

SNOHOMISH COUNTY PROSECUTOR'S OFFICE INVESTIGATIVE CHECKLIST

SECOND DEGREE CRIMINAL MISTREATMENT

RCW 9A.42.030

ELEMENTS

1. The suspect is the victim's parent, a person entrusted with the physical custody of the victim, a person who has assumed the responsibility to provide to the victim the basic necessities of life, or a person employed (paid or not) to provide the victim with the basic necessities of life; AND
2. The victim is under 18 years old or a "dependent person"; AND
3. The suspect withheld a "basic necessity of life" from the victim; AND
4. The suspect thereby created an imminent and substantial *risk* of death or "great bodily harm" to the victim, or *caused* "substantial bodily harm"; AND
5. The suspect acted recklessly: knew of and disregarded a substantial risk that a wrongful act may occur and the disregard of such substantial risk was a gross deviation from conduct that a reasonable person would exercise in the same situation.

*Dependent person means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW [18.51.010](#), a resident of an adult family home, as defined in RCW [70.128.010](#), and a frail elder or vulnerable adult, as defined in *RCW [74.34.020](#)(13), are presumed to be dependent persons.

**Basic necessities of life means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

***Great bodily harm means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

****Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.

Defense: The suspect withheld a basic necessity of life due to financial inability, and the suspect made a reasonable effort to obtain adequate assistance. This defense is available to a person employed to provide the basic necessities of life only when the agreed-upon payment has not been made.

Defense: If the suspect provided Christian Science treatment by a duly accredited Christian Science practitioner in lieu of medical care, in good faith, the suspect is not guilty of depriving the victim of medically necessary health care.

SPECIFIC REQUIREMENTS

- [] 1. Document suspect's relationship with the victim: parent or other type of caregiver, and for how long.
- [] 2. Determine victim's date of birth if victim is under 18, or alternatively, document victim's status as a dependent person.
- [] 3. Specify and document what basic necessities of life have been withheld.
- [] 4. Obtain medical records regarding injury, loss or impairment of bodily functions, or risk of death to victim.
- [] 5. Obtain expert medical opinion about the effect of the mistreatment on the victim.
- [] 6. Determine if CPS is involved and if so, indicate caseworker's name and phone number. Check to see if CPS or police have received other complaints concerning suspect, victim, or other major caretakers of victim during period of mistreatment. Obtain those CPS and police reports.
- [] 7. Interview suspect's spouse/significant other regarding alibi and other defenses, and to get information corroborating or refuting victim's account.
- [] 8. Things to ask victim:
 - [] Determine who the victim told first about the mistreatment, others who were told before police, and get statements from those people.
 - [] Determine as near as possible when the mistreatment began and ended. Can victim recall specific incidents, including first and last?
 - [] What suspect said.
 - [] Where mistreatment occurred.
- [] 9. Find out if victim is in counseling and if so, with whom.
- [] 10. If more than one person had control over the victim during the period of mistreatment, create a timeline of incidents of mistreatment, and determine who had access to the victim during those incidents. Obtain statements from all of these persons, if possible.
- [] 11. Document evidence to prove/disprove that the suspect was aware of the substantial risk to the victim from the withholding of a basic necessity of life, and that the suspect chose to disregard that risk.
- [] 12. Establish what the suspect's motive was for withholding the basic necessity of life, or whether the suspect had a financial or religious impediment to providing it.
- [] 13. Statements from all alibi witnesses.
- [] 14. If suspect may be suffering from a mental disease or defect, determine and detail what evidence exists to prove/disprove that at the time the assault was committed, either the

suspect's mind was affected by the mental disease or defect such that the suspect was unable to perceive the nature and quality of his/her actions, or that the mental disease or defect prevented the suspect from being able to appreciate that his/her actions were wrong.

- [] 15. Statement from person who last saw victim looking healthy and normal, to help establish time frame for mistreatment.
- [] 16. Document what stress factors were in suspect's life, what experience suspect had in child care/care giving, and what were his/her child care/care giving practices.