should be done while wearing latex or rubber disposable gloves as the children may have head lice. Document that you cleaned the scissors before and after the hair sample was taken. (Hair does not absorb the drugs during handling, but are taken into the hair through the hair follicle via the blood stream.) Hair grows about a half-inch a month. Hair analysis can show how long a child has been exposed to methamphetamine. It takes one to two weeks for the drug to get from the surface of the scalp to the hair follicle. The drugs in hair do not deteriorate. Hair can be stored as long as needed. The hair can be taken from one spot on the head or multiple spots as close to the scalp as possible by cutting with scissors. Never pluck hair! Use a hair collection kit supplied by the WSP Toxicology Lab or one provided by law enforcement. The WSP toxicology lab will wash the hair prior to analysis.

Maintain samples and/or other evidence in a manner consistent with hospital standards for sexual assault cases.

Appendix A

Investigation Guide and Equipment for C.P.S. and Law Enforcement

Introduction

Methamphetamine metabolizes out of the body within 12 hours of exposure. Most medical facilities that take urine samples and submit them for analysis have limitations on detection. Hospitals generally only test for overdose limits, whereas the Washington State Patrol Toxicology Lab tests for any level of exposure. If urine is not collected at the scene, chances are that the sample will not show positive exposure to methamphetamine if the sample is taken the next day.

For the purpose of illustration, King County began compiling statistics after this new legislation was implemented. The results were startling. They showed that:

~ The average exposure rate of children taken out of meth labs, for those agencies around the country with D.E.C. teams that track such data, is between 30% and 50% of children tested at Meth Lab Sites.

~ From May 2002 - August 2003, when these statistics were first kept, the overall rate for children testing positive for exposure to methamphetamine was 64% of children tested. These included cases where someone other than their Special Victims Unit collected the urine sample.

~ During this same time frame, when law enforcement responded directly to the scene of Meth Labs and collected the urine samples from these children, the detected rate of exposure increased to 90% of the children tested. This high positive exposure rate is due to the fact that the detectives collected urine samples from these children immediately on premises instead of having the children taken to the doctor's office the next day for a urine sample.

Investigation Information and Affidavits

If law enforcement becomes aware in advance of a pending search warrant being prepared for a meth lab where children or dependent adults may be present, they should add hair and urine samples to the affidavit and search warrant. If this is not possible, urine and hair may be collected after they have been taken into protective custody. It is generally agreed that a search warrant is not typically needed for the collection of hair and urine from persons in protective custody, however it is recommended that when in doubt, the prosecutor should be consulted. These children and dependent adults are victims, much like those in sexual assault cases where forensic evidence is found with their person.

The scope of the warrant should cover the searching for, taking or removal of any material, substance or item that would absorb, could be coated with or exposed to chemicals related to methamphetamine manufacture or use. This will allow the removal of carpet samples, furniture material, wall sections, soil samples if needed, or any other item that could assist in the investigative process. The search warrant should also include the collection of urine and hair samples from children and or dependent adults.

Sample affidavit:

"In addition to the above, as a result of my training and experience, I have found it common to find the following during the execution of search warrants regarding Methamphetamine manufacture:

That minor children and or adults may reside at a Methamphetamine-manufacturing site, especially when it is a private residence;

That it is common to find such that when children are present at the site of a residential methamphetamine-manufacturing site, they may be exposed to either or both of the finished product, methamphetamine, and its precursor chemicals, through avenues including (a) actual ingestion of the finished product and/or precursor chemicals either through touching contaminated surfaces or because of such surfaces' proximity to children' eating areas and implements, baby bottles, play areas and sleeping areas, and/or (b) inhalation of airborne precursor chemicals, including anhydrous ammonia and/or solvents, such as toluene.

That during the period during which law enforcement has responded to methamphetamine manufacturing sites when children are present and collected urine samples from such children, the detected rate of exposure is approximately 90% of the children tested.

That methamphetamine metabolizes out of the body within approximately 12 hours of exposure.

That collection of samples and/or swabbed samples off surfaces at methamphetamine labs that children could access, such as dining room tables, coffee tables, drywall, carpeting, furniture, stuffed animals and soil from play areas could demonstrate access of and exposure to children to the finished methamphetamine product, methamphetamine smoked by occupants of the structure and/or methamphetamine's precursor chemicals.

That collection of hair and/or urine samples from such children while onsite has been shown to evidence exposure of such children to methamphetamine.”

Once the lab site has been downgraded by the lab entry team to a level that is deemed to be safe to enter without personal protective equipment, detectives and/or C.P.S. should walk the area. Note where the “hot zone” is in relation to the children’s play area. The scope of the hot zone may depend on the size of the lab and/or time frame in which it has operated. Investigative questions need to be asked that may include:

- What toys do you see outside or inside the premises?
- Is the property secluded?
- Is there running water and electricity?
- If there is electricity, are there wiring hazards to which the children are exposed?
- If there is running water, at what temperature the water heater set.
- Look to see if there is food. If there is, what type of food is available for the children? Is there food in proximity to the hot zone?
- Where are their bedrooms in relation to the hot zone?
- What are the heights of the children? Their reach?
- Can the children reach the drugs or chemicals found in the lab?
- Where is the toxic waste from the lab dumped?
- Are there any other dangerous items that relate to drug use or manufacture?

Make an initial check of the children present at the scene once it’s deemed safe. Any child displaying any breathing or physical symptoms of exposure should be taken to an emergency room as soon as possible. Once this initial welfare check is done, a detective or C.P.S. worker can focus on the scene as it relates to the children or dependent adult while a detective works with the children to start the process of building rapport. Once rapport is established, ask them if they know why the police are there. Try to get the children to talk. Be aware it is normal for them to try to protect their parents.

Evidence Collection

Hand-washing or a sanitary cleanser should be used prior to the collection of any evidence, and then a clean pair of latex gloves or equivalent should be used during the collection of evidence from each individual child to avoid cross-contamination. Collect urine and hair samples. Document the date and time the samples were collected. If you have an infant still in diapers, take off what they are wearing and replace it with a clean cloth diaper and sterile plastic pants. Feed the infant juice or water to assist in the urination process. If you have a young boy or girl that is potty trained but unable to successfully urinate into a pee cup, place a sterile urine tray over the toilet and have them urinate into the tray. Drain the tray into the pee cups and close the lid. Older children, who can successfully urinate in a pee cup, should do so. Immediately label the urine cups as to which child the urine belongs, along with the date, time and name of the collecting detective. The urine samples should be delivered to the WSP Toxicology lab as soon as possible. If there is a time delay, the urine should be frozen. Urine can remain frozen for as long as necessary.

Twenty to fifty mL of urine should be collected in a specimen collection container. Note that those available at hospitals are not designed for shipment and may leak in transit, losing all potential testing samples. The Toxicology Lab can provide urine cups, which will not leak.

Blood should be collected in 10 to 20 mL glass gray top Vacutainer-type specimen collection tubes. These are the identical tubes supplied to law enforcement officers for sample collection in DUI blood draws.

The collection of hair samples should be done while wearing latex or rubber disposable gloves as the children may have head lice. Document that you cleaned the scissors before and after the hair sample was taken. (Hair does not absorb the drugs during handling, but are taken into the hair through the hair follicle via the blood stream.) Hair grows about a half-inch a month. Hair analysis can show how long a child has been exposed to meth. It takes one to two weeks for the drug to get from the surface of the scalp to the hair follicle. The drugs in hair do not deteriorate. Hair can be stored as long as needed. The hair can be taken from one spot on the head or multiple spots as close to the scalp as possible by cutting with scissors. Never pluck hair! Use a hair collection kit supplied by the WSP Toxicology Lab or one provided by the individual agency. The WSP toxicology lab will wash the hair prior to analysis.

Hair samples should not, for the time being, be submitted without prior consultation with the lab. Contact Ms. Ann Gordon, the manager at the State Toxicology Laboratory, at (206) 262-6123 with any questions or problems.

As a rule of thumb: If the evidence comes from within the body, the Toxicology lab analyzes it. All other evidence goes to the WSP Crime lab. A WSP Toxicology Lab request form can be obtained at <http://breathtest.wsp.wa.gov/default.asp>.

Photograph everything, including the children. Photograph the height of the smaller children and their reach. If a video camera is utilized make an effort to video tape the entire scene (disengage the audio pick up). Use a tape measure in the photographs and video to show the relationship of the drugs, chemicals or other hazards to the reach of the smallest child.

Try to get a statement from the parent(s) per department protocols. See if they will admit to the children being exposed to the meth lab. Ask the parent what duties the older children had in the manufacturing of the Methamphetamine. Did they remove products from the packaging? Did they stand watch as a security guard looking for a drug rip off or for the police? Ask if they taught their children the recipe for making Meth. If nothing else, maybe they will give you a statement that their child had no exposure to meth or that they knew the drugs and compounds were dangerous and were taking steps to protect their children.

Look for the personal phone books of the parents. This will provide an abundance of witness information and possibly family members who can tell you about the history of the children being exposed to Meth.

The narcotic detectives will collect lab evidence and document the toxic chemicals and the presence of Methamphetamine. Your evidence is the living environment of the children. Document the lack of general cleanliness.

If the lab is in the living quarters of the residence, use reagent tests to determine if food is contaminated as part of your investigation. Are there chemicals being stored in the refrigerator, cupboards or on counter tops? Are there drugs or drug paraphernalia next to the food, baby bottles or toys?

Use sterile cotton swabs and distilled-sterile water to swab the kitchen or dining room table. Swab the counter top and dishes for contamination. If the site has had a meth lab for a long time, take carpet samples or samples from the furniture for Methamphetamine absorption. These are items the children would most likely be sitting or sleeping on. If the lab is near the children's bedroom, think about taking a sample of the drywall for absorption. Look to see if there are any stuffed toys that would possibly be contaminated. When the Meth lab is in an outbuilding near where it is obvious that the children play – take soil samples. Take pictures to show the proximity of the lab to the children's play area.

During the photographing process, take photographs from the height of the smaller children to get a view from what they see and what they can reach. Photograph all the hazards such as dirty needles, loaded firearms, drugs and chemicals from their vantage point. Location of pornography should also be taken into consideration.

Ask the fire department if they have the time and resources to respond to the scene to do a basic vital check on the children. Document this medical information to compare it to a follow-up medical exam of the children. Methamphetamine will elevate blood pressure, heart rate and body temperature.

Ask firemen at the scene to walk through the residence to document any safety hazards that exist. Ask if they can provide a report that indicates the hazard level to the safety of the children if a fire broke out.

Suggested Physical Evidence Collection:

Urine samples may be frozen until transported to the WSP Toxicology Lab.

Hair samples may be sealed in the WSP hair collection kit.

Swabs from the surfaces of furniture in the residence should be air-dried. Food samples that are positive for meth should be frozen.

Clothing, toys, carpeting, furniture and soil samples may be sealed in zip-lock bags.

Food/drinks/baby bottles that may be drug contaminated and accessible to child(ren)

Anything preserved for evidence should be labeled utilizing departmental procedures for evidence collection.

Photographs and video should also be labeled and have a tape measure or other such device in the frame for scale.

Suggested Testimonial and Physical Evidence:

Initial and follow up statements from the children

Statements from the offending parents/s

Statements from the non-offending parents/s

Statements from neighbors

Statements from relatives

School records for school age children

Medical records

Dental records

Criminal history of parents

Prior C.P.S. history of family

Conduct a historical review of the property for all prior police calls

Aerial photograph of the Meth lab and surrounding area

Video and or still photography of the scene

Lab results

Fingerprint results

Suggested Equipment/Tools:

Law Enforcement

WSP toxicology lab hair collection kits

(or heavy tin foil)

Scissors

Box cutter

Hand shovel

Distilled or sterile water

Cotton tipped swabs

Petrie type containers with tightly fitting lids

Reagent Narcotest

#23, #2 and #27

C.P.S.

Complete gender-neutral sweat suits

Under garments for children of various ages and genders

Socks

Footwear

Both

Digital and/or video cameras

Urine cups with tight closing lids

Urine trays for toilets

Bottled water/juice, to assist with urine collection

Sterile baby bottles/nipples

Cloth diapers and sterile plastic pants

Sealed in sterile Ziploc bags, for collection from infants

Vionex wipes or rubbing alcohol

Brightly colored tape measure with large numbers

Large Ziploc bags

Latex gloves

Clean blankets

Black permanent marking pen

Appendix B

Pertinent Laws

RCW 9A.42.100 – Endangerment with a controlled substance

A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine. Endangerment with a controlled substance is a class B felony.

RCW 9.94A.605 – Methamphetamine – Manufacturing with child on premises – Special allegation.

In a criminal case where:

- (1) The defendant has been convicted of (a) manufacture of a controlled substance under RCW 69.50.401 relating to manufacture of methamphetamine; or (b) possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, as defined in RCW 69.50.440; and
- (2) There has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant committed the crime when a person under the age of eighteen was present in or upon the premises of manufacture; the court shall make a finding of fact of the special allegation, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation.

RCW 13.34.060 (1) (b) – Shelter Care – Placement

Allows the “supervising agency” to authorize an evaluation of the child’s physical or emotional condition to include routine medical and dental exams and all necessary emergency care.

RCW 26.44.020 – Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Court" means the superior court of the state of Washington, juvenile department.
- (2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.
- (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.
- (4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.
- (5) "Department" means the state department of social and health services.
- (6) "Child" or "children" means any person under the age of eighteen years of age.
- (7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.
- (8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

- (9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.
- (13) "Child protective services section" means the child protective services section of the department.
- (14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.
- (15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.
- (16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.
- (17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.
- (18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.
- (19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

RCW 26.44.030 – Reports -- Duty and authority to make -- Duty of receiving agency -- Duty to notify -- Case planning and consultation -- Penalty for unauthorized exchange of information -- Filing dependency petitions -- Interviews of children -- Records -- Risk assessment process.

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(c) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(d) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

RCW 26.44.040 – Reports -- Oral, written -- Contents.

An immediate oral report must be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the alleged injury or injuries;
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

RCW 26.44.050 – Abuse or neglect of child -- Duty of law enforcement agency or department of social and health services -- Taking child into custody without court order

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, the law enforcement agency or the department of social and health services must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

RCW 26.44.056 – Protective detention or custody of abused child -- Reasonable cause -- Notice -- Time limits -- Monitoring plan – Liability

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

RCW 26.44.200 – Methamphetamine manufacture -- Presence of child.

A law enforcement agency in the course of investigating: (1) An allegation under *RCW 69.50.401(a) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

RCW 69.50.102 – Drug paraphernalia -- Definitions.

(a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - (vi) Miniature cocaine spoons, and cocaine vials;
 - (vii) Chamber pipes;
 - (viii) Carburetor pipes;
 - (ix) Electric pipes;
 - (x) Air-driven pipes;
 - (xi) Chillums;
 - (xii) Bongs; and
 - (xiii) Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.

RCW 69.50.406 – Distribution to persons under age eighteen.

- (1) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, or flunitrazepam listed in Schedule IV, to a person under eighteen years of age is guilty of a class A felony punishable by the fine authorized by RCW 69.50.401(2) (a) or (b), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(2) (a) or (b), or by both.
- (2) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his or her junior is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both.

RCW 69.50.414 – Sale or transfer of controlled substance to minor -- Cause of action by parent -- Damages.

The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) forfeiture to the parent or legal guardian of the cash value of any proceeds received from such sale or transfer of a controlled substance, and (c) reasonable attorney fees.

This section shall not apply to a practitioner, as defined in *RCW 69.50.101(t), who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order.

RCW 69.50.435 Violations committed in or on certain public places or facilities – Additional penalty – Defenses – Construction – Definitions.

- (1) Any person who violates RCW 69.50.401 by manufacturing, selling delivering, or possessing with intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates RCW 69.50.410 by selling for profit and controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana to a person;
- (a) In a school;
 - (b) On a school bus;
 - (c) Within one thousand feet of a school bus route stop designated by the school district;
 - (d) Within one thousand feet of the perimeter of the school grounds;
 - (e) In a public park;
 - (f) In a public housing project designated by a local governing authority as a drug-free zone;
 - (g) On a public transit vehicle;
 - (h) In a public transit stop shelter;
 - (i) At a civic center designated as a drug-free zone by the local governing authority; or
 - (j) Within one thousand feet of the perimeter of a facility designated under (i) of this section....

RCW 69.50.505 – Seizure and forfeiture.

- (1) The following are subject to seizure and forfeiture and no property right exists in them:

- (a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;
- (b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;
- (c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;
- (d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:
 - (i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;
 - (ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;
 - (iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;
 - (iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and
 - (v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;
- (e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;
- (f) All drug paraphernalia;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, and other evidence which demonstrates the offender's intent to engage in commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: **PROVIDED**, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the board or seizing law enforcement agency may:

- (a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;
- (b) Sell that which is not required to be destroyed by law and which is not harmful to the public;
- (c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(13) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(a) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(b) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(i) Only if the funds applied under (b) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(c) For any claim filed under (b) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

[2003 c 53 § 348; 2001 c 168 § 1; 1993 c 487 § 1; 1992 c 211 § 1. Prior: (1992 c 210 § 5 repealed by 1992 c 211 § 2); 1990 c 248 § 2; 1990 c 213 § 12; 1989 c 271 § 212; 1988 c 282 § 2; 1986 c 124 § 9; 1984 c 258 § 333; 1983 c 2 § 15; prior: 1982 c 189 § 6; 1982 c 171 § 1; prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 §69.50.505 .]

NOTES:

Intent -- Effective date -- 2003 c 53: See notes following RCW 2.48.180.

Severability -- 2001 c 168: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 168 § 5.]

Effective date -- 1990 c 213 §§ 2 and 12: See note following RCW 64.44.010.

Severability -- 1990 c 213: See RCW 64.44.901.

Findings -- 1989 c 271: "The legislature finds that: Drug offenses and crimes resulting from illegal drug use are destructive to society; the nature of drug trafficking results in many property crimes and crimes of violence; state and local governmental agencies incur immense expenses in the investigation, prosecution, adjudication, incarceration, and treatment of drug-related offenders and the compensation of their victims; drug-related offenses are difficult to eradicate because of the profits derived from the criminal activities, which can be invested in legitimate assets and later used for further criminal activities; and the forfeiture of real assets where a substantial nexus exists between the commercial production or sale of the substances and the real property will provide a significant deterrent to crime by removing the profit incentive of drug trafficking, and will provide a revenue source that will partially defray the large costs incurred by government as a result of these crimes. The legislature recognizes that seizure of real property is a very powerful tool and should not be applied in cases in which a manifest injustice would occur as a result of forfeiture of an innocent spouse's community property interest."

RCW 69.50.511 – Clean-up of hazardous substances at illegal drug manufacturing facility -- Rules.

Law enforcement agencies who during the official investigation or enforcement of any illegal drug manufacturing facility come in contact with or are aware of any substances suspected of being hazardous as defined in *RCW 70.105D.020(5), shall notify the department of ecology for the purpose of securing a contractor to identify, clean-up, store, and dispose of suspected hazardous substances, except for those random and representative samples obtained for evidentiary purposes. Whenever possible, a destruct order covering hazardous substances which may be described in general terms shall be obtained concurrently with a search warrant. Materials that have been photographed, fingerprinted, and subsampled by police shall be destroyed as soon as practical. The department of ecology shall make every effort to recover costs from the parties responsible for the suspected hazardous substance. All recoveries shall be deposited in the account or fund from which contractor payments are made.

The department of ecology may adopt rules to carry out its responsibilities under this section. The department of ecology shall consult with law enforcement agencies prior to adopting any rule or policy relating to this section.