

MISSING PERSON RESPONSES

In the course of missing persons' investigations involving individuals considered to be of diminished capacity, especially with respect to adults, a law enforcement officer may run across a number of new terms with which they are unfamiliar. Understanding these definitions are critical, however, in assessing the urgency of a particular search. In some cases, the individual summoning law enforcement might be a caregiver who might have limited knowledge about the missing subject, or may assume that the law enforcement officers knows something that the officer does not know. It is important when responding to a home with a caregiver that the officer establish exactly what type of residential facility they are working with, and for that, you have to ask, and that they understand the exact status of the residents. (For example, a caregiver in a Family Care Home may assume that an officer knows that all of the residents are intellectually disabled, and not even mention that, and instead focus on any mental illnesses the subject might have.) It is critical in the case of all subjects with a reported disability to determine what, precisely, the disability is, by specific diagnosis, and not just an interpretation by a reporting party.

Questions to Ask on the Initial report

If a patrol officer is called to the scene of a missing person, especially a situation in which the individual lives with a caregiver, it is crucial to get an accurate assessment of the individual's physical and mental status to understand the criticality of a particular report.. The following questions may help with determining the status of the missing person.

1. Is the missing subject intellectually disabled / mentally retarded?¹ If so, at what level are they functioning?
The possible answer will be given as an IQ number, a level or a functional age. Although medical references will differ, mild mental retardation will range from 50-75 and moderate from 35-49. It would be almost impossible for someone in the severe or profound category to become missing on their own, due to lack of cognitive abilities and accompanying physical disabilities. In some cases, the information may be provided as a functional age, for example, they are at a cognitive functional level of a 10 year old, but some of their behaviors may be more adult-like, such as an interest in a romantic/sexual relationship.
2. Does this individual have any mental illness? Does this individual have a diagnosis on the autism spectrum? Is the individual developmentally disabled or have a traumatic brain injury?
Commonly seen mental disorders include schizophrenia, bi-polar, borderline personality, anxiety, or a range of compulsive behaviors, but the response may be anything. Developmental disability is legally defined below, as is traumatic brain injury.
3. What medications does the subject require? What are they for? Are any of these medications life-sustaining?

¹ Kentucky law uses the term intellectually disabled, but most medical references use the term mental retardation. For the purpose of this guidance, the terms are interchangeable.

If possible, copy the information directly from the medication bottle, as medication names may differ only by a letter or so. With respect to life-sustaining, some medications, while important to the subject's overall health, will not cause an immediate problem if doses are missed – such as cholesterol medications or low-dose aspirin. Others, for example seizure medication or insulin, may be immediately critical.

4. Has this person left under similar circumstances before? What did they do then and how were they located?

However, even if they have done so before, that does not mean they will behave in the same way in the current situation. It can be useful in determining what the person might do.

5. Does the individual have any money?

Even if the caregiver or parent says no, however, it is common for any individual to have at least a small amount of money. Individuals in state care are given a small amount of cash every month – perhaps \$40-\$60, and thus may have money in their possession.

6. Do they know how to ride public transportation (if available)?

Even if the caregiver or parent says no, however, the subject may be aware of the process of getting on a bus to travel, even if they do not understand the system as a whole or have the concept of a destination. If yes, the individual may have a bus pass or tickets as well.

7. Would the subject get into a vehicle with a stranger?

It is not uncommon for someone to give a ride to an individual, especially someone who appears harmless, very young or elderly.

8. Does the individual have a cell phone? Does the individual text?

If so, get the number and carrier, if possible. In some cases, the subject will answer if called by a phone number they do not recognize, or respond to a text from a person they perceive as an authority figure. It may also be possible to “ping” the phone's location.

9. If an adult, does the individual have a guardian (physical and/or financial) or a representative payee? (If a veteran, they may use the term fiduciary rather than representative payee.) Is the individual in state wardship.

See definitions. Note that a RP is not necessarily also a guardian. In some cases, an individual may live alone but have a guardian or be in state care.

10. Does the individual use social media? Does the reporting party have access to the account? If not, do they know someone who does?

If so, get the information on user names, etc.

USEFUL DEFINITIONS (KENTUCKY REVISED STATUTES)

ADULT DAY CARE HEALTH CARE PROGRAM CENTERS

216B.0441(1)

A program licensed by the Cabinet for Health and Family Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care

services, self-care training, and social and recreational activities for individuals of all ages.

ADULT DAY TRAINING FACILITIES

KRS 205.010(15)

Any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

ASSISTED-LIVING COMMUNITY

194A.700(4)

A series of living units on the same site certified under KRS 194A.707 to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager

Other definitions of importance under this category include:

- "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- "Assistance with activities of daily living and instrumental activities of daily living" means any assistance provided by the assisted-living community staff with the client having at least minimal ability to verbally direct or physically participate in the activity with which assistance is being provided;
- "Assistance with self-administration of medication, unless subject to more restrictive provisions in an assisted-living community's policies that are communicated in writing to clients and prospective clients, means:
 - (a) Assistance with medication that is prepared or directed by the client, the client's designated representative, or a licensed health care professional who is not the owner, manager, or employee of the assisted-living community. The medication shall:
 1. Except for ointments, be preset in a medication organizer or be in a single dose unit;
 2. Include the client's name on the medication organizer or container in which the single dose unit is stored; and
 3. Be stored in a manner requested in writing by the client or the client's designated representative and permitted by the assisted-living community's policies;
 - (b) Assistance by an assisted-living community staff person, which includes:
 1. Reminding a client when to take medications and observing to ensure that the client takes the medication as directed;
 2. Handing the client's medication to the client, or if it is difficult for the client or the client requests assistance, opening the unit dose or medication organizer, removing the medication from a medication organizer or unit dose container, closing the medication organizer for the client, placing the dose in a container, a container, and placing the medication or the container in the clients hand;
 3. Steadying or guiding a client's hand while the client is self-administering medications; or
 4. Applying over-the-counter topical ointments and lotions;

(c) Making available the means of communication by telephone, facsimile, or other electronic device with a licensed health care professional and pharmacy regarding a prescription for medication;

(d) At the request of the client or the client's designated representative, facilitating the filling of a preset medication container by a designated representative or licensed health care professional who is not the owner, manager, or employee of the assisted living community; and

(e) None of the following:

1. Instilling eye, ear, or nasal drops;
 2. Mixing compounding, converting, or calculating medication doses;
 3. Preparing syringes for injection or administering medications by any injection method;
 4. Administering medications through intermittent positive pressure breathing machines or a nebulizer;
 5. Administering medications by way of a tube inserted in a cavity of the body;
 6. Administering parenteral preparations;
 7. Administering irrigations or debriding agents used in the treatment of a skin condition; or
 8. Administering rectal, urethral, or vaginal preparations;
- "Client, resident, or tenant means an adult person who has entered into a lease agreement with an assisted-living community;
 - Mobile non-ambulatory means unable to walk without assistance, but able to move from place to place with the use of a device including but not limited to a walker, crutches, or wheelchair;

ASSISTED- LIVING COMMUNITY (ALZHEIMER'S)

KRS 216.595

An Assisting Living or Long Term Care facility that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other brain disorders must maintain a written and current manual that is made available to any person upon request, and shall make copies at no cost if desired. (This manual is required to include detailed information concerning the facility, including the special care provided and training requirements of the staff.)

BOARDING HOMES

KRS 216B.300(4)

Any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator, or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(3). A tenant in a boarding home may or may not have a guardian or representative payee.

EMERGENCY SHELTER**KRS 600.020**

A group home, private residence, foster home or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child.

FAMILY CARE HOME**902 KAR 20:041**

A home that has no more than three (residents) no related to the operator that houses individuals who have an impaired capacity to care for themselves, but who do not need constant medical care or skilled nursing services. The operator shall be directly responsible for the facility 24 hours a day, but may delegate that responsibility to another qualified individual if absent. *(Note, these are generally operated as a business and the person on site will be an employee of the primary operator.)*

GUARDIAN

A legal guardian is someone (either a family member, friend, or someone appointed by the court or for those in state wardship, by the state) to handle designated affairs for another individual. The degree of authority will depend upon the needs of the individual in guardianship. For example, some individuals need full guardianship and oversight, others only need financial guardianship. (See Representative Payee.) In many cases, the actual guardian does not live with the subject and the caregiver (or caregiver's employer) may or may not be the guardian as well.

LONG TERM CARE FACILITY**KRS 216.510**

A facility that is licensed either as a family-care home, personal-care home, intermediate-care facility, skilled-nursing facility, nursing facility under Pub.L.100-203, nursing homes, and intermediate-care facilities for the intellectually and developmentally disabled (See also Assisted Living – Alzheimer's above.)

NURSING HOME**KRS 216B.015A**

A facility which provides routine medical care in which physicians regularly visit patients, which provides nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge and skills beyond that which the untrained person possesses, and which maintains complete records on patient care.

PERSONAL CARE HOME**KRS 216.750**

A place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board, and laundry. (The occupants are not necessarily in state wardship, but may be in various forms of guardianship, personal or fiduciary, and may have a representative payee – see below.)

PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY**KRS 216B.450**

A facility that provides inpatient psychiatric residential treatment for residents with an emotional disability who are under 21. There are different levels of facility which will

define the number of residents and their relative ages in a particular home. Some of these facilities are community-based and “home-like.”

SUPPORTS FOR COMMUNITY LIVING / COMMUNITY

SUPPORTED LIVING 42 U.S.C. CODE §1396U / KRS 205.6317 / 907 KAR 1:145

SCL/CSL (including the placement of an individual in living quarters) is the overall term that describes a state providing services to a developmentally disabled individual in the activities of daily living that allow them to live in their own home, an apartment, a family home or rental unit. This assistance might take the form of personal care assistance, training to assist the individual in being independent and a variety of other supportive services. (See *Group Homes for Individuals with ID/DD.*) These services are provided with a combination of state and federal monies and are regulated by both. Certain laws of interest require that state provide protections against neglect, abuse and financial exploitation and that employees not have been involved in child or adult abuse. Actual medical assistance is also limited for beneficiaries of CSL. In Kentucky, this means a Medicaid program providing an alternative to institutional care for individuals with intellectual and developmental disabilities. Many of the individuals in Family Care Homes or living with an individual caregiver are in this program.

GROUP HOMES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY AND DEVELOPMENTALLY DISABLED (ID/DD)

Group homes are not separately defined under Kentucky law. They are, however, recognized as a facility in which individuals live with other unrelated individuals in home-like environments.

HOME HEALTH AGENCIES

KRS 216.935

A public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and is certified to participate as a home health agency under Title XVIII of the Social Security Act.

- Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include, but not be limited to, the following:
 - (a) Helping the patient with bath and care of mouth, skin, and hair;
 - (b) Helping the patient to the bathroom or in using a bedpan;
 - (c) Helping the patient in and out of bed and assisting with ambulation;
 - (d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;
 - (e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician or advanced practice registered nurse;
 - (f) Performing incidental household services as are essential to the patient's health care at home, if these services would have been performed if the patient was in a hospital or skilled nursing facility; and
 - (g) Reporting changes in the patient's condition or family situation to the professional nurse supervisor.

PERSONAL CARE ATTENDANT**910 KAR 1:090**

The Personal Care Attendant Program helps severely physically disabled adults at risk of being institutionalized to live in their own homes and communities by subsidizing costs of personal attendant services. The individual being assisted is selected/hired by the physically disabled adult, helps with personal care, housekeeping, shopping, travel, self-care procedures, meal preparation and other day-to-day activities. The disabled adult must be mentally capable of supervising and directing the PCA, and as a rule, will not be intellectually disabled. The PCA may work for a third-party company which handles salary, etc. The PCA is not the individual's guardian, although of course, over time, may develop a close relationship and knowledgeable about the individual they are assisting. They may be a reporting party, particularly if they are the individual in which their client has regular contact.

PERSONAL SERVICES AGENCIES**KRS 216.710(8)**

Any person, business entity, corporation, or association, either for-profit or not-for-profit, that directly provides or makes provision for personal services through:

- (a) Its own employees or agents;
- (b) Contractual arrangements with independent contractors; or
- (c) Referral of persons to render personal services if the person making the referral has an ownership or financial interest that is realized from the delivery of those services;

REPRESENTATIVE PAYEE**KRS 205.935(2)**

A person appointed by the Social Security Administration, Veterans Administration, or other nonprofit social service agency to provide financial management services to persons receiving Social Security Administration, Veterans Administration, or other government benefits, when that person is incapable of making or executing responsible financial decisions. This individual is not, necessarily, also a guardian, in the usual sense.

TYPES OF HOUSING

Each of these types of locations and services has rules of which officers should be aware. Some other types of alternative housing might exist as well, which may not be clearly defined in state or local law. These are in addition to the specific types of homes you might encounter, listed above in Definitions.

For example, Boarding Homes must register annually with the Cabinet for Health and Human Services, pursuant to KRS 216B.305. No person who has been convicted of a crime of abuse under KRS 508.100 to 508.120 or who has had a report of abuse substantiated by the cabinet shall be registered to operate a boarding home. Most of the specific requirements for boarding homes are in the Kentucky Administrative regulations at 902 KAR 20:350, and include, among other things, minimum room sizes, provisions for bathrooms, fire safety regulations, food handling and all other applicable health and safety codes. Designated agents of the cabinet have the authority to enter at any time a

boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint. A boarding home shall not handle, store, dispense, or assist with the dispensing of a boarder's prescription or non-prescription medications and upon request of the boarder, the boarding home shall provide access to a lockable compartment for use by a resident who requests secure storage for prescription medication.

Finally, nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Health and Family Services.

In addition, KRS 205.179 requires that CHFS conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. KRS 210.271 further requires that patients in an institution for the mentally ill or the intellectually disabled operated by the CHFS may only be discharged to a boarding home if it is properly registered, and must make quarterly visits to determine if their needs are being met in the boarding home. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Community Health Services for investigation.

Under KRS 65.879, with passage of appropriate local resolution, a local government may request information on each residential care facility in the local government's boundary. However, the information provided may not be reliable or complete.

Rooming houses or "single room occupancy" – SROs – are another alternative housing environment. (Some jurisdictions do not allow this type of housing by zoning.) They are not boarding homes as no board (meals) is provided. These homes generally include multiple unrelated adults living in a single home, one or more to a bedroom, with shared bathrooms and possibly kitchen facilities. The owner/operator may or may not be present or live at the location. Although couples, and even children, may share a single room, the occupants overall as a rule have no legal relationship with each other. Such locations may violate zoning or other laws in a particular location as well, which may cause difficulty in getting information about the occupants.

Transitional or drug/alcohol rehabilitation locations are also present in some areas. Some may provide very intense, and very protected services, while others provide essentially no services at all, and are more on the order of a rooming house. Such locations are not well-regulated under Kentucky law at this time.

ENDANGERED MISSING ALERTS (KENTUCKY)

There are several different types of alerts in Kentucky for missing persons.

AMBER ALERT**KRS 16.175**

An Amber Alert is a federally-based program administered by the U.S. Department of Justice and issued by the designated agency in each state. It was enacted on April 30, 2003 as part of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act, P.L. 108-21. In Kentucky, the designated entity is the Kentucky State Police. It has extremely strict guidelines and requires three elements be met before an alert is issued: law enforcement must confirm an abduction, there must be a risk of serious bodily injury or death and there must be sufficient descriptive information about the child and the suspect. There is an accompanying program, almost administered by Justice, the Child Abduction Response Teams (CART) that might be useful in addition to, or in lieu of, an Amber Alert (when the situation does not fully meet the Amber Alert criteria). See <http://www.amberalert.gov>.

ENDANGERED MISSING ALERT**No Cite**

An Endangered Missing Alert is the generic term for all alerts for a missing subject for whom there is specific concern. (Note that not all of those who are reported missing are necessarily considered endangered. For example, an adult when there is no medical concern, who apparently had gone missing voluntarily, might not initially be considered to be endangered, as adults are free to do so.)

GOLDEN ALERT**KRS 39F.180 (2) (b / c)**

A Golden Alert involves an impaired person as defined in KRS 39F.010(3)(a)². There are two types under state law, a Golden Alert (for those under KRS 39F.010(3)(b) and a Golden Alert D (for those considered developmentally disabled³, under KRS

² KRS 39F.010(3) "Impaired person" means a person who has a known or reported:

- (a) Developmental disability, including but not limited to autism, or traumatic brain injury and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency; or
- (b) Physical, mental, or cognitive impairment or organic brain disorder, including but not limited to Alzheimer's disease, and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency.

³ "Developmental delay" is defined under KRS 157.200(k) as a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. Although that statute indicates the term shall be used only with children ages three (3) through eight (8), in general terms, this delay may be permanent as a result of any number of conditions and continue through adulthood. The same statute also defines "Traumatic brain injury" under (l) as an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:

1. Cognitive functioning;
2. Physical ability; or
3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma. Further, it defines autism under (m) as a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

1. Engagement in repetitive activity and stereotyped movement;

39F.010(3)(a), but in practice, both are handled in the same manner with respect to notifications and even if reported as a D, the media generally does not differentiate between the two. In such cases, the emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management shall be notified by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a public safety entity.

GREEN ALERT

KRS 39F.180(2)(d)

A missing person report for a “veteran at risk” – defined in KRS 39F.010(12) as “a veteran or an active-duty member of the Armed Forces, the National Guard, or a military reserve component of the United States who is known to have a physical or mental health condition, to include post-traumatic stress disorder (PTSD), that is related to his or her service,” shall be reported as such consistent with Golden Alerts.

OPERATION RETURN HOME

No Cite

An alert specific to the Louisville Metro Police Department for individuals who do not meet the criteria for a Golden or Amber Alert, but who is missing under circumstances that cause concern. See *Endangered Missing Alert*.

SILVER ALERT

No Cite

This is not a term used in Kentucky, but is used by some other states to designate a specific search (based upon their own state laws) for an endangered missing, usually a subject suspected of dementia.

-
2. Resistance to environmental change or change in daily routine; and
 3. Unusual responses to sensory experience.