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**Reporting of Reasonable Suspicions of Crimes in LTC**Elder Justice Act Explanation and Toolkit

The Elder Justice Act, part of the Affordable Care Act, signed into law on March 25, 2010, has recently been clarified in CMS [S&C letter 11-30-NH, Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/SCLetter11_30.pdf). The information contained in S&C 11-30—NH is effective immediately. CMS directs the states to ensure that all appropriate state staff be fully informed within 30 days of the June 17 memorandum date. IHCA anticipates seeing this in the field shortly after July 17.

S&C 11-30-NH, Section B. “LTC Facility Responsibilities” directs facilities to:

**a)** Determine the applicability of the EJA (if the facility received at least $10,000 in federal
 funds (Medicare and Medicaid) in the preceding year);
**b)** Notify all “covered individuals” of their rights and responsibilities;
**c)** Post a conspicuous Notice to Employees, and
**d)** Eschew retaliation.

IHCA (with AHCA) are providing the documents and templates below (available on the IHCA website) to assist facilities with this compliance effort. These documents/templates should be adapted to your individual facility. They have NOT been formally approved by CMS or DIA and are subject to change upon further guidance from CMS.

Policy & Procedure for Reporting Suspected Crimes - DRAFT
Facility Suspected Crime Report - TEMPLATE
Reporting Letter to Law Enforcement - TEMPLATE
Notice of Rights and Responsibilities under the Federal Elder Justice Act -TEMPLATE

The Iowa Department of Inspections and Appeals has issued the memo, *Elder Justice Act Requires Facilities, Employees to Report Reasonable Suspicion of a Crime to Local Law Enforcement*, to Iowa law enforcement agencies alerting them to expect an increase in reports from long term care facilities.

**Overview of “who” and “when”**
The Elder Justice Act requires ALL "covered individuals", meaning employees, owners, managers and agents of a long-term care facility, be notified on an annual basis of their rights and responsibilities under the Elder Justice Act. **FAILURE TO REPORT AS REQUIRED MAY RESULT IN A CIVIL MONETARY PENALTIES AND EXCLUDED PROVIDER CLASSIFICATION**.

A “covered individual” must report to the Department of Inspections and Appeals (DIA) and one or more local law enforcement entities (i.e., local police and/or sheriff) if he/she has a reasonable suspicion of a crime against any individual who is a resident of, or receives care from, a long term care facility.

The time frames for reporting of reasonable suspicion of a crime, depends on the seriousness of the event that leads to the reasonable suspicion.

1. ***Serious Bodily Injury – 2 Hour Limit:*** If the events that cause the reasonable suspicion result in serious bodily injury to a resident, the covered individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion;

2. ***All Others – Within 24 Hours:*** If the events that cause the reasonable suspicion do not result in serious bodily injury to a resident, the covered individual shall report the suspicion not later than 24 hours after forming the suspicion.

Any facility that determines that the EJA is applicable should hold an in-service to educate “covered individuals” of their rights and responsibilities under the Act as soon as possible. Also note that there is an independent reporting obligation on each "covered individual" to ensure their individual reporting responsibility is fulfilled. This means that for any multiple-person report, ALL covered individuals making the report should be identified. This is a distinct and separate responsibility from the abuse/mandatory reporter’s obligation to report dependent adult abuse to a supervisor. The Elder Justice Act includes the obligation to report any suspected dependent adult abuse AND any suspected crime against a resident that is committed by other individuals including, but not limited to, family members.

If you have questions, contact Kelly Meyers, IHCA ICAL Director of Government and Regulatory Affairs.