

Institutional Investigations Need for Training

This continuing education offering was developed at the request of the Division of Children and Family Services. Since 1997, the Crimes Against Children Division (CACD) of the Arkansas State Police had conducted investigations of alleged child maltreatment that occurred in institutional settings such as child care centers, schools, residential placement facilities, Human Development Centers (HDC) and Division of Youth Services facilities (DYS). In January, 2004, DCFS assumed responsibility for Priority II investigations in licensed child care facilities, licensed child care family homes, licensed residential placement facilities, schools (public and private) and psychiatric hospitals. CACD retains responsibility for Priority I investigations in these facilities and for all investigations in HDCs, foster homes and DYS facilities.

Investigations in institutional settings have somewhat different requirements than investigations that involve a caregiver in the child's home. In addition, this type of investigation is likely to involve many more interviews than an in-home investigation and requires coordination between units within the Division of Children and Family Services and between Divisions in the Department of Human Services. They require the worker to interface with the Department of Education. Workers must have a broader area of expertise to insure the safety of children in these types of facilities.

Audience

The targeted audience is investigators/assessors from DCFS and supervisors of assessment units or of individuals conducting assessments.

Time Frames

The total training is designed for four hours. Tentative time frames have been included but trainers should not feel bound by these guidelines. *When determining training priorities, trainers should remember that investigations in child care settings are the most frequently encountered, followed closely by schools.*

Materials

This packet consists of a trainer outline, trainer resource material, a copy of the participant manual/resource guide and copies of handouts. Participant materials include a Participant Manual/Resource Guide and the handouts for the training.

Guest Speakers/Co-Trainers

Please see the trainer set up note for suggestions on co-trainers.

2005 Issues and Concerns

In 2005, the Division of Child Care and Early Childhood Education (DCC) was contacted by DCFS Assessment Units to provide supplemental training on the interface between DCC and DCFS on investigation in Child Care Centers and Child Care Homes. Issues that were confusing in the training centered around:

- Whether DCFS could release information on pending investigations,
- Whether DCFS could release information on unfounded investigations,
- Whether this information could be released by the local DCFS office or whether it had to be released by Central Registry,
- What information could be released, and
- What information the DCC needed in order to complete its responsibilities as set out in the Child Care Licensing Act (AR Code 20-78-201-220).
- OTHER???

In order for training provided by MidSOUTH to do a more thorough job on these issues the trainer outline and participant materials have been updated in 2005. These updates include statute and policy references to help clarify these areas of concern. If you have not trained this material in a while, please look over the new material.

TRAINING OUTLINE Institutional Investigations

COA Requirements	Competencies Addressed		
G7.2	FSW		Supervisor
G7.2.02 (New Duties)	❖ 101-4	❖ 204-6	❖ 525-1
G7.3.01	❖ 101-7	❖ 205-2	❖ 525-3
G7.3.06 (Documentation and referral)	❖ 101-8	❖ 205-3	❖ 525-4
	❖ 101-11	❖ 306-2	❖ 527-1
		❖ 306-5	

Training Objectives: Participants will

- Review the required elements of a maltreatment investigation (**brief**)
- Receive an overview of the training scope and objectives
- Know the statutory authority for entering into schools, public and private.
- Know the issues related to physical restraints and child abuse allegations.
- Understand the different minimum requirements for investigations of alleged child maltreatment that occur in an institutional setting.
- Know the statutory authority for release of information at various stages to licensing or regulatory agencies.
- Know the procedure for notifying licensing authorities of complaints in licensed child care facilities and licensed residential facilities.
- Know the different licensing authorities with whom DCFS will interact.
- Develop strategies for coordinating information in maltreatment investigations that allow different entities to meet their statutory responsibilities.
- Know the different types of hearings that may occur in institutional investigations.
- Understand the need for thorough documentation to build a case for a true finding on the report, Administrative Fair Hearings, licensing action or judicial intervention.

Initial Set-Up Notes and Materials

- Sign in sheets
- Brain-teaser work sheets for each participant
- Flipchart paper on each table
- Markers on each table
- Name tents
- PowerPoint projector and screen
- Handouts 1 – 5 (Please make handouts on the color printer)
- Participant Manual/Resource Guide
- PowerPoint Presentation
- Trainer Resource material

Trainer Preparation Note: As of the date of this revision the Division of Child Care (DCC) had indicated its willingness to participate in joint training initiatives with MidSOUTH. The training material has been enhanced to better cover the interaction between DCC and DCFS. However, it is not possible to anticipate all questions that might arise during the training. Likewise it is not feasible for MidSOUTH trainers to be proficient in DCC regulations and requirements. The presence of a Licensing Specialist or Supervisor can greatly enhance the training and it is strongly recommended that they be invited to participate.

Schools are more difficult to address in this fashion. Since each school board is different, it is the trainer's call as to whether having school personnel present would be beneficial.

The Child Welfare Licensing Agency within DCFS has not made a formal commitment to joint training. However, the trainer may want to contact them to see if someone can be available, especially if the trainer knows that investigations in these types of facilities are a "hot topic" with the training audience.

I. Introductions (9:00-9:15)

- A. Welcome and housekeeping (pagers, cell phones, sign in sheets, certificates)
- B. Introduction of co-trainers (Child Care Licensing Specialists/Supervisors, Residential Licensing Specialists/Supervisors, etc.)

II. Focus of the Workshop/ Training Objectives (9:15-9:45)

A. Introductory Exercise

Purpose

The purposes of this exercise are to acknowledge the expertise in the training group and to conduct a quick review of required elements in a child maltreatment investigation.

Materials

This exercise requires a piece of flip chart paper, a marker and tape for each small group.

Methodology

1. Divide the larger group into small groups (ideally of 4-5 people but if necessary up to 10 people).
2. Give the group the following instructions:

All of you have been identified by your agency as having experience and expertise in child maltreatment investigations. I want to begin this training session by tapping into that expertise.

At your table, you will see a large piece of paper. I want you to designate someone to write stuff down. Then, I want you to list everything that has to be done in a child maltreatment investigation (child in the home and only one county involved). Are you ready? Begin writing.
3. Allow no more than 5 minutes for people to write. Call time.
4. Using Trainer Resource Handout 1 - Child Maltreatment Checklist 1, identify the required elements of a child maltreatment investigation. Ask the groups to score themselves – if they have a task on their list, they get a point. Please note: The blue text indicates areas where there will be differential requirements for institutional investigations. Explain that these areas will be covered in-depth as the training progresses.
5. Did any group get all of the elements?

6. Did any group have a task that was not identified through the checklist? (Is this task a required element, or a good practice suggestion or an area-specific requirement?)
7. Recognize the groups that scored well and the area/counties that they represent (it is anticipated that participants from one area will tend to sit together).
8. Conclude the exercise by passing out **Handout 1 – Child Maltreatment Checklist** (participant's copy) to the group. Inform them that the blue text indicates areas that will be the focus of the training. **Handout 1 (Child Maltreatment Checklist 1) is a work tool to help determine whether all elements of a child maltreatment investigation have been completed. The areas that are highlighted in blue are areas that will be different in institutional investigations.**

Reference participants **to Handout 2 Legislative Changes, 2007**. In Handout 2, look at 12-12-507 that clarifies that DHHS may provide initial notification to schools (notification is optional).

The rest of today's training will focus on the areas in institutional investigations that differ from investigations where the alleged offender resides in the home or is a relative with easy access to the alleged victim.

- B. Refer participants to the **Agenda and Training Objectives on pages 1 and 2** of the Participant Manual. Remember to address the fact that throughout the training, reference will be made to "licensing authorities." Conduct a quick review of the different types of licensing entities with which DCFS may have to interact. This material is located on **pages 3 – 5** in the Participant Manual, **Licensing Authorities**. Briefly review the types of facilities licensed by the Division of Child Care and Early Childhood Education (DCC) and the Child Welfare Licensing Unit within DCFS.
- C. Move to the **PowerPoint presentation**, Child Maltreatment Act Revisited. Use this material to do an overview of major issues. Explain that the class will quickly look at the major issues and then come back and address them in greater detail.

1. Keep this presentation relatively brief.
2. There is a space for participants to take notes on **page 6** in the Participant Manual, **Overview**.
3. There will be time throughout the workshop to address the areas in more detail.
4. Note: If time is running short, skip this presentation and cover the material verbally in the training.

Consider a break at this time.

III. Child Abuse and Physical Restraints (10:00- 11:00)

A. Getting Started : Small Group Exercise

Purpose

The purpose of this exercise is to highlight the definition of physical abuse as it relates to use of restraints and to reinforce those elements that must be addressed when assessing a maltreatment allegation.

Materials

This exercise requires the Participant Manual and Handout 2a - Child Maltreatment Act. It also requires Handout 3, What Are the Issues as a summary of the discussion.

Methodology

1. Write 12-12-503 (C) (ii) on the white board.
2. Refer participants to turn to **page 7** of the Participant Manual, **What Are the Issues?** Ask each participant to read over the scenario. Then, in the groups at each table, answer the questions at the end of the scenario. Remind them that they will need the Child Maltreatment Act, §12-12-503 (C) (ii) because this section of the law sets out the criteria and definition of abuse related to restraints. Use **Handout 2a** for the definition from the law.
3. Allow no more than 10 minutes for the group to complete this section.

4. Pass put **Handout 3, What Are the Issues**, and proceed to the discussion.

Processing

Points to insure are covered in the discussion include:

1. Does this definition apply to any child care facility? This section of the Maltreatment Act only applies if the alleged act occurred in a facility licensed under the Child Welfare Licensing Act (so, one of the facilities licensed by the Child Welfare Agency Licensing Unit of DCFS).
2. Were other methods available to control the behavior? There is no clear indication that the staff tried to de-escalate the situation.
3. Was the child a danger to self or others? In this situation, it is a judgment call on whether the child was a danger to others. The physical restraint was applied prior to a clear demonstration that the behavior would have resulted in harm. Only collateral interviews will determine whether the staff member's perception of the immediate danger was justified.
4. How would you verify the training requirement that this staff member had been trained in restraints, conflict resolution and de-escalation techniques? To prove all elements required to be assessed, it would be necessary to verify that the staff member had been trained in these areas. An interesting area to consider would be how long ago the training was and whether there is any requirement for refresher courses or continuing education on these areas. The scenario did not address the type of facility but if this had been a licensed psychiatric facility, the staff member would have had to be **certified** in restraint technique. Licensing authorities can assist in getting training records and other information such as incident reports.
5. Was the restraint for a reasonable amount of time? Licensing regulation permit a "take down" for up to 29 minutes.
6. How would you call it? Did the child suffer more than transient pain and minor temporary marks? Justify your answer. Other issues to consider in

this scenario are the need to view the policy and training records. Check for an incident report that might have verified the staff member's story that the black eye was already there.

7. If time allows, as a large group discuss the modified scenario on page 8 in the Participant Manual, Variation on a Theme.
8. Conclude this section by referring to pages 9 -11 in the Participant Manual. These pages summarize some of the Child Welfare Agency Licensing Requirements related to use of restraints.

IV. Child Maltreatment in Schools (11:00-12:00)

- A. Caldwell vs. DHS – attendant circumstances and compliance with school disciplinary policy.

Individual Exercise – SCHOOL FAQs

Purpose

The purpose of this exercise is to acquaint participants with the areas that must be addressed before an allegation of physical abuse can be addressed in the school.

Materials

This exercise requires page 12 in the Participant Manual, School Investigations, FAQs. It also requires Handout 4, which summarizes the exercise.

Methodology

1. Direct participants to page 12 in the Participant Manual. Tell them to answer as many of the questions as they can.
2. Allow around 7 minutes to complete this part. While the exercise is designed to be completed on an individual basis, participants may confer among themselves.
3. If time is short, designate specific questions to specific tables (so that everyone is not answering the same questions).

4. Call time and process the exercise.

Processing

There is material in the Trainer Resource section (a copy of Handout 4 with the answers) to be used during this part of the exercise.

Take time to review the changes from the 2005 legislative sessions. Clarifying language was added to the act regarding initial notification and release of information on pending reports. The permission to release the results of the investigation are less clear. Processing points are included on the Trainer Resource pages.

The critical question and the one to which they will be held at Fair Hearing is, “Given Caldwell, can you substantiate if physical abuse is alleged in a school?”

Emphasize the need to document attendant circumstances – the “who, what, when, where, how often, how many, how severe, etc.” questions.

A secondary area of emphasis is whether the investigator needs access to the school if the alleged maltreatment occurred there (at least initial access).

Obviously, Caldwell does not prohibit a substantiation of maltreatment. However, the documentation of attendant circumstance is crucial. The investigator must also assess whether the school had a policy permitting physical punishment, and whether the policy was followed.

- B. Answer any questions from the training group related to schools. Pass out Handout 4 to summarize.

There was considerable discussion about whether schools are entitled to immediate notification of a report involving a school employee since the schools are not licensed or regulated by the state as are child care and residential facilities. In 2005, the Maltreatment Act was amended to permit – but does not require – notification of the receipt of the initial report if the department has determined that children under the alleged offender’s care may be at risk.

In 2005, the Maltreatment Act was amended to permit release of information on pending reports to school boards, superintendents, or principals to the extent necessary to carry out their jobs (12-12-506).

There is state law which permits DCFS to share information with an employer if a report is found to be true and the employee has child care responsibility. This law would obviously come into play if there is a founded report in a school and the person poses a threat to other children.

The FSW **SHOULD NOT** initiate this notification him or herself. If during an investigation of someone working in a school it begins to look as if the report will be found true and if other children are at risk, the FSW should staff with a supervisor and OCC to determine next steps.

Consider a Lunch Break at this point.

V. Special Elements in Licensed Facilities (1:00-1:30)

This section covers those elements of an institutional child maltreatment investigation that are different from in-home offender investigations.

As a precursor to the discussion, refer participants to page 13, Using the Web-based Email. (If time is short, consider skipping this section since most folks are already aware of this practice now that it has been in place for awhile.)

- A. Pass out **Handout 5, Child Maltreatment Checklist, Institutional**. This checklist has the areas that differ in blue text. This handout will look similar to Handout 1. However, it goes into detail about the differences in an in-home offender investigation versus an institutional investigation. There is a copy of Handout 5 in the Trainer Resource Section that has additional details. Cover these areas one by one. There is space on **page 14, Different Emphasis**, where participants can make notes. Please note: The statute citations have been added to this page for added emphasis that notification to licensed facilities is mandatory, sharing information during the investigation is required if the licensing agency asks for it in order to complete its statutory duties and sharing the determination – true and unsubstantiated – is mandatory.
- B. The first area to be addressed is that of immediate notification of the licensing authority. Materials that participants have available to them include the information already covered in the Participant Manuals (pages 3-5) and the Participant Resource Manual. This material highlights the various types of licensing authorities with whom they will interact. Refer them to pages **18-20 in the Participant Resource Section** of their manuals. These pages contain the executive directive and the policy related to the transfer of investigative responsibility to DCFS.
- C. The contact person(s) for each agency are set out on the following pages in the Resource Section of the Participant/Resource Manual:
1. Child Welfare Agency Licensing Unit, **page 22**
 2. Division of Child Care, **page 26**
 3. Division of Developmental Disabilities, **page 36**
- C. The second area to cover this that of other children in the home of the alleged victim child. In general, it is not necessary to view, interview, or inspect these children. The only exception would be if they are under or have recently been under, the care of the alleged offender.
- E. Collaterals will be a major issue. Refer back briefly to the residential facility example the group considered earlier. At a minimum, there would be **13**

interviews – victim, nine other children who witnessed the event, staff member (alleged offender), and victim child's parents. In reality it would be more – someone to give you needed records in the facility, the therapist who called in the report, and other staff members who care for this child.

1. Documentation must be thorough.
2. Possible exculpatory evidence must be pursued – that is why you must interview other staff to see if that part of the alleged offender's story has merit.
3. If you do not pursue this information, you are vulnerable at Fair Hearing

F. The Health and Safety Assessment only has to be completed on the **alleged victim child** (or siblings who were also under the alleged offender's care). Likewise, the supervisor can grant a **waiver** to doing the risk assessment on a true report if the parents have removed the child from the abusive environment (or the facility has assured that the child will be safe from further harm).

G. Another area that will be different on true reports is the requirement to determine the names and condition of any minor children of the offender. After assessing the condition of those children, it may require another report to the Hotline.

H. Underage juvenile aggressors are the only situation where DCFS may have to deal with the requirement to make efforts to locate other potential victims of the offender. These children were not technically in the care of the underage juvenile aggressor but could have perpetrated against other children in other settings.

VI. **Playing Nice with Others (Working with licensing agencies) (1:30-2:00)**

Refer participants to **page 15** in the Participant Manual, Institutional Investigations FAQs.

Allow participants around 7 - 10 minutes to look over these questions and jot down the answers.

Using **Handout 6**, cover the answers to the questions. Representatives of the Licensing authorities will be available to help field some of the questions. There is a copy of **Handout 6** in the Trainer Resource section as a discussion guide.

HANDOUT 1

**CHILD MALTREATMENT ASSESSMENT CHECKLIST 1
CHILD IN THE HOME (TRAINER RESOURCE)**

Tasks	Yes	No	Comments
<p>Is the allegation severe maltreatment?</p> <p>If yes,</p> <ul style="list-style-type: none"> • Assessment initiated in 24 hrs • If no but it alleges neglect due to newborn with illegal substance or mother positive for illegal substance at child's birth initiate in 24 hours • Telephone notification to prosecutor (5 working days_2005 change) with CFS-310 sent as written confirmation. Note: requirement to notify local law enforcement was removed in 2007 • Documentation in CHRIS of call and form sent <p>If no, assessment initiated within 72 hrs</p> <p>Increased requirements for front-end notification. (Will cover in detail on Handout 5).</p> <p>Was reporter interviewed? (Collateral interview)</p> <p>Victim child interviewed, face-to-face; outside the presence of the alleged offender, Pub 052 given if the child is old enough to understand it.</p> <p>Victim child seen and assessed if too young for an interview with 24/72 hours</p> <p>Other children in the home seen, assessed and interviewed.</p> <p>This is an area that will change in institutional investigations. It is one of the few areas where there is less work than in an in-home investigation. It still must be assessed – primarily to determine whether siblings were under the care of the same care giver.</p> <p>Custodial parent(s) interviewed; Pub 052 given; CFS-310 given; (CAPTA Requirement)</p> <p>Non-custodial parent interviewed (if applicable); Pub 052, CFS 310 given</p> <p>Alleged offender interviewed (if different from the parent); Pub 052 given; CFS-310 given (CAPTA Requirement)</p>			

<p>Other collaterals identified and interviewed. (Covered in detail on Handout 4).</p> <p>All interviews documented; all forms and Pubs documented</p> <p>Home visit made to determine child's environment and circumstances?</p> <ul style="list-style-type: none"> • Home visit documented. • Handout 4 will address the need for assessment of more than one environment. <p>Does the child need:</p> <ul style="list-style-type: none"> • Medical evaluation, including X-rays • Psychological evaluation • Drug/alcohol assessment • CFS-327a completed (body diagram for physical abuse) <p>Are pictures needed (of child or of environmental setting)?</p> <p>Within 30 days:</p> <ul style="list-style-type: none"> • Checked for previous reports via Central Registry or old records in the office • Health and Safety Assessment (CFS-6025) completed. Covered in detail in Handout 4. • Document all contacts and interviews • Conference with supervisor and investigative determination made • CFS-6003 (Report to Prosecuting Attorney) regarding case determination • CFS-6003 sent to PA if the report is found to be true • Risk Assessment (CFS-6026) completed on true reports <p>Within 10 days of case determination:</p> <ul style="list-style-type: none"> • CFS-307, Follow-up with reporter mailed • CFS-312 sent certified mail to all subjects of the report with case determination decision • Telephone notice to Local Education Agency on true reports – counselor or principal only • Referral of children ages 3 or younger for assessment (DDS/Early Intervention) per CAPTA Requirement (substantiated cases) 			
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DON'T FORGET <ul style="list-style-type: none">• Close the investigation in CHRIS• Key Case Connect Screen on cases to be opened for PS or Foster Care• Key Case Connect ASAP if child enters care on a 72 hr hold <p>Caution: <i>This table summarizes actions taken on all maltreatment investigations. Investigations where multiple counties are involved or where the child comes into care may have additional required actions.</i></p>			
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HANDOUT 3

WHAT ARE THE ISSUES

1. **Does this definition apply to any child care facility?**

This section of the Maltreatment Act only applies if the alleged act occurred in a facility licensed under the Child Welfare Licensing Act (so, one of the facilities licensed by the Child Welfare Agency Licensing Unit of DCFS). Be sure to emphasize that DCC regulations prohibit restraints as a method of discipline. They are permitted only in emergency situations to protect the immediate safety of children.

2. **Were other methods available to control the behavior?**

There is no clear indication that the staff tried to de-escalate the situation.

3. **Was the child a danger to self or others?**

In this situation, it is a judgment call on whether the child was a danger to others. The physical restraint was applied prior to a clear demonstration that the behavior. Only collateral interviews will determine whether the staff member's perception of the immediate danger was justified.

4. **How would you verify the training that this staff member had been trained in restraints, conflict resolution and de-escalation techniques?**

To prove all elements required to be assessed, it would be necessary to verify that the staff member had been trained in these areas. An interesting area to consider would be how long ago the training was and whether there is any requirement for refresher courses or continuing education on these areas. The scenario did not address the type of facility but if this had been a licensed psychiatric facility, the staff member would have had to be **certified** in restraint technique.

5. **Was the restraint for a reasonable amount of time?**

Licensing regulation permit a "take down" for up to 29 minutes.

6. **How would you call it? Did the child suffer more than transient pain and minor temporary marks?**

Other issues to consider in this scenario are the need to view the policy and training records. Check for an incident report that might have verified the staff member's story that the black eye was already there.

All elements of the legal definition must be met in order for the injury to fit the exception to maltreatment set out in the law.

HANDOUT 4

CHILD MALTREATMENT INVESTIGATIONS ALLEGED OFFENDER IS A SCHOOL EMPLOYEE SCHOOL INVESTIGATION FAQs TRAINER RESOURCE

1. Does DCFS have the right to enter a school?

§ 12-12-510 permits the person investigating the complaint to enter the school for purposes of the child maltreatment investigation. No publicly supported school can deny access.

The better question in an allegation that the abuse or neglect happened in a school setting is “do you need access to the school?” Or, do you need access during the early stages of the investigation?

- Assess whether the first round of interviews – victim and offender – might not better be done at the home.
- There are confidentiality issues (especially with the alleged offender) and there is the issue of the child interview needing to be in a safe and neutral place.

2. What do I do if the school refuses entry?

The Maltreatment Act permits entry of DCFS workers into the school (12-12-510). Unfortunately, many school boards and principals are not aware of this law. Their attorneys are either unaware of the statute or advise their clients to ignore it. DCFS employees are frequently denied access, even by schools where a school employee made the report to the Hotline. If access is denied

- a. Contact OCC regarding a petition to the appropriate juvenile division of circuit court for an ex-parte order for investigation.
- b. Be ready to supply convincing reasons why access to the school is needed.
- c. One reason you will eventually need access is the requirement in the Maltreatment Act to assess the environment. The environment at the time of the alleged maltreatment was the school. Another reason may be the need to conduct collateral interviews.
- d. In 2005 the Maltreatment Act was amended so that failure of the school to comply with the law could subject the school to contempt charges and reimbursement of attorney fees.
- e. The Maltreatment Act was also amended to clarify that school officials making a report in good faith were immune from liability (12-12-517)

3. Can schools use physical punishment?

School Discipline Act (§ 6-18-505)

The School Discipline Act refers to the use of corporal punishment in the schools. If a school district authorizes corporal punishment:

- a. It must be included in the district's written student discipline policy.
- b. It must be administered in accordance with the written policy.
- c. It must be administered for the purpose of maintaining discipline and order

So, for investigations of allegations of physical abuse by a school employee, things to consider/verify include:

- a. Did the school have a written policy and was it followed?
- b. Was the employee a teacher or administrator (or were they a janitor, a teacher's aid, a secretary?) A teacher is defined as a person employed by the school who is required to have a state issued certificate as a condition of employment.
- c. Was there a clear issue of maintaining discipline?

4. **I have heard that you can't make a finding of true if the allegation is physical abuse and the alleged offender is a teacher or vice-principal. Is that correct?**

Caldwell vs. Arkansas Department of Human Services

In 1992, there was a case that involved a teacher who was named as an offender for leaving bruises on a child in the course of physical punishment. The substantiation was appealed and overturned by the court. The court determined that in and of themselves, bruises were insufficient to determine child maltreatment.

Contrary to some perceptions, the fact that it was overturned does not mean that schools with policies allowing physical punishment can inflict that punishment and be immune from a report of possible maltreatment. It means that the investigator must consider attendant circumstances.

The attendant circumstances would include those questions of:

- How severe was the injury?
- On what part of the body was the injury?
- Was there more than one injury? (For example, the policy allows three licks with a wooden paddle and the alleged victim has 10 marks on the back, buttocks and backs of the thighs).
- What was the child doing to deserve punishment?

- Were parents consulted/give permission?
- Would this same act, if committed by a parent or guardian have been of a severity to be considered maltreatment?

Case narrative and testimony in the hearing **must** address attendant circumstances. The FSW must be able to verbally explain why the punishment was excessive and of a degree to be considered maltreatment?

5. If the allegation involves abuse that occurred at the school, would I need to interview the child at school?

Best practice on interviewing child victims would suggest that the interview take place in a safe or at least a neutral setting. If the allegation has merit, the child is unlikely to perceive the school as a safe place and may be less likely to disclose what happened.

Point out that the investigator must make the personal decision: Do I do this interview in a manner that is best for the child, or do I do it in a manner that is most convenient for me.

In addition, would you want to interview the alleged offender at school?

What are the confidentiality issues involved?

The harder question (it is a case by case decision) is whether to interview possible collateral witnesses at school.

6. If the maltreatment allegation alleges abuse at school am I required to notify anybody?

In 2005, the Maltreatment Act was amended to permit – but does not require – notification of the receipt of the initial report if the department has determined that children under the alleged offender's care may be at risk (**12-12-506**).

Training Point: “May” is permissive language, not required language. Notification of schools is going to have to be determined on a case-by-case basis.

- It would appear that before notification is made to the school of an initial report, the investigation must be worked to the point where the worker could justify that there was reason to believe that other children under the alleged offender's care were in danger of maltreatment.
- What might constitute good reasons?
 - Discloser by the child of other victims
 - Disclosure by the child of violent or unpredictable outbursts, even if the child does not name other victims

- An account from a reliable collateral who indicates that the incident was not an isolated event or that the behaviors are not directed only at the named victim child.
- If there is any doubt workers should confer with the supervisor and/or OCC attorney.

In 2005, the Maltreatment Act was amended to permit release of information on pending reports to school boards, superintendents, or principals to the extent necessary to carry out their jobs (**12-12-506**).

7. If the report is found to be true, am I required to notify anybody?

Training Point: Although these changes were added to the act, one area that remains unclear is whether the worker can share the results of the investigation with the school superintendent, school board, principal, etc.

While the Maltreatment Act was amended to permit initial notification and release of information during the investigation it does not specifically address notification at the end of the investigation. Tell participants, "When in doubt, confer with your supervisor and your OCC attorney." Another suggestion might be to suggest to the school superintendent, board, etc, that they ask the teacher or school employee to consent to another Central Registry check. ***A final suggestion would be that the Maltreatment Act requires that you notify the LEA of true reports on school age children. That would at least permit notification of true reports.*

HANDOUT 5

CHILD MALTREATMENT ASSESSMENT CHECKLIST 2 INSTITUTIONAL SETTING

Tasks	Yes	No	Comments
<p>Immediate notification to the licensing authority/regulatory (12-12-507). The law requires immediate notification to the licensing authority. Each licensing authority has a slightly different mechanism for getting the notification. This notification is addressed in DCFS Policy II-C (<i>This can be deceptive because it looks like this policy is all about what the hotline does but buried in the small text is the requirement for initial notification</i>).</p>			
<p>Is the allegation severe maltreatment? If yes,</p> <ul style="list-style-type: none"> • Assessment initiated in 24 hrs • Telephone notification to prosecutor with CFS-310 sent as written confirmation • Documentation in CHRIS of call and form sent <p>If no, assessment initiated within 72 hrs</p> <p>Was reporter interviewed? (Collateral interview)</p> <p>Victim child interviewed, face-to-face; outside the presence of the alleged offender, Pub 052 given if the child is old enough to understand it.</p> <p>Victim child seen and assessed if too young for an interview</p> <p>**Other children in the home seen, assessed and interviewed; assess on case by case basis depending on exposure to same alleged offender; one of the few places where there is a “lesser” requirement. If the other children have not been around the alleged offender, then they do not have to be interviewed.</p> <p>Custodial parent(s) interviewed; Pub 052 given; CFS-310 given (CAPTA requirement)</p> <p>Non-custodial parent interviewed (if applicable); Pub 052; CFS-310 given (CAPTA requirement)</p> <p>Alleged offender interviewed (if different from the parent); Pub 052 given; CFS-310 given (CAPTA requirement). This requirement applies to both in home and out of home</p>			

<p>investigations but it is a fairly new requirement and folks probably could use a reminder.</p> <p>Other collaterals identified and interviewed – there will be A LOT MORE COLLATERALS; in one of the training examples (residential setting, have them count the interviews based on the information provided)</p> <p>All interviews documented; all forms and Pubs documented</p> <p>Home visit made to determine child's environment and circumstances?</p> <ul style="list-style-type: none"> • Home visit documented • Institutional setting also visited. Remind participants that there are 2 environments that have to be assessed in these investigations – home and facility. <p>Does the child need:</p> <ul style="list-style-type: none"> • Medical evaluation, including X-rays • Psychological evaluation • Drug/alcohol assessment • CFS-327a completed (body diagram for physical abuse) <p>Are pictures needed (of child or of environmental setting)?</p> <p>Within 30 days:</p> <ul style="list-style-type: none"> • Checked for previous reports via Central Registry or old records in the office • Share information with the licensing authority to enable it to do its job (12-12-506). The law permits sharing information on pending reports. DCFS Policy II-D5 • Health and Safety Assessment (CFS-6025) completed on all children in the family. HSA only on the alleged victim child • Document all contacts and interviews • Conference with supervisor and investigative determination made • CFS-6003 (Report to Prosecuting Attorney) regarding case determination • CFS-6003 sent to PA if the report is found to be true • Risk Assessment (CFS-6026) completed on true reports <p>If the Report is Found to be True</p> <ul style="list-style-type: none"> • Determine the names and condition of any minor children of the offender and whether these children have been or are at risk of being maltreated. 			
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<ul style="list-style-type: none"> • If true and sexual abuse (underage juvenile aggressor) to the extent practical an assessment of children previously or currently under the same care for maltreatment or risk of maltreatment. • New changes in the Maltreatment Act permit a 30 day extension to assess these issues (so the investigation could go as long as 60 days). <p>Within 10 days of case determination:</p> <ul style="list-style-type: none"> • CFS-307, Follow-up with reporter mailed • CFS-312 sent certified mail to all subjects of the report with case determination decision • Telephone notification to Local Education Agency on true reports (counselor or principal only) • Notified the licensing authority of the case determination True <u>and</u> unsubstantiated reports (12-12-512) DCFS POLICY II-D2 <p>DON'T FORGET</p> <ul style="list-style-type: none"> • Close the investigation in CHRIS • Key Case Connect Screen on cases to be opened for PS or Foster Care • Key Case Connect ASAP if child enters care on a 72 hr hold 			
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HANDOUT 6

**CHILD MALTREATMENT INVESTIGATIONS
ALLEGED OFFENDER IS IN A LICENSED CHILD CARE FACILITY
FAQs
TRAINER RESOURCE**

1. **My supervisor has let DCC know there is a report. Do I have to share information with them? How much and when? Isn't it a HIPPA violation if I do?**

HIPPA is not an issue. HIPPA permits sharing information that is required by law.

§12-12-507 (d) requires immediate notification.

§12-12-506 requires release of central registry data on pending investigations to licensing or regulatory authority to the extent necessary to do its job. Look at attached Example 1. What would the authority need to do its job at the time of the initial notification and throughout the investigation?

The Maltreatment Act puts the burden on the licensing agency to maintain the same confidentiality of records that you are required to maintain.

As a trainer, this is a good place to stop and address roles and goals of DCFS and of the licensing authority. Ask the licensing representatives to read their agency's mission statement. Each agency has the common goal of protecting the safety of children. DCFS has the child specific responsibility where licensing has the broader responsibility of protecting the safety of all the children in the facility.

2. **If the report is found to be true and the offender appeals the decision, how many hearings could this involve for you?**

The answer to this question depends on how closely you have worked together. A facility may hold more than one license. There will be a determination of true or unfounded on the maltreatment report. There will also be a determination by the licensing specialist about action to be taken on/by the facility. If the alleged offender appeals the decision and the facility appeals the licensing decision, you could be looking at two or three hearings at minimum. – your Fair Hearing, and the board hearings for any facility licenses involved.

Board hearings on licensed facilities are held in LR. You will be expected to attend if you receive sufficient notice from the licensing agency. They are only required to give notice, not to subpoena you.

These may be issues to consider as you decide how closely you want to work with licensing on the front end of an investigation.

DO YOU HAVE TO ALLOW LICENSING IN ON YOUR INVESTIGATION?

DCFS Executive staff has noted that workers will be encouraged to let licensing in on any interviews that occur in the center.

FSWs are not required to wait for licensing if this would prevent them from initiating the investigation in required time frames.

The trickier question is whether or not the Licensing Specialist can/should sit in on the interview with the child. See also the discussion in 6 below. At this time, it is not required that the Licensing Specialist be present. However, if they are available and willing, there is nothing to prohibit them from attending.

If the Licensing Specialist is involved in the interviews that led to a determination, and if that determination is appealed by one of the Licensing Boards, your presence will likely not be required at the licensing hearing because the Specialist has direct knowledge of everything that was said that led to licensing making the decision it made.

If the Licensing Specialist is using information that they obtained from the FSW but the Specialist has no first hand knowledge of those circumstances, the FSW will likely have to attend the licensing hearing and testify to what he/she knows.

3. What could the licensing folks do for me?

Let's go back to Example 1 attached. Licensing can:

- Get you in the door of the facility. Facilities may not deny access to the Licensing Specialist under any circumstances. If access is denied adverse action can be taken on the facility's license. Adverse action could include emergency action to suspend or revoke a license.
- Ensure the facility makes staff available for interviews.
- Get you immediate access to needed records (children and Staff).
- Take protective action for the other children in the facility. This plan may range from permitting the alleged offender to continue to work in a child care capacity with additional supervision, reassigning to non-childcare duties within the facility or sending the alleged offender home on administrative leave.
- Serve as your second eyes and ears. Take notes.

4. Licensing is always talking about "corrective action." What does THAT mean?

Corrective action is the equivalent to your case plan. Based on the information received and what's going on, they take short-term action to protect children and long-term action to correct problems that led to the situation. Corrective action

sets out behavioral changes that facilities or homes must make in order to maintain their license.

5. Who gets to decide if the report is true – us or them?

Ultimate responsibility for determining whether the maltreatment report is true falls to DCFS.

Determination of whether there were licensing violations that potentially endangered children is the responsibility of DCC.

6. Isn't it bad for children to have lots of people in on an interview?

Literature on child maltreatment investigations shows that two people being present while a child is interviewed is not necessarily detrimental to the child if the interviewers work well together.

- Decide who will take the lead
- Do not interrupt each other
- Secondary interviewer waits until primary is through to ask clarifying questions (if possible).

It is much more detrimental to have multiple interviews by multiple interviewers. This action is not only potentially more damaging to the child but also to each agency's case, as seemingly contradictory information may arise in different interviews by different folks that makes each agency's case more difficult to defend.

If the Licensing Specialist is not involved at the front end, he or she will have to interview the child again, unless the FSW is familiar enough with the workings of licensing to ask all the questions that need to be asked from that agency's perspective.

7. If I unfound the report, doesn't that mean it's over?

The child maltreatment investigation may be over, but licensing issues that require corrective action may still arise in the course of even an unfounded investigation. Look at Example 2 attached to this handout.

Remember as you look at this example that if Licensing is depending solely on your information (i.e., there is no written record), you will have to come to the licensing hearing if the facility appeals.

EXAMPLE 1

You have an allegation that a 3 ½ year old child was left alone on the child care van. The caller alleges that it happened on December 11, 2003. The child was alone on the van from the time the class got back from a trip to see Santa until a parent noticed the child on the van when she came to the center at 5:15 pm to pick up her own child. The caller would only identify herself as an employee of the center but was afraid to give her name because she was afraid she would be fired.

What the licensing specialist needs in order to do his/her job:

- CHRIS Investigation # (If DCC has this on the front end, then they can go through the Central Registry instead of the local county office to get information once an investigation is completed.)
- Name of the child
- Name of the center
- Address/location of the center
- Names of the staff members involved
- How long was the child on the van?
- What time of day was the trip to see Santa? Was there a trip to see Santa?
- Name of the parent who saw the child on the van
- What does each party - child, staff members, other facility staff, parent who found the child, child's parents – have to say about the incident?
- Other?

EXAMPLE 2

You received and investigated a complaint of lack of supervision in a child care center. Allegedly, a 4- year-old child was found wandering around in the middle of a busy intersection three blocks from the facility.

As the investigation unfolds, it turns out that the child got out of a gate that was supposed to be locked but wasn't. The staff member on the playground, who was supervising 25 4-year-olds, turned around and saw the child go out the gate. She caught him before he got into the street although he was close to the curb. The child never got off the grounds of the facility. The call was made by a woman who lives close to the facility, does not like having a child care facility in her neighborhood and has made numerous complaints to both licensing and the Hotline before. The facility is already under a corrective action plan due to chronic non-compliance with staff/child ratios.

- DCFS would likely unsubstantiated lack of supervision. There was an adult present for supervision and the complaint was not of the severity alleged.
- Licensing can address issues of staff/child ratio which is out of compliance in the above example and would constitute lack of supervision as defined in their regulations.
- Licensing can evaluate the issue of the unlocked gate and can see if this issue has been a problem before.

- Licensing can consider whether action on the facility's license is merited – a problem with staff/child ratios that could have had a bad outcome and the problem is chronic.

Institutional Investigations:

Schools, Licensed Residential Facilities, Licensed
Child Care Facilities

Participant Manual & Resource Guide

**INSTITUTIONAL INVESTIGATIONS
SCHOOLS, LICENSED RESIDENTIAL FACILITIES, LICENSED CHILD CARE
FACILITIES AND PSYCHIATRIC HOSPITALS**

AGENDA

- I. Welcome and Introductions**
- II. Focus of the Training**
 - A. Exercise**
 - B. Overview**
 - C. Learning Objectives**
 - D. How Many Licensing Authorities**
- III. Investigations Involving Use of Restraints**
 - A. Caveats and Conditions**
 - B. Policy, Training and Circumstances**
 - C. Licensing Violation vs Child Abuse**
- IV. Surviving the Schools**
 - A. Access – To Use or Not to Use**
 - B. Who Gets Initial Notification**
 - C. Caldwell vs DHHS – Physical Punishment, Policy and Circumstances**
 - D. Who Gets information on the Investigation**
- V. Playing Nice With Others – Working With Licensing**
 - A. Goals, Roles and Mandates**
 - B. How to Make Initial Notification**
 - C. Are You Joined at the Hip?**
 - D. Keeping Licensing Informed**
 - E. How We Can Help Each Other – Case Application**
 - F. Notification of Determination**
 - G. Availability for Hearings**
- VI. Documentation to Survive Fair Hearings**
 - A. Connecting the Dots**

COURSE OBJECTIVES

Participants will:

- Review the required elements of a maltreatment investigation.
- Understand the different minimum requirements for investigations of alleged child maltreatment that occur in an institutional setting.
- Know the statutory authority for entering into schools, public and private.
- Know the issues related to physical restraints and child abuse allegations.
- Know the procedure for notifying licensing authorities of complaints in licensed child care facilities and licensed residential facilities.
- Know the different licensing authorities with whom DCFS will interact.
- Develop strategies for coordinating information in maltreatment investigations that allow different entities to meet their statutory responsibilities.
- Know the different types of hearings that may occur in institutional investigations.
- Understand the need for thorough documentation to build a case for case determination, Administrative Fair Hearings and judicial reviews

LICENSING AUTHORITIES IN DHHS

UNIT	DIVISION	TYPES OF LICENSES
Child Care Licensing	Childcare and Early Childhood Education (DCC)	Child Care Centers Child Care Family Homes Voluntary Registered Homes
Child Welfare Agency Licensing Unit	Division of Children and Family Services (DCFS)	<u>Residential Child Care Facility</u> <u>Emergency Residential Child Care Facility</u> <u>Psychiatric Residential Treatment Facility</u> Sexual Offender Program <i>Child Placement agency – Adoption **</i> <i>Child Placement Agency – Foster Care **</i> <u>Child Placement Agency - Therapeutic Foster Care **</u> <i>** remains the responsibility of CACD</i>
Licensure and Certification	Developmental Disabilities (DDS)	Child Care Centers may be dually licensed if they specialize in special needs children.

DIVISION OF CHILDCARE AND EARLY CHILDHOOD EDUCATION (DCC)

www.state.ar.us/childcare

TYPES OF LICENSES:

Child Care Centers

A “Child Care Center” means any child care facility conducted under public or private auspices on a profit or non-profit basis providing direct care and protection for children. Any facility that is open more than five (5) hours in a 24 hour period or more than ten (10) hours in a seven (7) day period is considered a Child Care Center. Those facilities meeting the above definitions but operating on more than three weeks are not required to be licensed as a child Care Center. (See your Licensing Specialist for other exemptions and exceptions.)

Child Care Family Homes (CCFH)

A Child Care Family Home (CCFH) is defined as a situation in which children are cared for in a caregiver’s own family home or in some other suitable family type residence. A home requires licensure when one (1) or more person’s care for 6 or more children from more than one (1) family at the same time. A maximum of 16 children may be cared for with a CCFH license. The caregiver’s own preschool children shall be considered when determining the need for a license. Whether or not the caregiver receives payment for providing care to other people’s children is **not** a consideration when determining the need for a CCFH license.

Voluntary Registered Child Care Homes

Three types of Registered Homes

1. Registered Child Care family Home: a situation in which five or less children are cared for in the caregiver’s own family home or on some other suitable family type residence.
2. Relative Child Care Family Home: a situation in which five or less children are cared for by a relative of the child(ren). The relationship must be that of grandparent, great grandparent, aunt, uncle, sibling (out of the home). The registered relative may provide child care either in his/her home or the home of the child(ren).
3. In-Home Provider: an individual selected by the family to provide the daycare to five or less children in the child(ren)’s own home.

CHILD WELFARE AGENCY LICENSING UNIT (DCFS) TYPES OF LICENSES

RESIDENTIAL CHILD CARE FACILITY

Any child welfare agency that provides care, training, education, custody or supervision on a twenty-four (24) hour basis for six (6) or more unrelated minors.

EMERGENCY RESIDENTIAL CHILD CARE FACILITY

Any child welfare agency that provides twenty-four (24) hour custodial care for six (6) or more unrelated children on an emergency basis, not to exceed ninety (90) days.

PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY

A residential child care facility in a non-hospital setting that provides a structured, systematic, therapeutic program of treatment under the supervision of a psychiatrist, for children who are emotionally disturbed and in need of daily nursing services, psychiatrist's supervision and residential care, but who are not in an acute phase of illness requiring the services of an inpatient psychiatric hospital.

SEXUAL OFFENDER PROGRAM

A treatment program that offers a specific and specialized therapeutic program for juvenile sexual offenders. A licensed sexual offender program may be in a residential child care facility, a therapeutic foster care home, or a psychiatric residential treatment facility. A sexual offender is described as a person who has committed one or more confirmed acts of sexual abuse/misconduct which constitutes the predominant need for specialized treatment services.

CHILD PLACEMENT AGENCY – ADOPTION (CACD)

A child welfare agency which places, plans for or assists in the placement of an unrelated minor in a household of one (1) or more persons which has been approved to accept a child for adoption.

CHILD PLACEMENT AGENCY – FOSTER CARE (CACD)

A child welfare agency which places, plans for or assists in the placement of an unrelated minor in a private residence of one (1) or more family members for care and supervision on a twenty-four (24) hour basis.

CHILD PLACEMENT AGENCY – THERAPEUTIC FOSTER CARE (CACD)

Any child welfare agency that places, plans for or assists in the placement of an unrelated minor in a therapeutic foster home. Therapeutic foster care is intensive therapeutic care for children provided in specially trained family homes supported by licensed mental health professionals. A therapeutic foster care program is a family-based services delivery approach providing individualized treatment for children, youth, and their families. Treatment is delivered through an integrated constellation of services with key interventions and supports provided by therapeutic foster parents who are trained, supervised, and supported by qualified program staff. Therapeutic foster care services shall be provided in a separately identified program of a larger agency or be provided by an independent agency.

AREAS OF EMPHASIS OVERVIEW (Notes from PowerPoint)

Definitions:

Notification:

Enhanced Need for Collateral Interviews:

Release of Information (Initial, During, at Conclusion):

Greater Likelihood of Fair Hearing

WHAT ARE THE ISSUES?

You have received an allegation that a 13 year old male was abused at Child Control for U facility. The boy reportedly has a black eye, linear bruises on his arms, and bruising around his left ear. The report was called in by the boy's therapist at the center.

When you see the boy, he has the injuries that were alleged. The bruising around the eye is purplish red. The tissue around the eye is swollen and there is bruising on the eye-lid and under the eyebrow as well as under the eye. The left ear is bruised along the top of the ear. It too is a purplish red bruise. The bruises on the arms are on the upper arms about midway between the elbow and shoulder. They are fainter than the other bruises but still purple in color.

The boy's story is that he was minding his own business and the staff member jumped him for no reason. He says the staff member grabbed him by the ear and then he called him a name. At that point the staff member punched him in the eye, then pinned his arms behind him and marched him to his room.

The staff member's story is that the boy had to be restrained for behavior control. He described the boy as being verbally abusive, calling the staff member foul names and raising his voice. The staff member explained that this type of behavior with this boy is always a precursor to violent physical outbreaks where the boy is a danger to himself and other children in the facility. He had to stop it before it got started. He admits to grabbing the boy by the ear, but says the facial bruising was already there when he reported for work that day.

Other children interviewed reported that the boy started mouthing off. The staff member told him one time to stop. Both of them exchanged unflattering names, then the staff member grabbed the boy by the ear, punched him when he tried to get away and then took him to his room.

No other staff members were present when the incident occurred. There were 10 children on the unit. Other staff members who have care giving responsibility for this boy gave conflicting assessments of how volatile he is. At least half of the staff described him as generally being responsive to de-escalation techniques.

Use Child Maltreatment Act, 12-12-503 (C) (ii)

1. Does this definition apply to any child care facility?
2. Were other methods available to control the behavior?
3. Was the child a danger to self or others?
4. How would you verify the training that this staff member had been trained in restraints, conflict resolution and de-escalation techniques?
5. Was the restraint for a reasonable amount of time?
6. How would you call it? Did the child suffer more than transient pain and minor temporary marks? Justify your answer.

Variation on a Theme

You have received an allegation that a 13 year old male was abused at Child Control for U facility. The boy reportedly has a black eye, linear bruises on his arms, and bruising around his left ear. The report was called in by the boy's therapist at the center.

When you see the boy, he has the injuries that were alleged. The bruising around the eye is purplish red. The tissue around the eye is swollen and there is bruising on the eye-lid and under the eyebrow as well as under the eye. The left ear is bruised along the top of the ear. It too is a purplish red bruise. The bruises on the arms are on the upper arms about midway between the elbow and shoulder. They are fainter than the other bruises but still purple in color.

The boy's story is that he was minding his own business and the staff member jumped him for no reason. He says the staff member grabbed him by the ear and then he called him a name. At that point the staff member punched him in the eye, then pinned his arms behind him and marched him to his room.

The staff member's story is that this boy had to be restrained for behavior control. He described the boy as being verbally abusive, calling other residents foul names and raising his voice. At this point, one of the older, bigger boys jumped the alleged victim and punched him two or three times in the face. This staff member and another staff member separated the two boys. The staff member said he did pin this boys arms behind his back to keep him from striking him or the other boy. He does not know how the ear got bruised. Staff were able to calm both boys and get them to their rooms to cool off.

Other children interviewed reported that the boy started mouthing off. They verify the fight between the two boys. All but one of these children say that the staff member did not restrain the boy until after the fight started. Two boys allege the staff member hit the alleged victim in the face but the other boys say the punch was thrown by the other boy. One of the boys who names the staff member as the "hitter" was the other boy involved in the fight.

One other staff member was present when the incident occurred. His story confirms the alleged offender's story. There were 10 children on the unit. Other staff members who have care giving responsibility for this boy gave conflicting assessments of how volatile he is. At least half of the staff described him as generally being responsive to de-escalation techniques.

Requirements from Minimum Licensing Standards

Child Welfare Agencies

100.15 Behavior Management (Applies to All, with Psych Facility Exceptions Noted)

1. The agency shall have a written discipline policy that is consistently followed.
2. Discipline shall be directed toward teaching the child acceptable behavior and self-control.
3. Discipline shall be appropriate to the child's age, development, and history.
4. The following forms of discipline shall not be used:
 - a. Denial of meals, sleep, shelter, essential clothing, or case plan activities;
 - b. Denial of parental visits or regular phone/mail contact with family. Non-disciplinary case planning issues are excepted;
 - c. Lewd or obscene language;
 - d. Derogatory comments about the child, the child's family, race, or gender;
 - e. Restriction to a room for more than a short period of time without periodic observation;
 - f. Locked isolation (psychiatric facilities excepted);
 - g. Physical injury or threat of bodily harm;
 - h. Humiliating or degrading action;
 - i. Extremely strenuous work or exercise;
 - j. Mechanical/chemical restraints (psychiatric facilities excepted);
5. Physical restraint shall be initiated only by trained staff, and only to prevent injury to the child, other people or property, and shall not be initiated solely as a form of discipline.
6. A child shall not be allowed to administer discipline, except teen parents may discipline their own children.
7. Searches of a child or a child's personal property shall be for reasons limited to safety and security of children and staff, or in cases of suspected theft.
8. Any searches requiring removal of clothing shall be done in privacy, and except in foster homes, shall be witnessed by two (2) staff of the same sex as the child.

Additional Information Related to Training in Residential Child Care

1. All direct care staff shall be trained in crisis intervention strategies.
2. No staff shall be allowed to participate in a physical restraint until properly trained to do so. Psychiatric facility staff shall be certified in physical intervention.

500.4 Behavior Management (Psychiatric Residential Facility)

1. The agency shall have a written policy governing the use of behavior control measures with children, including physical, mechanical, or chemical restraints and seclusion rooms.
2. Chemical restraints shall be used only if so ordered by a physician.
3. Seclusion or mechanical restraints shall be used only if ordered by a physician, clinically qualified registered nurse, or other licensed independent practitioner. The agency may authorize other qualified, trained staff members who are not licensed independent practitioners to initiate the use of seclusion or restraint before an order is obtained from the licensed independent practitioner. The following licensed independent practitioners, if clinically qualified, may be approved by the agency to order seclusion or restraints or to conduct the face-to-face assessments required following such order: licensed certified social worker, licensed marriage and family therapist, licensed psychological counselor, licensed Ph.D. psychologist, licensed professional counselor, licensed professional associate counselor, or other licensed mental health professional. The licensed professionals shall work under the supervision and/or review of the agency medical director.
4. Each written order for a physical restraint or seclusion is limited to two (2) hours for children ages nine (9) to seventeen (17) years, or one (1) hour for children under age nine (9) years. A physician, clinically qualified registered nurse or other authorized licensed independent practitioner must conduct a face-to-face assessment of the child within one (1) hour after the initiation of the ordered intervention.
5. The original order may only be renewed in accordance with these limits for up to a total of twenty-four (24) hours. After the original order expires, a physician, clinically qualified registered nurse or other authorized licensed independent practitioner must see and assess the child before issuing a new order.
6. Staff shall search each child before placement in seclusion, and all potentially hazardous items shall be removed.
7. Staff shall visually check each child in seclusion or restraints at least every fifteen (15) minutes, and shall document each check.

TYPES OF RESTRAINTS

(In a Psych Facility the Staff MUST be Certified)

Restraints: Physical, Mechanical, Chemical, Seclusion

Certified Programs in Restraint

There is a national training called "Crisis Prevention Institute" (CPI) in which all AR licensed psychiatric facilities have their staff trained. A newcomer is "Handle With Care" which is a faith-based organization that teaches non-injurious restraints. Minimum licensing standards accept either of these or other comparable certifications.

A **"mechanical restraint"** is a "papoose board" (a bed with Velcro or leather ankle/handcuffs) or a straight jacket. Several licensed psych facilities in Arkansas use the papoose board.

"Chemical restraints" are sedatives administered *by doctor's orders*.

"Take Down"

Several psychiatric facilities use "take downs." A take down is a "therapeutic hold" that does not last more than 29 minutes.

**CHILD MALTREATMENT INVESTIGATIONS
ALLEGED OFFENDER IS A SCHOOL EMPLOYEE
FAQs**

- 1. Does DCFS have the right to enter a school?**
- 2. What do I do if the school refuses entry?**
- 3. Can schools use physical punishment?**
- 4. I have heard that you can't make a finding of true if the allegation is physical abuse and the alleged offender is a teacher or vice-principal. Is that correct?**
- 5. If the allegation involves abuse that occurred at the school, would I need to interview the child at school? What about other children in the classroom?**
- 6. If the maltreatment allegation alleges abuse at school am I required to notify anybody?**

USING THE WEB-BASED EMAIL

According to Joseph Million, Network Engineering Manager, when exchanging information on child maltreatment investigations via e-mail, the sender must send the correspondence using Microsoft Outlook Web Access and the receiver must view the e-mail using the Microsoft Outlook Web Access in order to utilize the encryption scheme.

To get to your e-mail through the Microsoft Outlook Web Access:

- Click on the Internet Explore icon on the desktop.
- When Explorer opens, type in <http://mail.state.ar.us>
- A dialog box will appear where you will enter your user name and your password. You may have to enter the domain as well. This would be:

DHHS.ar.us/username

- After you enter this information, you should see your e-mail, just as if you had clicked on your desktop e-mail icon.

Remember, not only should you access your e-mail this way to send correspondence, you should access your e-mail through the Web to view messages from the other party.

DIFFERENT EMPHASIS

IMPORTANT REFERENCES

- 12-12-507** **requires immediate notification to licensing authorities**
- 12-12-506** **permits release of information to licensing authorities on pending reports.**
- 12-12-506** **requires notification to licensing of true reports**
- 12-12-512** **requires notification to licensing on unfounded reports**
1. The transfer of investigative authority is supported by the Director of the Division of Children and Family Services (pages 18-20 in the Resource Section of this manual). It is incorporated into the contract between ASP and DCFS.
 2. Release of the required information goes to different people in each agency (pages 21-35 of the Resource Section of this Manual).
 3. Interviewing and or observing the condition of other children in the alleged child victim's home
 4. Collaterals – the extra mile (or 10 miles)
 5. Health and Safety Assessment/Risk Assessment
 6. Another Area that will be different on true reports is the requirement to determine the names and condition of any minor children of the offender. After assessing the condition of those children, it may require another report to the Hotline.
 7. Underage juvenile aggressors are the only situation where DCFS may have to deal with the requirement to make efforts to locate other potential victims of the offender. These children were not technically in the care of the underage juvenile aggressor but could have perpetrated against other children in other settings.

**CHILD MALTREATMENT INVESTIGATIONS
ALLEGED OFFENDER IS IN A LICENSED CHILD CARE FACILITY
FAQs**

1. **My supervisor has let DCC know there is a report. Do I have to share information with them? How much and when? Isn't it a HIPPA violation if I do?**
2. **If the report is found to be true and the offender appeals the decision, how many hearings could this involve for me?**
3. **What could the licensing folks do for me?**
4. **Licensing is always talking about "corrective action." What does THAT mean?**
5. **Who gets to decide if the report is true – us or them?**
6. **Isn't it bad for children to have lots of people in on an interview?**
7. **If I unsub doesn't that mean it's over?**

EXAMPLE 1

You have an allegation that a 3 ½ year old child was left alone on the child care van. The caller alleges that it happened on December 11, 2003. The child was alone on the van from the time the class got back from a trip to see Santa until a parent noticed the child on the van when she came to the center at 5:15 pm to pick up her own child. The caller would only identify herself as an employee of the center but was afraid to give her name because she was afraid she would be fired.

EXAMPLE 2

You received and investigated a complaint of lack of supervision in a child care center. Allegedly a 4 year old child was found wandering around in the middle of a busy intersection three blocks from the facility.

As the investigation unfolds, it turns out that the child got out of a gate on the playground that was supposed to be locked but wasn't. The staff member on the playground, who was supervising 25 4-year-olds, turned around and saw the child go out the gate. She caught him before he got into the street although he was close to the curb. The child never got off the grounds of the facility. The call was made by a woman who lives close to the facility, does not like having a child care facility in her neighborhood and has made numerous complaints to both licensing and the Hotline before. The facility is already under a corrective action plan due to chronic non-compliance with staff/child ratios.



SCHOOL
OF
SOCIAL
WORK

Institutional Investigations:

Schools, Licensed Residential Facilities, Licensed
Child Care Facilities

Resource Guide

Current 04/13/06



Arkansas Department of Human Services

Division of Children and Family Services

700 Main Street, Donaghey Plaza South, 5th Floor

P.O. Box 1437, Slot S560

Little Rock, Arkansas 72203-1437

Telephone (501) 682-8008 TDD (501) 682-1442 FAX (501)
682-6968

MEMORANDUM

TO: All DCFS Staff

FROM: Roy Kindle, Director DCFS

DATE: December 31, 2003

RE: **Executive Directive** – DCFS and Arkansas State Police (ASP) Crimes Against Children Division (CACD) Agreement

Both DCFS and CACD investigate allegations of child maltreatment. There is an interagency agreement that identifies what types of child maltreatment each agency will investigate. Generally speaking, CACD investigates the more severe types of maltreatment.

Since the first agreement in 1997, ASP has handled all allegations of maltreatment in settings licensed, managed or approved by DHHS, or used as a DHHS placement, as well as public schools or involving agency employees. Recently the mutual agreement was amended. The changes make DCFS responsible to investigate some types of child maltreatment previously handled by CACD.

Effective January 1, 2004, DCFS will assume the responsibility for investigating non-severe (priority II) child maltreatment complaints in schools, day care settings, residential programs, Head Start centers, non-foster home/non-HDC Division of Developmental Disabilities Services programs, Boys' and Girls' Clubs, shelters, summer camps, boys' and girls' ranches, DYS Community Based Providers, etc.

CACD will continue to investigate non-severe (priority II) child maltreatment complaints only in foster homes, Human Development Centers (HDC), Division of Youth Services regional facilities, and reports involving DHHS employees as alleged offenders. CACD will investigate allegations of severe child maltreatment in all out of home settings.

The following are procedures that shall be followed when a DCFS staff member investigates alleged child maltreatment in a facility.

1. Determine where (Area & County) the facility is located and notify the County Supervisor or Area Manager that there will be an investigation at that facility.

2. The Investigator will notify the appropriate Licensing Authority of the allegation if it involves notification that a client or a resident of any facility licensed or registered by the state of Arkansas has been subjected to child maltreatment while at such a facility. **Document notification of the licensing authority in the collateral screen in CHRIS.**
3. The investigator will notify the facility administrator or manager of the allegation and pending investigation upon arrival at the facility. If facility access is a problem, the Division of Child Care and Early Childhood Education or other appropriate licensing authority may be used to facilitate access.
4. Notification of parents/guardians will be done by the facility according to the facility's policy/procedures.
5. The investigation will be conducted in accordance with DCFS Policy (II-E) and Procedure (II-E1) through Procedure (II-E13). References to the child's home or family residence should be read as "facility".

In addition to following policy on conducting child maltreatment investigations, the following procedures from Act 758 of 2003 should be carefully followed.

1. If the alleged offender is not a family member nor living in the home with the alleged victim, the child maltreatment investigation shall seek to ascertain:
 - a. The existence, cause, nature and extent of the child's maltreatment;
 - b. The identity of the person responsible for the maltreatment;
 - c. The existence and extent of previous maltreatment perpetrated by the alleged offender;
 - d. If the report is determined to be true, the names and conditions of any minor children of the alleged offender and whether these children have been maltreated or at risk of maltreatment;
 - e. If the report is determined to be true and is a report of sexual intercourse, deviate sexual activity, or sexual contact, an assessment of any other children previously or currently under the care of the alleged offender, to the extent practical, and whether these children have been maltreated or are at risk of maltreatment; and
 - f. All other pertinent and relevant data.

DCFS staff will receive training prior to implementation of this revised mutual agreement between DCFS and CACD.

MANUAL TRANSMITTAL

Arkansas Department of Human Services

Division of Children and Family Services

{ } Policy { } Form {X } Policy Directive Issuance Number: FSPP 2003-03

Service Programs Forms Manual
December 31, 2003

Effective Date:

From: Roy Kindle, DCFS Director

**Expiration
Date – Until Superseded**

Subj.: Executive Directive – DCFS and Arkansas State Police (ASP) Crimes
Against Children Division (CACD) Agreement

Recently the mutual agreement between DCFS and CACD was amended. The changes make DCFS responsible to investigate some types of child maltreatment previously handled by CACD.

Effective January 1, 2004, DCFS will assume the responsibility for investigating non-severe (priority II) child maltreatment complaints in schools, day care settings, residential programs, Head Start centers, non-foster home/non-HDC Division of Developmental Disabilities Services programs, Boys' and Girls' Clubs, shelters, summer camps, boys' and girls' ranches, DYS Community Based Providers, etc.

CACD will continue to investigate non-severe (priority II) child maltreatment complaints only in foster homes, Human Development Centers (HDC), Division of Youth Services regional facilities, and reports involving DHHS employees as alleged offenders. CACD will investigate allegations of severe child maltreatment in all out of home settings.

DCFS staff will receive training prior to implementation of this revised mutual agreement between DCFS and CACD.

**DIVISION OF CHILDREN AND FAMILY SERVICES
CHILD WELFARE AGENCY
LICENSING UNIT**

**Information in the resource booklet is current as of
April 13, 2006**

**To access a copy of licensing standards for child welfare
agencies licensed by this agency
go to**

www.state.ar.us/DHHS/chilnfam/

Child Welfare Agency Licensing Unit

LICENSING UNIT MANAGER

Debbie Roark
(501) 321-2583
(501) 623-2645 (FAX)

debbie.roark@mail.state.ar.us

The Child Maltreatment Act requires immediate notification of the licensing authority when an allegation is received that a child was abused or neglected in a licensed child care facility.

At this time, initial notification of alleged maltreatment in a facility licensed by this unit should go directly to the **Specialist** assigned to that area.

Notification is the responsibility of the DCFS investigator. Notification will be via email through the **encrypted, web-based email**. It will contain:

- The name of the alleged victim
- The name of the alleged offender
- The name of the facility
- The location of the facility
- The nature of the complaint
- The name of the DCFS person assigned to conduct the investigation
- The CHRIS number

A list of the Unit's staff is included in this manual.

CHILD WELFARE AGENCY LICENSING UNIT (DCFS)

www.state.ar.us/DHHS/chiInfam/

TYPES OF LICENSES

RESIDENTIAL CHILD CARE FACILITY

Any child welfare agency that provides care, training, education, custody or supervision on a twenty-four (24) hour basis for six (6) or more unrelated minors.

EMERGENCY RESIDENTIAL CHILD CARE FACILITY

Any child welfare agency that provides twenty-four (24) hour custodial care for six (6) or more unrelated children on an emergency basis, not to exceed ninety (90) days.

PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY

A residential child care facility in a non-hospital setting that provides a structured, systematic, therapeutic program of treatment under the supervision of a psychiatrist, for children who are emotionally disturbed and in need of daily nursing services, psychiatrist's supervision and residential care, but who are not in an acute phase of illness requiring the services of an inpatient psychiatric hospital.

SEXUAL OFFENDER PROGRAM

A treatment program that offers a specific and specialized therapeutic program for juvenile sexual offenders. A licensed sexual offender program may be in a residential child care facility, a therapeutic foster care home, or a psychiatric residential treatment facility. A sexual offender is described as a person who has committed one or more confirmed acts of sexual abuse/misconduct which constitutes the predominant need for specialized treatment services.

CHILD PLACEMENT AGENCY – ADOPTION (CACD)

A child welfare agency which places, plans for or assists in the placement of an unrelated minor in a household of one (1) or more persons which has been approved to accept a child for adoption.

CHILD PLACEMENT AGENCY – FOSTER CARE (CACD)

A child welfare agency which places, plans for or assists in the placement of an unrelated minor in a private residence of one (1) or more family members for care and supervision on a twenty-four (24) hour basis.

CHILD PLACEMENT AGENCY – THERAPEUTIC FOSTER CARE (CACD)

Any child welfare agency that places, plans for or assists in the placement of an unrelated minor in a therapeutic foster home. Therapeutic foster care is intensive therapeutic care for children provided in specially trained family homes supported by licensed mental health professionals. A therapeutic foster care program is a family-based services delivery approach providing individualized treatment for children, youth, and their families. Treatment is delivered through an integrated constellation of services with key interventions and supports provided by therapeutic foster parents who are trained, supervised, and supported by qualified program staff. Therapeutic foster care services shall be provided in a separately identified program of a larger agency or be provided by an independent agency.

LICENSING UNIT STAFF CONTACT INFORMATION

Debbie Roark, Licensing Unit Manager

State-wide

(501) 321-2583

greg.gilliland@mail.state.ar.us

Ann Huens, Licensing Specialist

Northwest Arkansas

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ann.huens@mail.state.ar.us

Dick Henderson, Licensing Specialist

Northeast Arkansas

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dick.henderson@mail.state.ar.us

Ms. Treasure, Licensing Specialist

Pulaski and East Central Arkansas

(501) 683-4157

cleola.treasure@mail.state.ar.us

Shirley Preston, Licensing Specialist

West Central Arkansas

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Shirley.preston@mail.state.ar.us

Deloris Robinson, Licensing Specialist

South Arkansas

(870) 246-9886

Deloris.robinson@mail.state.ar.us

**DIVISION OF CHILD CARE
AND
EARLY CHILDHOOD EDUCATION**

**Information in the resource booklet is current as of
April 13, 2006**

**To access a copy of licensing standards for child care
facilities licensed by this agency
go to
www.state.ar.us/childcare**

DIVISION OF CHILD CARE AND EARLY CHILDHOOD EDUCATION

CONTACT PERSON FOR ALL DCFS INVESTIGATIONS IN LICENSED
CHILD CARE FACILITIES OR LICENSED FAMILY HOME CHILD CARE

**RATHA TURPIN, PROGRAM ADMINISTRATOR
CENTRAL OFFICE
P.O. BOX 1437, SLOT S150
LITTLE ROCK, AR 72203-1437
(501) 682-2308
Ratha.Turpin@mail.state.ar.us**

The Child Maltreatment Act requires immediate notification of the licensing authority when an allegation is received that a child was abused or neglected in a licensed child care facility.

The executive staffs of DCFS and the Division of Child Care and Early Childhood Education (DCC) have agreed that there will be a **single point of contact** for notification if the complaint involves a licensed child care center, a child care family home, or a voluntary register home. These terms are defined on the following pages.

Notification is the responsibility of the DCFS investigator. Notification will be via email through the **encrypted, web-based email**. It will contain:

- The name of the alleged victim
- The name of the alleged offender
- The name of the facility
- The location of the facility
- The nature of the complaint
- The name of the DCFS person assigned to conduct the investigation
- The CHRIS number

DCC will notify the licensing specialist, once DCC has received notification of a complaint. **This is no way is intended to imply that the FSW/Supervisor in DCFS cannot initiate contact with the licensing specialist for the facility after making official notification to DCC.**

A list pf DCC staff is included in this manual.

DIVISION OF CHILDCARE AND EARLY CHILDHOOD EDUCATION (DCC)

www.state.ar.us/childcare

TYPES OF LICENSES:

Child Care Centers

A “Child Care Center” means any child care facility conducted under public or private auspices on a profit or non-profit basis providing direct care and protection for children. Any facility that is open more than five (5) hours in a 24 hour period or more than ten (10) hours in a seven (7) day period is considered a Child Care Center. Those facilities meeting the above definitions but operating on more than three weeks are not required to be licensed as a child Care Center. (See your Licensing Specialist for other exemptions and exceptions.)

Child Care Family Homes (CCFH)

A Child Care Family Home (CCFH) is defined as a situation in which children are cared for in a caregiver’s own family home or in some other suitable family type residence. A home requires licensure when one (1) or more person’s care for 6 or more children from more than one (1) family at the same time. A maximum of 16 children may be cared for with a CCFH license. The caregiver’s own preschool children shall be considered when determining the need for a license. Whether or not the caregiver receives payment for providing care to other people’s children is **not** a consideration when determining the need for a CCFH license.

Voluntary Registered Child Care Homes

Three types of Registered Homes

4. Registered Child Care family Home: a situation in which five or less children are cared for in the caregiver’s own family home or on some other suitable family type residence.
5. Relative Child Care Family Home: a situation in which five or less children are cared for by a relative of the child(ren). The relationship must be that of grandparent, great grandparent, aunt, uncle, sibling (out of the home). The registered relative may provide child care either in his/her home or the home of the child(ren).
6. In-Home Provider: an individual selected by the family to provide the daycare to five or less children in the child(ren)’s own home.

**DAVID GRIFFIN, ADMINISTRATOR
CENTRAL OFFICE**

**P O BOX 1437, SLOT S150
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501-682-8590
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DOUG WILLIAMS, SUPERVISOR 501-682-2350 501-683-0970 (FAX)	DHHS – CENTRAL OFFICE P O BOX 1437, S150 LITTLE ROCK, AR 72203
KIM CHAPMAN, SUPERVISOR 479-442-4029 479-442-8896 (FAX)	WASHINGTON COUNTY DHHS 4252 FRONTAGE RD FAYETTEVILLE, AR 72703
KELLI HILBURN, SUPERVISOR 870-741-6107 870-741-6198 (FAX)	BOONE COUNTY DHHS 2126 CAPPS ROAD P O BOX 1096 HARRISON, AR 72601
CONNIE D. ALEXANDER, SUPERVISOR 870/238-8553 870/238-7522 (FAX)	CROSS COUNTY DHHS 803 HIGHWAY 64E WYNNE, AR 72396
CINDY PYLE, SUPERVISOR 479-637-4141 479-637-4143 (FAX)	SCOTT COUNTY DHHS P O BOX 840 WALDRON, AR 72958
MARY W. OLIVER, SUPERVISOR 870-352-5115 870-352-3823 (FAX)	DALLAS COUNTY DHHS 1202 WEST 3 RD FORDYCE, AR 71742
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MONICA BARFIELD CLERICAL SUPERVISOR 501-682-2308 501-682-2317 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437, S150 LITTLE ROCK, AR 72203-1434

**RATHA TRACY, PROGRAM COORDINATOR
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JUDY STATON SECRETARY II 501-682-2467 501-682-2317 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437, S150 LITTLE ROCK, AR 72203-1434
YOLANDA ROBINSON SECRETARY II 501-683-0051 501-682-2317 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437, S150 LITTLE ROCK, AR 72203-1434
VACANT DOCUMENT EXAMINER II 501-682-3182 501-682-2317 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437, S150 LITTLE ROCK, AR 72203-1434
VICKI MATHEWS QUALITY APPROVAL SUPERVISOR 501-682-4888 501-682-4897 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437 SLOT S160 LITTLE ROCK, AR 72203-1437
DEBORAH BLACKBURN QUALITY APPROVAL SPECIALIST 501-683-0978 501-682-4897 (FAX)	DHHS - CENTRAL OFFICE P O BOX 1437 SLOT S160 LITTLE ROCK, AR 72203-1437
NANCY WALKER QUALITY APPROVAL SPECIALIST 501-676-3113 501-676-3115 (FAX)	LONOKE COUNTY DHHS 100 PARK STREET LONOKE, AR 72086

AREA I

DOUG WILLIAMS, SUPERVISOR
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P O BOX 1437, SLOT S150
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501-682-2350
501-683-0970 (FAX)
Eden Taylor, Administrative Assistant I
501-683-0019

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BARBARA LAWSON LICENSING SPECIALIST 501-682-2319 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	72205 72211 72212 72223 72227 72103
SHIRLEY BAKER LICENSING SPECIALIST 501-682-2312 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	72204 72207
KEITH HOLLEMAN LICENSING SPECIALIST 501-682-2329 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	<i>PULASKI – All Complaints</i> <i>LONOKE – All Complaints</i> <i>FAULKNER – Licensing Complaints</i>
RICK PASKEL LICENSING SPECIALIST 501-682-2315 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	72113 72116 72118 72120
LASHAUNDRA TYLER LICENSING SPECIALIST 501-683-0935 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	72117 72114 72201 <i>Cities of England & Scott</i>
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ALISA CARTER LICENSING SPECIALIST 501-682-2330 501-683-0970 (FAX)	DHHS P O BOX 1437 SLOT S150 LITTLE ROCK, AR 72203-1437	LONOKE – Cities of Cabot, Carlisle, Ward & Austin PULASKI – City of Jacksonville (Keith Holleman has complaints in Lonoke and City of Jacksonville)

AREA II

**KIM CHAPMAN, SUPERVISOR
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479-442-4029**

**479-442-8896 (FAX)
Pat Combs , Administrative Assistant I
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VACANT 479-273-9011 479-273-9055 (FAX)	BENTON COUNTY DHHS 900 SOUTHEAST 13 TH CT. BENTONVILLE, AR 72712	BENTON
KATHY RUSHING LICENSING SPECIALIST 479-273-9011 479-273-9055 (FAX)	BENTON COUNTY DHHS 900 SOUTHEAST 13 TH CT. BENTONVILLE, AR 72712	BENTON
BRENDA VICTORY LICENSING SPECIALIST 479-754-2355 479-754-6202 (FAX)	JOHNSON COUNTY DHHS P O BOX 1636 CLARKSVILLE, AR 72830	FRANKLIN JOHNSON LOGAN MADISON NEWTON SEBASTIAN (2 sites) POPE (1 site)
JONI BLACK LICENSING SPECIALIST 479-442-4029 479-442-8896 (FAX)	WASHINGTON COUNTY DHHS 4252 FRONTAGE RD FAYETTEVILLE, AR 72703	WASHINGTON
ANN HUENS LICENSING SPECIALIST 479-442-4029 479-442-8896 (FAX)	WASHINGTON COUNTY DHHS 4252 FRONTAGE RD FAYETTEVILLE, AR 72703	BENTON WASHINGTON
VACANT LICENSING SPECIALIST 479-273-9011 479-273-9055 (FAX)	BENTON COUNTY DHHS 900 SOUTHEAST 13 TH CT. BENTONVILLE, AR 72712	BENTON WASHINGTON

AREA III

**KELLI HILBURN, SUPERVISOR
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870-741-6107
870-741-6198 (FAX)**

**Melissa Neuhaus, Administrative Assistant I
501-268-8696**

NAME/PHONE	ADDRESS	COUNTIES COVERED
PAUL HANKINS LICENSING SPECIALIST 870-269-4321 870-269-4324 (FAX)	STONE COUNTY DHHS 1821 EAST MAIN MOUNTAIN VIEW, AR 72560	LAWRENCE INDEPENDENCE VAN BUREN (HOMES) STONE
LISA FREEMAN LICENSING SPECIALIST 501-354-2418 501-354-2427 (FAX)	CONWAY COUNTY DHHS P O BOX 228 MORRILTON, AR 72110	CLEBURNE CONWAY POPE (CENTERS) VAN BUREN (CENTERS)
DEBRA MANTIONE LICENSING SPECIALIST 501-730-9900 501-730-9910 (FAX)	FAULKNER COUNTY DHHS P O BOX 310 CONWAY, AR 72033	FAULKNER (Debra has Faulkner Co. Dual Complaints) (Keith Holleman has Faulkner County Licensing Complaints)
JEAN BECK LICENSING SPECIALIST 870-425-6011 870-424-5186 (FAX)	BAXTER COUNTY DHHS P O BOX 408 MOUNTAIN HOME, AR 72654	BAXTER FULTON IZARD SHARP
UTE WESLEY LICENSING SPECIALIST 501-268-8696 501-268-4803 (FAX)	WHITE COUNTY DHHS 608 RODGERS DR SEARCY, AR 72143	JACKSON WHITE
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AREA IV

CONNIE D. ALEXANDER, SUPERVISOR
CROSS COUNTY DHHS
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870-238-7522 (FAX)

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DONNA HAGLER LICENSING SPECIALIST 870-972-1732 870-972-4656 (FAX)	CRAIGHEAD COUNTY DHHS AR SERVICES CENTER 2920 MCCLELLAN DR JONESBORO, AR 72401	MISSISSIPPI CRAIGHEAD – After School Programs - YMCA's
TASSIE MCCOLLUM LICENSING SPECIALIST 870-972-1732 870-972-4656 (FAX) *Kathryn McCollum	CRAIGHEAD COUNTY DHHS AR SERVICES CENTER 2920 MCCLELLAN DR JONESBORO, AR 72401	CRAIGHEAD
DOROTHY HILL LICENSING SPECIALIST 870-633-1242 870-633-5683 (FAX)	ST. FRANCIS COUNTY DHHS P O BOX 899 FORREST CITY, AR 72336	ARKANSAS – (City of Stuggart & surrounding area) LEE PHILLIPS
STEPHANIE DAVIS LICENSING SPECIALIST 870-633-1242 870-633-5683 (FAX)	ST. FRANCIS COUNTY DHHS P O BOX 899 FORREST CITY, AR 72336	ARKANSAS – (City of DeWitt & surrounding area) MONROE PRAIRIE ST. FRANCIS
TONYA CURRIE LICENSING SPECIALIST 870-732-5170 870-732-4491 (FAX)	CRITTENDEN COUNTY DHHS 401 S AIRPORT RD WEST MEMPHIS, AR 72301	CRITTENDEN CROSS – City of Parkin
OTIS DAVIS LICENSING SPECIALIST 870/347-2537 870/347-2539 (FAX)	WOODRUFF COUNTY DHHS 1200 HWY 33 N P O BOX 493 AUGUSTA, AR 72006	CROSS POINSETT WOODRUFF CRAIGHEAD 9- mo Programs

AREA V

CINDY PYLE, SUPERVISOR
SCOTT COUNTY DHHS
P O BOX 840
WALDRON, AR 72958
479-637-4141
479-637-4143 (FAX)

Pat Combs, Administrative Assistant I

NAME/PHONE	ADDRESS	COUNTIES COVERED
FAYE WILSON LICENSING SPECIALIST 479-782-4555 ext. 3214 479-782-6861 (FAX)	SEBASTIAN COUNTY DHHS 616 GARRISON AVE FORT SMITH, AR 72901	CRAWFORD SEBASTIAN
JUDITH MORAN LICENSING SPECIALIST 479-782-4555 ext. 3217 479-782-6861 (FAX)	SEBASTIAN COUNTY DHHS 616 GARRISON AVE FORT SMITH, AR 72901	SEBASTIAN
NANCY JEFFERS LICENSING SPECIALIST 501-321-2583 501-623-2645 (FAX)	GARLAND COUNTY DHHS 115 MARKET STREET HOT SPRINGS, AR 71901	GRANT SALINE GARLAND – LIC Homes only
LINDA BLAKNEY LICENSING SPECIALIST 870-246-9886 870-246-4603 (FAX)	CLARK COUNTY DHHS P O BOX 969 ARKADELPHIA, AR 71923	CLARK HOWARD PIKE GARLAND – REG homes only
PATRICIA GILLILAND LICENSING SPECIALIST 501-321-2583 501-623-2645 (FAX)	GARLAND COUNTY DHHS 115 MARKET STREET HOT SPRINGS, AR 71901	DALLAS HOT SPRING GARLAND – Centers only
DEBBIE POTTER LICENSING SPECIALIST 479-495-2723 479-495-3051 (FAX)	YELL COUNTY DHHS P O BOX 277, HWY 10E DANVILLE, AR 72833	MONTGOMERY PERRY POLK SCOTT YELL POPE (HOMES)

AREA VI

**MARY W. OLIVER, SUPERVISOR
DALLAS COUNTY DHHS
1202 WEST 3RD
FORDYCE, AR 71742
870-352-5115
870-352-3823 (FAX)**

Shirlene Jackson, Administrative Assistant I

NAME/PHONE	ADDRESS	COUNTIES COVERED
MARSHA THOMPSON LICENSING SPECIALIST 870-367-6835 870-367-6944 (FAX)	DREW COUNTY DHHS P O BOX 1350 MONTICELLO, AR 71657	ASHLEY CHICOT DREW
BETTY HILL LICENSING SPECIALIST 870-836-8166 870-836-7441 (FAX)	OUACHITA COUNTY DHHS P O BOX 718 CAMDEN, AR 71711	BRADLEY CALHOUN CLEVELAND DESHA LINCOLN
SONYA GORDON LICENSING SPECIALIST 870-534-4200 870-534-3421 (FAX)	JEFFERSON COUNTY DHHS P O BOX 5670 PINE BLUFF, AR 71611	JEFFERSON
VANDORA DEMERY LICENSING SPECIALIST 870-534-4200 870-534-3421 (FAX)	JEFFERSON COUNTY DHHS P O BOX 5670 PINE BLUFF, AR 71611	JEFFERSON
MELODY FORD LICENSING SPECIALIST 870-836-8166 870-836-7441 (FAX)	OUACHITA COUNTY DHHS P O BOX 718 CAMDEN, AR 71711	OUACHITA UNION
DIANNE LOLLIES LICENSING SPECIALIST 870-773-0563 870-772-0630 (FAX)	MILLER COUNTY DHHS 3809 AIRPORT PLAZA TEXARKANA, AR 71854	LITTLE RIVER MILLER SEVIER (Texarkana, TX – Out of State)
BARBARA ALLEN LICENSING SPECIALIST 870-887-6626 870-887-6628 (FAX)	NEVADA COUNTY DHHS 355 WEST 1 ST STREET P O BOX 292 PRESCOTT, AR 71857	COLUMBIA HEMPSTEAD LAFAYETTE NEVADA

DEVELOPMENTAL DISABILITIES SERVICES

The following information is current as of December 10, 2003. It was provided to MidSOUTH for the purposes of assisting in determining whether a child care facility is dually licensed by Division of Child Care and Early Childhood Education and the Division of Developmental Disabilities Services.

Contact Information

Chris Bliss is the administrator of the Licensing and Certification Unit within DDS. His telephone number is (501) 682-8675. The fax number is (501) 682-8637. Mr. Bliss is the single point of notification of receipt of a child maltreatment allegation.

Until otherwise directed, notification should be by fax and should be submitted as an incident report. ***Please note: This mechanism for making initial notification is subject to change as further discussions occur between DCFS and DDS Executive Staffs.***

At this time it is recommended that the following information be provided to Mr. Bliss at the time of initial notification:

- The name of the alleged victim
- The name of the alleged offender
- The name of the facility
- The location of the facility
- The nature of the complaint
- The name of the DCFS person assigned to conduct the investigation
- The CHRIS number

HANDOUT 1

CHILD MALTREATMENT ASSESSMENT CHECKLIST 1
CHILD IN THE HOME

Tasks	Yes	No	Comments
<p>Is the allegation severe maltreatment?</p> <p>If yes,</p> <ul style="list-style-type: none">• Assessment initiated in 24 hrs• If no but it alleges neglect due to newborn with illegal substance or mother positive for illegal substance at child's birth initiate in 24 hours• Telephone notification to prosecutor with CFS-310 sent as written confirmation (required by policy – II-E1)• Documentation in CHRIS of call and form sent <p>If no, assessment initiated within 72 hrs</p> <p>Increased requirements for front-end notification</p> <p>Was reporter interviewed? (Collateral interview)</p> <p>Victim child interviewed, face-to-face; outside the presence of the alleged offender, Pub 052 given if the child is old enough to understand it.</p> <p>Victim child seen and assessed if too young for an interview with 24/72 hours</p> <p>Other children in the home seen, assessed and interviewed</p> <p>Custodial parent(s) interviewed; Pub 052 given; CFS 310 given</p> <p>Non-custodial parent interviewed; Pub 052; CFS 310 given</p> <p>Alleged offender interviewed (if different from the parent); Pub 052 given; CFS 310 given (CAPTA Requirement)</p> <p>Other collaterals identified and interviewed</p> <p>All interviews documented; all forms and Pubs documented</p> <p>Home visit made to determine child's environment and circumstances?</p> <ul style="list-style-type: none">• Home visit documented• Other environments assessed			

Does the child need:

- Medical evaluation, including X-rays
- Psychological evaluation
- Drug/alcohol assessment
- CFS-327a completed (body diagram for physical abuse)

Are pictures needed (of child or of environmental setting)?

Within 30 days:

- Checked for previous reports via Central Registry or old records in the office
- [Health and Safety Assessment \(CFS-6025\) completed on all children in the family](#)
- Document all contacts and interviews
- [Share information on investigation in progress with licensing/regulatory entities \(to enable them to do their jobs\)](#)
- Conference with supervisor and investigative determination made
- CFS-6003 (Report to Prosecuting Attorney) regarding case determination
- CFS-6003 sent to PA if the report is found to be true
- [Risk Assessment \(CFS-6026\) completed on true reports](#)

Within 10 days of case determination:

- CFS-307, Follow-up with reporter mailed
- CFS-312 sent certified mail to all subjects of the report with case determination decision
- [Telephone notice to Local Education Agency on true reports \(only to counselor or principal\)](#)
- Referral of children ages 3 or younger for assessment (DDS/Early Intervention) per CAPTA Requirement (substantiated cases)

DON'T FORGET

- Close the investigation in CHRIS
- Key Case Connect Screen on cases to be opened for PS or Foster Care
- Key Case Connect ASAP if child enters care on a 72 hr hold

Caution: *This table summarizes actions taken on all maltreatment investigations. Investigations where multiple counties are involved or where the child comes into care may have additional required actions.*

HANDOUT 2

2007 AMENDMENTS TO MALTREATMENT ACTSUMMARY

1. ACT 284 - Amends Garrett's Law and changes definition of maltreatment

Amends the definitions of maltreatment neglect to read: causing a child to be born with an illegal substance in any bodily fluid or at the time of the birth the mother has an illegal substance in her system. It removes the requirement of showing that the prenatal drug abuse caused a health problem.

2. ACT 586 – Multiple Changes to the Maltreatment Act

These changes are summarized on the following pages.

application for a birth record with the new adopted individual and forward it to the appropriate vital statistics office and to DHHS.

Section 6: Amends A.C.A. §9-9-701(a)(1) to streamline adoptions if the family has adopted a child from DHHS and chooses to adopt another child and DHHS selects the family to be an adoptive parent of a child in DHHS custody. It deletes the timelines in subsection (b) for an adoptive family to be eligible for the streamlined adoption. Subsection (f)(1) also clarifies that a foster family that is selected by DHHS to be an adoptive family is eligible for the streamline adoption process.

ACT 586 (SB 369) – Child Maltreatment Act:

Section 1: Amends A.C.A. §12-12-503(17) to add provisions to the definition of sex abuse of forcing a juvenile to listen to a phone sex line and voyeurism as defined by the criminal code.

Section 2: Amends A.C.A. §12-12-504(a) to delete “institutions” from penalties for failure to report child maltreatment.

Section 3: Amends A.C.A. §12-12-506(a)(2)(A) to add protected health information to information that disclosure is limited when child maltreatment allegations are determined to be true.

Amends A.C.A. §12-12-506(a)(2)(A)(xv) to limit disclosure to federal and state senators and representatives “in their official capacity.”

Amends A.C.A. §12-12-506(a)(2)(A)(xix) to add Division of Developmental Disabilities Services and Adult and Aging Services as participants of the waiver program to disclosure of founded reports.

Amends A.C.A. §12-12-506(f) to require DHHS to notify the mandated reporter who made notification within ten days following an investigation determination as to whether an investigation has been conducted and whether services have been offered.

Section 4: Amends A.C.A. §12-12-507(b)(30) to add an employee of a child advocacy center to the list of mandated reporters of child maltreatment.

Section 5: Amends A.C.A. §12-12-507(f)(6) to add social workers in a hospital to the list of mandated reporters under Garrett’s Law. Amends A.C.A. §12-12-507(f)(7) to add “the alleged offender” to this list of reporters the hotline shall accept for adult victims if the alleged offender is a caretaker of a child.

Section 6: Amends A.C.A. §12-12-508(c) to provide that the DHHS shall be provided a copy of result of radiology procedures, videotapes, photographs, or medical records upon request.

Section 7 Amends A.C.A. §12-12-509(a)(2)(B) to provide that investigations of child maltreatment pursuant to Garrett's law shall begin within 24 hours. It also changes the investigation time from 24 to 72 hours for sex abuse allegations made more than one year ago and the alleged victim does not have any contact with the alleged offender.

Amends A.C.A. §12-12-509(a)(2)(C)(iv) to delete the requirement that local law enforcement be notified within 5 business days of a report of severe child maltreatment.

Amends A.C.A. §12-12-509(a)(2)(E) to add that "the primary focus of the investigation shall be whether or not the alleged offender has access to children and whether or not children are at risk such that children need to be protected."

Section 8: Amends A.C.A. §12-12-510(h) to add that the person conducting the investigation shall have the right to obtain a criminal background check, including a finger-print check and any national crime database on the subject of the report. Such report shall not be disclosed except as provided by law.

Section 9: Amends A.C.A. §12-12-512(a)(1)(B) to add that "protected health information" in unsubstantiated reports shall remain confidential and disclosed only as provided by law. It limits disclosure to federal and state senators and representatives "in their official capacity" and adds Division of Developmental Disabilities Services and Adult and Aging Services as to participants of the waiver program to disclosure of unsubstantiated reports.

Amends A.C.A. §12-12-512(c)(1)(C) to add that the notice of a true report to the alleged offender shall include information on the right to an administrative hearing and the potential consequences to the person as a result of the person's name being placed on the registry.

Amends A.C.A. §12-12-512(c)(1)(D) to clarify that juveniles age 10 or older will receive notice if subject to a true report. (Juveniles under the age of 10 may have a true report but are exempt from placement on the Child Maltreatment Registry). Added that "the parent" can waive the juvenile's automatic administrative hearing on the child maltreatment finding of true.

Section 10: Amends A.C.A. §12-12-516(a)(1)(A) to add that DHHS can take a 72 hour hold if a child is subject to neglect pursuant to Garrett's Law and DHHS assesses the family and determines that the newborn or any other children, including the siblings, are at substantial risk of harm.

ACT 587 (SB 370) – Juvenile Code Revisions:

Section 1: Amends A.C.A. §-9-27-103(6) by transferring language concerning educational decisions once a court has transferred custody of a juvenile to DHHS from code sections on dispositions at A.C.A. §-9-27-332(a)(2)(D) – page 14 and A.C.A. §-9-27-334(a)(D) – page 17.

12-12-501. Title and purpose.

- (a) This subchapter shall be known and may be cited as the "Arkansas Child Maltreatment Act".
- (b) It is the purpose of this subchapter to:
 - (1) Provide a system for the reporting of known or suspected child maltreatment;
 - (2) Ensure the immediate screening, safety assessment, and prompt investigation of reports of known or suspected child maltreatment;
 - (3) Ensure that immediate steps are taken to:
 - (A) Protect a maltreated child and any other child under the same care who may also be in danger of maltreatment; and
 - (B) Place a child who is in immediate danger of severe maltreatment in a safe environment;
 - (4) Provide for immunity from criminal prosecution for an individual making a good faith report of suspected child maltreatment;
 - (5) Preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;
 - (6) Encourage the cooperation of state law enforcement officials, courts, and state agencies in the investigation, assessment, prosecution, and treatment of child maltreatment; and
 - (7) Stabilize the home environment if a child's health and safety are not at risk.

History. Acts 1991, No. 1208, § 1; 2001, No. 1210, § 1; 2003, No. 758, § 1.

12-12-502. Regulations - Cooperative agreements.

(a) The Director of the Department of Human Services shall promulgate regulations to implement the provisions of this subchapter.

(b)(1) The director shall initiate formal cooperative agreements with law enforcement agencies, prosecuting attorneys, and other appropriate agencies and individuals in order to implement a coordinated multidisciplinary team approach to intervention in reports involving severe maltreatment and all reports requested by the district prosecuting attorney pertaining to a law enforcement or prosecutor's investigation.

(1) The director may enter into cooperative agreements with other states to create a national child maltreatment registration system.

History. Acts 1991, No. 1208, § 14; 1997, No. 1234, § 1.

12-12-503. Definitions.

As used in this subchapter:

(1)(A) "Abandonment" means:

(i) Failure of a parent to:

(a) Provide reasonable support and to maintain regular contact with a juvenile through statement or contact when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future;

(b) Support or maintain regular contact with a juvenile without just cause; or

(ii) An articulated intent to forego parental responsibility.

(B) "Abandonment" does not include acts or omissions of a parent toward a married minor;

(2)(A) "Abuse" means any of the following acts or omissions by a parent, guardian, custodian, foster parent, person eighteen (18) years of age or older living in the home with a child whether related or unrelated to the child, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the juvenile's welfare, but excluding the spouse of a minor:

(i) Extreme or repeated cruelty to a juvenile;

(ii) Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of any bodily organ;

(iii) Injury to a juvenile's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the juvenile's ability to function within the juvenile's normal range of performance and behavior;

(iv) Any injury that is at variance with the history given;

(v) Any nonaccidental physical injury;

(vi) Any of the following intentional or knowing acts, with physical injury and without justifiable cause:

(a) Throwing, kicking, burning, biting, or cutting a child;

(b) Striking a child with a closed fist;

- (c) Shaking a child; or
- (d) Striking a child on the face or head; or

(vii) Any of the following intentional or knowing acts, with or without physical injury:

- (a) Striking a child age six (6) or younger on the face or head;
- (b) Shaking a child age three (3) or younger;
- (c) Interfering with a child's breathing;
- (d) Pinching, biting, or striking a child in the genital area;
- (e) Tying a child to a fixed or heavy object or binding or tying a child's limbs together;
- (f) Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions;
- (g) Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, the following:

(1) Marijuana;

(2) Alcohol, excluding alcohol given to a child during a recognized and established religious ceremony or service;

(3) A narcotic; or

(4) An over-the-counter drug if a person purposely administers an overdose to a child or purposely gives an inappropriate over-the-counter drug to a child and the child is detrimentally impacted by the overdose or the over-the-counter drug;

(h) Exposing a child to a chemical that has the capacity to interfere with normal physiological functions, including, but not limited to, a chemical used or generated during the manufacture of methamphetamine; or

(i) Subjecting a child to Munchausen's syndrome by proxy or a factitious illness by proxy if the incident is reported and confirmed by medical personnel or a medical facility.

(B)(i) The list in subdivision (2)(A) of this section is illustrative of unreasonable action and is not intended to be exclusive.

(ii) No unreasonable action shall be construed to permit a finding of abuse without having established the elements of abuse.

(C)(i) "Abuse" shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child.

(ii) "Abuse" shall not include when a child suffers transient pain or minor temporary marks as the result

of an appropriate restraint if:

- (a) The person exercising the restraint is an employee of an agency licensed or exempted from licensure under The Child Welfare Agency Licensing Act, § [9-28-401](#) et seq.;
- (b) The agency has policy and procedures regarding restraints;
- (c) No other alternative exists to control the child except for a restraint;
- (d) The child is in danger or hurting himself or herself or others;
- (e) The person exercising the restraint has been trained in properly restraining children, de escalation, and conflict resolution techniques; and
- (f) The restraint is for a reasonable period of time.

(iii) Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include any act that is likely to cause and which does cause injury more serious than transient pain or minor temporary marks.

(iv) The age, size, and condition of the child and the location of the injury and the frequency or recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate;

(3) "Caretaker" means a parent, guardian, custodian, foster parent, or any person ten (10) years of age or older who is entrusted with a child's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person responsible for a child's welfare, but excluding the spouse of a minor;

(4)(A) "Central intake", otherwise referred to as the "child abuse hotline", means a unit that shall be established by the Department of Health and Human Services for the purpose of receiving and recording notification made pursuant to this subchapter.

(B) Central intake shall be staffed twenty-four (24) hours per day and shall have statewide accessibility through a toll-free telephone number;

(5) "Child" or "juvenile" means an individual who is from birth to eighteen (18) years of age;

(6) "Child maltreatment" means abuse, sexual abuse, neglect, sexual exploitation, or abandonment;

(7) "Department" means the Department of Health and Human Services;

(8) "Deviate sexual activity" means any act of sexual gratification involving:

(A) Penetration, however slight, of the anus or mouth of one person by the penis of another person; or

(B) Penetration, however slight, of the labia majora or anus of one person by any body member or foreign instrument manipulated by another person;

(9)(A)(i) "Forcible compulsion" means physical force, intimidation, or a threat, express or implied, of physical injury to or death, rape, sexual abuse, or kidnapping of any person.

(ii) If the act was committed against the will of the juvenile, then forcible compulsion has been used.

(B) The age, developmental stage, and stature of the victim and the relationship of the victim to the assailant, as well as the threat of deprivation of affection, rights, and privileges from the victim by the assailant, shall be considered in weighing the sufficiency of the evidence to prove compulsion;

(10) "Indecent exposure" means the exposure by a person of the person's sexual organs for the purpose of arousing or gratifying the sexual desire of the person or of any other person under circumstances in which the person knows the conduct is likely to cause affront or alarm;

(11) "Near fatality" means an act that, as certified by a physician, places the child in serious or critical condition;

(12)(A) "Neglect" means those acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, but excluding the spouse of a minor and the parents of the married minor, which constitute:

(i) Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;

(ii) Failure or refusal to provide necessary food, clothing, shelter, and education required by law, excluding the failure to follow an individualized educational program, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered;

(iii) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness when the existence of the condition was known or should have been known;

(iv) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile, including the failure to provide a shelter that does not pose a risk to the health or safety of the juvenile;

(v) Failure to provide for the juvenile's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

(vi) Failure, although able, to assume responsibility for the care and custody of the juvenile or to participate in a plan to assume such responsibility; or

(vii) Failure to appropriately supervise the juvenile that results in the juvenile's being left alone at an inappropriate age or in inappropriate circumstances creating a dangerous situation or a situation that puts the juvenile at risk of harm.

(B)(i) "Neglect" shall also include the causing of a newborn child to be born with:

(a) An illegal substance present in the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child; or

(b) A health problem as a result of the mother's use before birth of an illegal substance.

(ii) As used in this subdivision (12)(B), "illegal substance" means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § [5-1-101](#) et seq.

(iii) A test of the child's bodily fluids or bodily substances may be used as evidence to establish neglect under subdivision (12)(B)(i)(a) of this section.

(iv) A test of the mother's or child's bodily fluids or bodily substances may be used as evidence to establish neglect under this subdivision (12)(B)(i)(b);

(13) "Parent" means a biological mother, an adoptive parent, or a man to whom the biological mother was married at the time of conception or birth or who has been found by a court of competent jurisdiction to be the biological father of the juvenile;

(14) "Pornography" means:

(A) Pictures, movies, or videos that lack serious literary, artistic, political, or scientific value and that, when taken as a whole and applying contemporary community standards, would appear to the average person to appeal to the prurient interest;

(B) Material that depicts sexual conduct in a patently offensive manner lacking serious literary, artistic, political, or scientific value; or

(C) Obscene or licentious material;

(15) "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(16) "Severe maltreatment" means sexual abuse, sexual exploitation, acts or omissions which may or do

result in death, abuse involving the use of a deadly weapon as defined by § [5-1-102](#), bone fracture, internal injuries, burns, immersions, suffocation, abandonment, medical diagnosis of failure to thrive, or causing a substantial and observable change in the behavior or demeanor of the child;

(17) "Sexual abuse" means:

(A) By a person ten (10) years of age or older to a person younger than eighteen (18) years of age:

- (i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;
- (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;
- (iii) Indecent exposure; or
- (iv) Forcing the watching of pornography or live sexual activity;

(B) By a person eighteen (18) years of age or older to a person not his or her spouse who is younger than sixteen (16) years of age:

- (i) Sexual intercourse, deviate sexual activity, or sexual contact; or
- (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact;

(C) By a sibling or caretaker to a person younger than eighteen (18) years of age:

- (i) Sexual intercourse, deviate sexual activity, or sexual contact; or
- (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact;

(D) By a caretaker to a person younger than eighteen (18) years of age:

- (i) Forcing or encouraging the watching of pornography; or
- (ii) Forcing, permitting, or encouraging the watching of live sexual activity; or

(E) By a person younger than ten (10) years of age to a person younger than eighteen (18) years of age:

- (i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion; or
- (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;

(18)(A)(i) "Sexual contact" means any act of sexual gratification involving:

- (a) The touching, directly or through clothing, of the sex organs, buttocks, or anus of a person or the breast of a female;
- (b) The encouraging of a child to touch the offender in a sexual manner; or
- (c) The offender requesting to touch a child in a sexual manner.

(ii) Evidence of sexual gratification may be inferred from the attendant circumstances surrounding the specific complaint of child maltreatment.

(B) However, nothing in this section shall permit normal affectionate hugging to be construed as sexual contact;

(19) "Sexual exploitation" means:

(A) Allowing, permitting, or encouraging participation or depiction of the child in:

- (i) Prostitution;
- (ii) Obscene photography;
- (iii) Obscene filming; or

(B) Obscenely depicting, obscenely posing, or obscenely posturing a child for any use or purpose;

(20) "Subject of the report" means:

(A) The offender;

(B) The custodial and noncustodial parents, guardians, and legal custodians of the child who is subject to suspected maltreatment; and

(C) The child who is the subject of suspected maltreatment; and

(21) "Underaged juvenile aggressor" means any child younger than ten (10) years of age for whom a report of sexual abuse has been determined to be true for sexual abuse to another child.

History. Acts 1991, No. 1208, § 2; 1993, No. 1126, §§ 3-5; 1995, No. 804, § 2; 1995, No. 1341, §§ 1-3; 1997, No. 1334, § 1; 1999, No. 36, § 1; 1999, No. 1340, §§ 22-25, 34, 36; 2001, No. 1210, § 2; 2003, No. 175, § 1; 2003, No. 758, § 2; 2005, No. 1176, § 2; 2005, No. 1706, § 1.

12-12-504. Penalties.

(a)(1) Any person, official, or institution negligently or willfully failing to make notification when required by this subchapter shall be guilty of a Class C misdemeanor.

(2) Any person, official, or institution willfully making false notification pursuant to this subchapter, knowing such allegations to be false, shall be guilty of a Class A misdemeanor.

(3) Any person, official, or institution willfully making false notification pursuant to this subchapter, knowing such allegations to be false, and who has been previously convicted of making willful false allegations shall be guilty of a Class D felony.

(b) Any person, official, or institution required by this subchapter to make notification of suspected child maltreatment who willfully fails to do so shall be civilly liable for damages proximately caused by that failure.

(c) Any person who willfully permits, and any other person who encourages, the release of data or information contained in the central registry to persons to whom disclosure is not permitted by this subchapter shall be guilty of a Class A misdemeanor.

(d) Judges or prosecuting attorneys who fail to make notification when required by this subchapter shall not be subject to any of the penalties outlined in this subchapter.

History. Acts 1991, No. 1208, § 12; 1995, No. 1341, § 4; 1997, No. 1351, § 1.

12-12-505. Central registry.

(a) There is established within the Department of Health and Human Services a statewide central registry for the collection of records of cases involving allegations of child maltreatment that are determined to be true pursuant to this subchapter.

(b)(1)(A)(i) Records of all cases in which allegations are determined to be true shall be retained by the central registry.

(ii) If an offender is found guilty of, pleads guilty to, or pleads nolo contendere to an act that is the same act for which the offender is named in the central registry regardless of any subsequent expungement of the offense from the offender's criminal record, the offender shall always remain in the central registry unless the conviction is reversed or vacated.

(iii)(a) The department shall identify in its policy and procedures manual the types of child maltreatment that will automatically result in the removal of the name of an offender from the central registry.

(b) If an offender has been entered into the central registry as an offender for the named types of child maltreatment identified pursuant to subdivision (b)(1)(A)(iii)(a) of this section, the offender's name shall be removed from the central registry on reports of this type of child maltreatment when the offender has not had a subsequent true report of this type for one (1) year and more than one (1) year has lapsed since the closure of any protective services or foster care case opened as the result of this report.

(iv)(a) The department shall identify in its policy and procedures manual the types of child maltreatment for which an offender can request that the offender's name be removed from the central registry.

(b) If an offender has been entered into the central registry as an offender for the named types of child maltreatment identified pursuant to subdivision (b)(1)(A)(iv)(a) of this section, the offender may petition the department requesting that the offender's name be removed from the central registry when the offender has not had a subsequent true report of this type for five (5) years and more than five (5) years have elapsed since the closure of any protective services or foster care case opened as the result of this report.

(c) The department shall develop policy and procedures to assist it in determining whether or not to remove the offender's name from the central registry.

(d) If the department denies the request for removal of the name from the central registry, the offender may request an administrative hearing within thirty (30) days from receipt of the department's decision.

(v) Notwithstanding the provisions of subdivisions (b)(1)(A)(i)-(iv) of this section, with regard to an offender who was a juvenile at the time of the act or omission that resulted in a true finding of child maltreatment, the department shall:

(a) Not remove the offender's name from the central registry if the offender was found guilty of,

pleaded guilty to, or pleaded nolo contendere to a felony in circuit court as an adult for the act that is the same act for which the offender is named in the central registry unless the conviction is reversed or vacated; or

(b) Remove the offender's name from the central registry if:

(1) More than five (5) years have elapsed from the date of the act or omission that caused the true finding of child maltreatment and there have been no subsequent acts or omissions resulting in a true finding of child maltreatment; and

(2) The offender can prove by a preponderance of the evidence that the juvenile offender has been rehabilitated.

(c) The central registry may adopt such rules and regulations as may be necessary to encourage cooperation with other states in exchanging true reports and to effect a national registration system.

(d) The Director of the Department of Health and Human Services shall adopt rules and regulations necessary to carry out the provisions of this subchapter, pursuant to the Arkansas Administrative Procedure Act, § [25-15-201](#) et seq., except that the director shall not commence the process under the Arkansas Administrative Procedure Act, § [25-15-201](#) et seq., until the proposed rules and regulations have been reviewed by the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(e)(1) The department may charge a reasonable fee not to exceed ten dollars (\$10.00) for researching, copying, and mailing records of the investigative files of child maltreatment cases.

(2) The department may also charge a reasonable fee for reproducing copies of tapes and photographs.

(3) No fee may be charged to a nonprofit or volunteer agency that requests searches of the investigative files.

(4) No fee may be charged to a person who is indigent.

History. Acts 1991, No. 1208, §§ 8, 9; 1993, No. 1088, § 1; 1995, No. 1341, § 5; 1997, No. 1334, § 2; 2001, No. 1210, § 3; 2001, No. 1434, § 1; 2003, No. 758, §§ 3, 4; 2005, No. 1706, § 2.

12-12-506. Disclosure of central registry data.

(a)(1) A report made pursuant to this subchapter shall be confidential and shall be used or disclosed only as provided in this section.

(2)(A) If the allegations are determined to be true in accordance with § [12-12-512](#), disclosure is absolutely limited to:

(i) The administration of the adoption, foster care, children's and adult protective services programs, or child care licensing programs of any state;

(ii) A federal, state, or local government entity, or any agent of the entity, having a need for the information in order to carry out their responsibilities under law to protect children from abuse or neglect;

(iii) Any person who is the subject of a true report;

(iv) A civil or administrative proceeding connected with the administration of the Arkansas Child Welfare State Plan when the court or hearing officer determines that the information is necessary for the determination of an issue before the court or agency;

(v) The administration of any federal or federally assisted program that provides assistance, in cash or in kind, or services directly to individuals on the basis of need;

(vi) An audit or similar activity conducted in connection with the administration of such a plan or program by any governmental agency that may by law conduct the audit or activity;

(vii) A person, agency, or organization engaged in a bona fide research or evaluation project, but without information identifying individuals named in a report or record, provided that:

(a) Having that information open for review is essential to the research or evaluation;

(b) Prior written approval is granted by the Director of the Department of Health and Human Services; and

(c) The child, through his or her parent, guardian, or guardian ad litem, gives permission to release the information;

(viii) A properly constituted authority, including multidisciplinary teams referenced in § [12-12-502\(b\)](#), investigating a report of known or suspected child abuse or neglect or providing services to a child or family that is the subject of a report;

(ix)(a) The Division of Child Care and Early Childhood Education of the Department of Health and Human Services and the child care facility owner or operator who requested the registry information

through a signed notarized release from an individual who is a volunteer or who has applied for employment or who is currently employed by a child care facility or who is the owner or operator of a child care facility.

(b) This disclosure shall be for the limited purpose of providing central registry background information and shall indicate a true finding only;

(x) Child abuse citizen panels described in the Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a;

(xi) Child fatality review panels as authorized by the department;

(xii) The general public, the findings or information about the case of child abuse or neglect that has resulted in a child fatality or near fatality, but the central registry may redact any information concerning siblings, attorney-client communications, and other confidential communications;

(xiii) A grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury;

(xiv) The current foster parents of a child who is a subject of a report;

(xv)(a) Individual federal and state senators and representatives and their staff members who agree not to allow any redisclosure of information.

(b) However, no disclosure shall be made to any committee or legislative body of any information that identifies any recipient of services by name or address;

(xvi) A court-appointed special advocate upon presentation of an order of appointment for a child who is a subject of a report;

(xvii) The attorney ad litem of a child who is the subject of a report; and

(xviii)(a) An Employer or volunteer agency for purposes of screening an employee, applicant, or volunteer who is or will be engaged in employment or activity with children, the elderly, the disabled, or the mentally ill upon submission of a signed, notarized release from the employee, applicant, or volunteer.

(b) The registry shall release only the following information on founded reports to the employer or agency:

(1) That the employee, applicant, or volunteer has a founded report;

(2) The date the investigation was completed; and

(3) The type of founded report.

(B) A report of an investigative determination that is true shall be disclosed to the division, by written report only, for purposes of enforcement of licensing laws and regulations.

(b) Any licensing or registering authority in receipt of initial notification of suspected child maltreatment may access the central registry to the extent necessary to carry out its official responsibilities, but the information must be maintained as confidential.

(c)(1) Any person or agency to whom disclosure is made shall not disclose to any other person a report or other information obtained pursuant to this section.

(2) However, a local educational agency or a school counselor shall forward all true reports of child maltreatment received from the department whenever a child transfers from one (1) local educational agency to another and shall notify the department of the child's new school, and address, if known.

(3) Any person disclosing information in violation of this subsection shall be guilty of a Class C misdemeanor.

(d) A true report that has been administratively appealed pursuant to this subchapter and that has been stayed because of criminal proceedings shall not be disclosed other than for administration of adoption, foster care, or children's protective services programs.

(e)(1) The department shall not release data that would identify the person who made the report unless a court of competent jurisdiction orders release of the information after the court has reviewed, in camera, the record related to the report and has found it has reason to believe that the reporter knowingly made a false report.

(2) However, the information shall be disclosed to the prosecuting attorney or law enforcement officers on request.

(f) Within ten (10) days following an investigative determination, the department shall provide the person or agency making notification of suspected child maltreatment information as to whether an investigation has been conducted and whether services have been offered.

(g) The department may disclose the investigative determination of any offender when the offender is engaged in child-related activities or employment and the department has determined that children under the care of the offender are at risk of maltreatment by the offender.

(h) Nothing in this subchapter shall be construed to prevent subsequent disclosure by the subject of the report.

- (i) Any record of a screened-out report of child maltreatment shall not be disclosed except to the prosecuting attorney and an appropriate law enforcement agency and may be used only within the department for purposes of administration of the program.
- (j)(1) Information on a pending investigation is confidential and may be disclosed only as provided in this section.
 - (2) Information on a pending investigation shall be released upon request to:
 - (A) The department;
 - (B) Law enforcement;
 - (C) The prosecuting attorney's office;
 - (D) A multidisciplinary team under § [12-12-502](#);
 - (E) Any licensing or registering authority, including a school board, superintendent, or principal to the extent necessary to carry out its official responsibilities, but the information shall be maintained as confidential; and
 - (F)(i) Individual federal and state senators and representatives and their staff members who agree not to allow any redisclosure of information.
 - (ii) However, no disclosure may be made to any committee or legislative body.
 - (3) Information on a pending investigation may be released to or disclosed in a circuit court child custody case or similar case if:
 - (A) No seventy-two-hour hold has been exercised under this subchapter, or pleadings filed pursuant to the Arkansas Juvenile Code of 1989, § [9-27-301](#) et seq.;
 - (B) Written notice of intent to request release or disclosure is provided to the investigating agency at least five (5) days before the date for release or disclosure;
 - (C) The investigating agency has the opportunity to appear before the court and be heard on the issue of release or disclosure;
 - (D) The information gathered by the investigative agency is necessary for the determination of an issue before the court;

- (E) Waiting until completion of the investigation will jeopardize the health or safety of the child in the custody case;
 - (F) A protective order is issued to prevent redisclosure of the information provided by the investigating agency or the information is released or disclosed only to the court in camera; and
 - (G) Release or disclosure of the information will not compromise a criminal investigation.
- (4)(A) Information on a pending investigation may be released to or disclosed in the circuit court if the victim or offender has an open dependency-neglect or family in need of services case before the circuit court in the following circumstances:
- (i) A petition for dependency-neglect has been filed and the pending investigation is the basis in whole or part for the petition for dependency-neglect;
 - (ii) The department identifies the pending investigation in a court report that is provided to all of the parties before the hearing; or
 - (iii) Written notice of intent to request release or disclosure is provided by a party to all other parties in the matter and to the investigating agency at least five (5) days before the date for release or disclosure.
- (B) The circuit court shall order release or disclosure only after:
- (i) Providing all parties and the investigating agency, if not a party, the opportunity to appear before the court and be heard on the issue of release or disclosure;
 - (ii) Determining that the information gathered thus far by the investigative agency is necessary for the determination of an issue before the court;
 - (iii) Determining that waiting until the completion of the investigation will jeopardize the health and safety of the child in the dependency-neglect or family in need of services case;
 - (iv) Entering a protective order to prevent redisclosure of the information provided by the investigative agency or limiting the release or disclosure of the information to only the court in camera; and
 - (v) Determining that releasing or disclosing the information will not compromise a criminal investigation.
- (C) However, nothing in subdivision (j)(4)(B) of this section limits discovery by a party if a petition for dependency-neglect has been filed but not yet adjudicated.

History. Acts 1991, No. 1208, § 9; 1992 (1st Ex. Sess.), No. 49, § 2; 1995, No. 1341, § 6; 1997, No. 1334, § 3; 1999, No. 1222, §§ 4, 5; 1999, No. 1340, §§ 26, 27; 2001, No. 1210, § 4; 2003, No. 758, §§ 5, 6; 2005, No. 1706, §§ 3-5.

12-12-507. Reports of suspected abuse or neglect.

(a) Any person with reasonable cause to suspect child maltreatment or that a child has died as a result of child maltreatment, or who observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, may immediately notify the child abuse hotline.

(b) When any of the following has reasonable cause to suspect that a child has been subjected to child maltreatment or has died as a result of child maltreatment or observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, he or she shall immediately notify the child abuse hotline:

- (1) Any child care worker or foster care worker;
- (2) A coroner;
- (3) A day care center worker;
- (4) A dentist;
- (5) A dental hygienist;
- (6) A domestic abuse advocate;
- (7) A domestic violence shelter employee;
- (8) A domestic violence shelter volunteer;
- (9) An employee of the Department of Health and Human Services;
- (10) An employee working under contract for the Division of Youth Services of the Department of Health and Human Services;
- (11) Any foster parent;
- (12) A judge;
- (13) A law enforcement official;

- (14) A licensed nurse;
- (15) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
- (16) A mental health professional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;
- (21) A resident intern;
- (22) A school counselor;
- (23) A school official;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer; or
- (29) Any clergyman, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent he or she:
 - (A) Has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or
 - (B) Received the knowledge of the suspected maltreatment from the offender in the context of a statement of admission.

(c) No privilege or contract shall prevent anyone from reporting child maltreatment when he or she is a mandated reporter as required by this section.

(d)(1) If the child abuse hotline receives notification that a client or a resident of any facility licensed or registered by the State of Arkansas has been subjected to child maltreatment while at the facility, then the Department of Health and Human Services shall immediately notify the facility's licensing or registering authority of the child abuse hotline's receipt of initial notification of suspected maltreatment.

(2) The Department of Health and Human Services may notify a school's superintendent, principal, or a person in an equivalent position of the child abuse hotline's receipt of initial notification of suspected maltreatment if:

(A) The child abuse hotline receives notification that a public or private school employee or volunteer having direct or unsupervised contact with children has been identified as an alleged offender in a report of suspected child maltreatment; and

(B) The Department of Health and Human Services has determined that children under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender.

(3) The Department of Health and Human Services may notify an alleged offender's employer or a person in charge of an activity of the child abuse hotline's receipt of initial notification of suspected maltreatment if:

(A) The child abuse hotline receives notification that a report has been received on a person who is engaged in child-related activities or employment and that person has been named as an alleged offender; and

(B) The Department of Health and Human Services has determined that children under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender.

(4) The Department of Health and Human Services shall promulgate rules that will ensure that notification required under this subsection is specifically approved by a responsible manager in the Department of Health and Human Services before the notification is made.

(e)(1) When a person, agency, corporation, or partnership then providing substitute care for any child in the custody of the Department of Health and Human Services or a Department of Health and Human Services employee or employee's spouse or other person residing in the home is reported as being suspected of child maltreatment, the investigation shall be conducted pursuant to procedures established by the Department of Health and Human Services.

(2)(A) Such procedures shall include referral of allegations to the Department of Arkansas State Police or appropriate law enforcement agency should the allegation involve severe maltreatment.

(B) The investigating agency shall immediately notify local law enforcement of all reports of severe maltreatment.

(f)(1) The child abuse hotline shall accept a report when the allegations, if true, would constitute child maltreatment as defined in § [12-12-503](#) and so long as sufficient identifying information is provided to identify and locate the child or the family.

(2) The child abuse hotline shall accept a report of physical abuse if any of the following intentional or knowing acts are alleged to occur, but the report shall not be determined to be true unless the child suffered an injury as the result of the act:

(A) Throwing, kicking, burning, biting, or cutting a child;

(B) Striking a child with a closed fist;

(C) Shaking a child age four (4) or older; or

(D) Striking a child age seven (7) or older on the face or on the head.

(3) The child abuse hotline shall accept a report of physical abuse if any of the following intentional or knowing acts are alleged to occur:

(A) Shaking a child age three (3) or younger;

(B) Striking a child age six (6) or younger on the face or on the head;

(C) Interfering with a child's breathing; or

(D) Pinching, biting, or striking a child in the genital area.

(4)(A) The child abuse hotline shall accept a report of physical abuse if a child suffers an injury as the result of a restraint.

(B) The report shall be determined not to be true if the injury is a minor temporary mark or causes transient pain and was an acceptable restraint as provided in § [12-12-503\(2\)](#)(C)(ii).

(5)(A) The child abuse hotline shall accept a report of physical abuse involving a bruise to a child even if at the time of the report the bruise is not visible if the bruising occurred:

(i) Within the past fourteen (14) days; and

(ii) As a result of physical abuse as described in subdivisions (f)(1)-(4) of this section.

(B) However, the report shall not be determined to be true unless the existence of the bruise is corroborated.

(6) The child abuse hotline shall accept a report of neglect as defined under § [12-12-503\(12\)](#)(B) only if the reporter is one (1) of the following mandatory reporters and the reporter has reasonable cause to suspect that a child has been subjected to neglect as defined under § [12-12-503\(12\)](#)(B):

(A) A licensed nurse;

(B) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;

(C) An osteopath;

(D) A physician;

(E) A resident intern; or

(F) A surgeon.

(7) The child abuse hotline shall accept a report of child maltreatment naming an adult as the victim only if:

(A) The alleged offender is a caretaker of a child; and

(B) The person making the report is one (1) of the following:

(i) The adult victim;

(ii) A law enforcement officer;

(iii) The adult victim's counselor or therapist; or

(iv) The alleged offender's counselor or therapist.

(g)(1) The child abuse hotline shall accept a report if the child or the child's family is present in Arkansas or the incident occurred in Arkansas.

(2) If the child or the child's family resides in another state, the child abuse hotline shall screen out the report, transfer the report to the child abuse hotline of the state where the child or the child's family resides or the incident occurred, and, if requested by the other state's investigating agency, send a copy to the appropriate investigating agency in Arkansas to initiate interviews.

(3) If the incident occurred in Arkansas and the victim, offender, or parents no longer reside in Arkansas, the child abuse hotline shall accept the report and the Arkansas investigating agency shall contact the other state and request assistance in completing the investigation, including an interview with the out-of-state subject of the report.

(4)(A) If the child abuse hotline receives a report and the alleged offender is a resident of the State of Arkansas and the report of child maltreatment in the state or country in which the act occurred would also be child maltreatment in Arkansas at the time the incident occurred, the child abuse hotline shall refer the report to the appropriate investigating agency within the state so that the Arkansas investigative agency can investigate, alone or in concert with, the investigative agency of any other state or country that may be involved.

(B) The Arkansas investigating agency shall make an investigative determination and shall provide notice to the alleged offender that, if the allegation is determined to be true, the offender's name will be placed in the central registry.

(C) The other state may also conduct an investigation in this state that results in the offender's being named in a true report in that state and placed in the central registry of that state.

(h) The child abuse hotline shall accept telephone calls or other communications alleging that a child is dependent-neglected, as defined in § [9-27-303\(17\)](#), and shall immediately refer this information to the Department of Health and Human Services.

History. Acts 1991, No. 1208, §§ 3, 4; 1993, No. 1126, § 6; 1995, No. 1341, §§ 7, 8; 1999, No. 214, § 1; 2001, No. 1210, § 5; 2001, No. 1236, § 1; 2003, No. 758, §§ 7-9; 2003, No. 1039, § 1; 2005, No. 912, § 1; 2005, No. 1176, § 5; 2005, No. 1706, §§ 6-8.

12-12-508. Radiology procedures, photographs, and medical records.

(a) Any person who is required to make notification under this subchapter may take or cause to be taken radiology procedures and photographs or compile medical records which may be probative as to the existence or extent of child maltreatment.

(b) Hospitals and clinics may make videotapes which may be probative as to the existence or extent of child maltreatment.

(c) The Department of Human Services or law enforcement officials shall have access to the results of radiology procedures, videotapes, photographs, or medical records upon request.

(d) The department and law enforcement officials shall be allowed access to the child's public and private school records during the course of the child maltreatment investigation.

History. Acts 1991, No. 1208, § 3; 1997, No. 535, § 1; 1999, No. 1340, § 28; 2001, No. 1210, § 6.

12-12-509. Investigation - Examinations of children.

(a)(1) The Department of Health and Human Services shall cause an investigation to be made upon receiving initial notification of suspected child maltreatment.

(2)(A) All investigations shall begin within seventy-two (72) hours.

(B) However, if the notice contains an allegation of severe maltreatment, then the investigation shall begin within twenty-four (24) hours.

(C) Notification of any report of child maltreatment will be provided within five (5) business days to the:

(i) Legal parents of any child in foster care who is named as an alleged victim or offender;

(ii) Attorney ad litem of any foster child named as the victim or offender;

(iii) Attorney ad litem of all other children in the same foster home if the maltreatment occurred in the foster home;

(iv) Local law enforcement on an allegation of severe maltreatment; and

(v) The prosecuting attorney on an allegation of severe maltreatment.

(D) At the initial time of contact with the alleged offender, the investigator shall advise the alleged offender of the allegations made against the alleged offender in a manner that is consistent with the laws protecting the rights of the person who made the report.

(3)(A) The prosecuting attorney may provide written notice to the Department of Health and Human Services that the Department of Health and Human Services does not need to provide notification of the initial maltreatment report to the prosecuting attorney's office.

(B) Upon receiving the notification, the Department of Health and Human Services shall not be required to provide notification of the initial maltreatment report to the prosecuting attorney's office.

(b)(1) If the alleged offender is a family member or lives in the home with the alleged victim, the investigation shall seek to ascertain:

(A) The existence, cause, nature, and extent of the child maltreatment;

- (B) The existence and extent of previous injuries;
 - (C) The identity of the person responsible for the maltreatment;
 - (D) The names and conditions of other children in the home;
 - (E) The circumstances of the parents or caretakers of the child;
 - (F) The environment where the child resides;
 - (G) The relationship of the child or children with the parents or caretakers; and
 - (H) All other pertinent data.
- (2) If the alleged offender is not a family member nor living in the home with the alleged victim, the investigation shall seek to ascertain:
- (A) The existence, cause, nature, and extent of the child's maltreatment;
 - (B) The identity of the person responsible for the maltreatment;
 - (C) The existence and extent of previous maltreatment perpetrated by the alleged offender;
 - (D) If the report is determined to be true, the names and conditions of any minor children of the alleged offender and whether these children have been maltreated or are at risk of maltreatment;
 - (E) If the report is determined to be true and is a report of sexual intercourse, deviate sexual activity, or sexual contact, an assessment of any other children previously or currently under the care of the alleged offender, to the extent practical, and whether these children have been maltreated or are at risk of maltreatment; and
 - (F) All other pertinent and relevant data.
- (c)(1)(A) The investigation shall include interviews with the parents, both custodial and noncustodial.
- (B) If neither parent is the alleged offender, the investigation shall also include an interview with the alleged offender.
- (C) The investigation shall include an interview with any other relevant persons.

(2)(A) The investigation shall include an interview with the child separate and apart from the alleged offender or any representative or attorney for the alleged offender.

(B) However, if the age or abilities of the child render an interview impossible, the investigation shall include observation of the child.

(3) The investigation may include a physical examination, radiology procedures, photographs, and a psychological or psychiatric examination of all children subject to the care, custody, or control of the alleged offender.

(4) If, after exercising reasonable diligence in conducting any or all interviews, the subjects of the interviews cannot be located or are unable to communicate, the efforts to conduct such interviews shall be documented and the investigation shall proceed pursuant to this subchapter.

(d)(1) An investigative determination shall be made in each investigation within thirty (30) days regardless of whether the investigation is conducted by the Department of Health and Human Services, the Crimes Against Children Division of the Department of Arkansas State Police, or local law enforcement.

(2) However, this procedural requirement shall not be considered as a factor to alter the investigative determination in any judicial or administrative proceeding.

(3) An investigation involving an out-of-home alleged offender that is determined to be true may be extended up to thirty (30) additional days to allow an investigator to ascertain:

(A) The names and conditions of any minor children of the alleged offender;

(B) Whether minor children of the alleged offender have been maltreated or are at risk of maltreatment; and

(C) To the extent practicable, whether children previously or currently under the care of the alleged offender have been sexually abused or are at risk of sexual abuse.

(4) No investigation shall be transferred to inactive status because an investigator is awaiting documentary evidence.

History. Acts 1991, No. 1208, § 4; 1995, No. 1341, § 9; 1997, No. 535, § 2; 1997, No. 1334, § 4; 1999, No. 626, § 1; 2001, No. 1210, § 7; 2003, No. 175, § 2; 2003, No. 758, § 10; 2005, No. 1466, § 5; 2005, No. 1706, §§ 9, 10.

12-12-510. Investigative powers.

(a)(1) A person conducting an investigation required by this subchapter shall have the right to enter into or upon a home, school, or any other place for the purpose of conducting the investigation and interviewing or completing the investigation.

(2)(A) No publicly supported school, facility, or institution may deny access to any person conducting a child maltreatment investigation.

(B) Failure to comply with this section may subject the publicly supported school, facility, or institution to a contempt sanction and reimbursement of attorney's fees.

(b) If necessary access or admission is denied, the Department of Health and Human Services may petition the proper juvenile division of circuit court for an ex parte order of investigation requiring the parent, caretaker, or persons denying access to any place where the child may be to allow entrance for the interviews, examinations, and investigations.

(c) However, upon application to the court by the parents, caretaker, or persons denying access to the child showing good cause, the court may issue a written order to stay the order of investigation pending a hearing to be held within seventy-two (72) hours.

(d) The department shall investigate all allegations of child maltreatment without regard to the parent's practice of his or her religious beliefs and shall only consider whether the acts or omissions of the parent are abusive or neglectful as defined by the Arkansas Code.

(e) The person conducting the investigation shall have the right to inspect personnel records of employees and volunteers in any place where an allegation of child maltreatment has been reported as having occurred at that place but the alleged offender is unknown.

(f) The investigator shall have the discretion in the child's best interest to limit the persons allowed to be present when a child is being interviewed concerning allegations of child maltreatment.

(g) Upon request by the investigating agency, any school, day care center, child care facility, residential facility, residential treatment facility, or similar institution shall provide the investigator with:

(1) The name, date of birth, social security number, and last known address and phone number of any person identified as an alleged offender if the alleged maltreatment occurred at that school, center, or facility; and

(2) The name and address of any witness to the alleged maltreatment if the alleged maltreatment occurred at that school, center, or facility.

History. Acts 1991, No. 1208, § 4; 1993, No. 1126, § 7; 1997, No. 1334, § 5; 1999, No. 1340, § 29; 2003, No. 758, §§ 11, 12; 2005, No. 1706, §§ 11, 12.

12-12-511. Investigation to be closed.

(a) If at any time before or during the investigation it is determined that the alleged offender is not a caretaker of any child, and the alleged victim has attained majority prior to notification, the child maltreatment investigation shall be closed notwithstanding any criminal investigation.

(b)(1) Notwithstanding any provision of the Arkansas Rules of Evidence, any privilege between a minister and any person confessing to or being counseled by the minister shall not constitute grounds for excluding evidence at any dependency-neglect proceeding or proceedings involving custody of a minor.

(2) If at any time before or during the investigation it appears that the offender is identified and is not a caretaker of the victim child, excluding investigations of sexual abuse, the Department of Human Services shall:

(A) Refer the matter to the appropriate law enforcement agency;

(B) Close its investigation; and

(C) Forward a copy of its findings to the appropriate law enforcement agency for that agency's further use in any criminal investigation.

(3)(A) If the appropriate law enforcement agency subsequently determines that the offender is a caretaker, it shall immediately notify the department of its determination.

(B) Thereupon the department shall reopen and continue its investigation in compliance with all other requirements contained in this subchapter.

(c) If at any time before or during the investigation the department is unable to locate or identify the alleged offender because the alleged maltreatment occurred more than five (5) years ago or in another state, the department shall consider the report unable to be completed and placed in inactive status.

History. Acts 1991, No. 1208, § 4; 1995, No. 1341, § 10; 1997, No. 1334, § 6; 2001, No. 1210, § 8.

12-12-512. Child maltreatment investigative determination - Notice of finding - Amendment and appeal.

(a) Upon completion of the investigation, the Department of Health and Human Services shall determine that the allegations of child maltreatment are:

(1)(A)(i) Unsubstantiated.

(ii) This determination shall be entered when the allegation is not supported by a preponderance of the evidence.

(B)(i) An unsubstantiated report shall be confidential and shall be disclosed only to:

(a) The prosecutor;

(b) A subject of the report;

(c) A court if the information in the record is necessary for a determination of an issue before the court;

(d) Individual federal and state senators and representatives and their staff members, but no disclosure may be made to any committee or legislative body;

(e) Law enforcement agencies;

(f) Any appropriate licensing or registering authority; and

(g) Adult protective services.

(ii) Any person or agency to whom disclosure is made shall not disclose to any other person a report or other information obtained pursuant to subdivision (a)(1)(B)(i) of this section; or

(2)(A)(i) True.

(ii)(a) A true determination shall be entered when the allegation is supported by a preponderance of the evidence.

(b) However, for any act or omission of maltreatment which would be a criminal offense or an act of delinquency, any defense or affirmative defense that would be applicable to the criminal offense or delinquent act is also cognizable in a maltreatment proceeding.

(B)(i) A determination of true but exempted, which means that the offender's name shall not be placed in the central registry, shall be entered if:

(a) A parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child, but in lieu of treatment the child is being furnished with treatment by spiritual means alone, through prayer, in accordance with a recognized religious method of healing by an accredited practitioner; or

(b) The offender is an underaged juvenile aggressor.

(C)(i) Notwithstanding subdivision (a)(2)(A)(i) of this section, the department may pursue:

(a) Any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction; and

(b) Medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from a child with life-threatening conditions.

(ii) Except with respect to the withholding of medically indicated treatments from a disabled infant with life-threatening conditions, case-by-case determinations concerning the exercise of authority in this subsection shall be within the sole discretion of the department.

(b) If the investigation cannot be completed, the investigation shall be determined incomplete and placed in inactive status.

(c)(1)(A)(i) In every case in which a report is determined to be true, the department shall notify each subject of the report of the determination.

(ii) If the offender is a juvenile ten (10) years of age or older and is in foster care, the department shall notify the juvenile's public defender or counsel for the juvenile and the legal parents or legal guardians of the offender.

(iii) If the offender is a juvenile ten (10) years of age or older, the department shall notify the legal parents or legal guardians of the offender.

(B) Notification shall be in writing by certified mail, restricted delivery, or by a process server.

(C) Notification to an offender who was an adult at the time of the act or omission that resulted in the finding of child maltreatment shall include the following:

(i) The investigative determination, true or unsubstantiated, exclusive of the source of the notification;

(ii) A statement that the person named as the offender of the true report may request an administrative hearing;

(iii) A statement that the request must be made to the department within thirty (30) days of receipt of the service or certified mailing of the notice of determination;

(iv) The name of the person making notification, the person's occupation, and where he or she can be reached; and

(v) A statement that the administrative hearing may take place in person if requested by the petitioner or the petitioner's attorney within thirty (30) days from the date that the petitioner receives notification under this subsection (c), provided that the hearing officer may conduct the hearing by video teleconference in lieu of an in-person hearing. If neither party requests that the hearing be conducted in person, then the hearing shall be conducted telephonically.

(D) Notification to an offender who was a juvenile at the time of the act or omission that resulted in the finding of child maltreatment shall include the following:

- (i) The investigative determination, true or unsubstantiated, exclusive of the source of the notification;
- (ii) A statement that the matter has been referred for an automatic administrative hearing that may only be waived by the juvenile offender in writing; and
- (iii) The name of the person making the notification to the juvenile offender, the person's occupation, and where he or she can be reached.

(2) The administrative hearing process must be completed within one hundred eighty (180) days from the date of the receipt of the request for a hearing, or the petitioner's name shall be removed from the central registry, provided that:

(A) Delays in completing the hearing that are attributable to the petitioner shall not count against the one-hundred-eighty-day limit; and

(B)(i) The one-hundred-eighty-day limit shall not apply if there is an ongoing criminal or delinquency investigation or criminal or delinquency charges have or will be filed regarding the occurrence that is the subject of the child maltreatment report.

(ii) In those cases, the administrative hearing shall be stayed pending final disposition of the criminal or delinquency proceedings.

(iii) It shall be the duty of the petitioner to report the final disposition of the criminal or delinquency proceeding to the department.

(iv) Each report shall include a file-marked copy of the criminal or delinquency disposition.

(v) The request for an administrative hearing shall be deemed waived if the petitioner fails to report the disposition of the criminal or delinquency proceedings within thirty (30) days of the entry of a dispositive judgment or order.

(vi) If the criminal or delinquency proceedings have reached no final outcome within twelve (12)

months of the filing of the administrative appeal, the administrative appeal will be deemed waived if the petitioner fails to provide a written statement of the status of the criminal or delinquency proceedings every sixty (60) days and a disposition report within thirty (30) days of the entry of a dispositive judgment or order.

(3) When the department conducts administrative appeal hearings, the chief counsel of the department may require the attendance of witnesses and the production of books, records, or other documents through the issuance of subpoenas when that testimony or information is necessary to adequately present the position of the department, the investigating protective services agency, or the alleged offender or adult subject of a report.

(4) Upon request by a petitioner, if the petitioner prevails at an administrative hearing or circuit court hearing and a report is changed from true to unsubstantiated, the department shall tender a list of persons to whom a disclosure had previously been made that the report was true.

(5)(A) If a petitioner's name is removed from the central registry as a result of a failure to comply with this subsection (c), then the department shall report any failures to comply with this subsection (c) for each quarter to the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(B) The quarterly report to the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall include a written explanation of the failure of the department.

(d) Failure to obey the subpoena may be deemed a contempt, punishable accordingly.

(e) Administrative hearing decisions and all exhibits submitted at the hearing are confidential and may be used or disclosed only as provided in § [12-12-506\(a\)](#)(2)(A).

(f)(1) The Office of Appeals and Hearings of the Department of Health and Human Services shall designate the sites to be used for video teleconference hearings.

(2) The office shall designate sites within ten (10) miles of the following cities:

(A) Arkadelphia;

(B) Booneville;

(C) Conway;

(D) Fayetteville;

(E) Jonesboro;

(F) Little Rock; or

(G) Warren.

(3) The office may designate additional sites for video teleconference hearings.

(g)(1) If any party requests an in-person hearing within thirty (30) days from the date that the party receives notification under subsection (c) of this section, then the in-person hearing shall be conducted in an office of the department nearest to the petitioner's residence unless the hearing officer notifies the parties that the hearing will be conducted via video teleconference.

(2) A site for a video teleconference hearing shall include the location designated by the office that is nearest to the petitioner's residence.

(3) The hearing officer and other parties may agree to appear at the location designated by the office or at any other designated hearing locations that are convenient to them.

(h)(1) A certified copy of a judgment or an adjudication from a court of competent jurisdiction dealing with the same subject matter as an issue concerned in the administrative hearing may be filed with and considered by the hearing officer in a motion for summary judgment.

(2)(A) A decision on any identical issue shall be rendered without a hearing.

(B) However, if the judgment or adjudication of the court is reversed or vacated and notice of the reversal or vacation is provided to the department, the department shall set the matter for a hearing.

History. Acts 1991, No. 1208, §§ 5, 7; 1993, No. 1126, § 8; 1995, No. 804, § 3; 1995, No. 1341, § 11; 1997, No. 1334, § 7; 1999, No. 1340, § 30; 2001, No. 1210, § 9; 2003, No. 758, §§ 13, 14; 2005, No. 132, § 1; 2005, No. 172, §§ 1, 2; 2005, No. 1706, § 13.

12-12-513. Requests for subpoenas - Form.

(a) Requests for subpoenas shall be granted by the chief counsel of the Department of Human Services or a designee if the testimony or documents desired are considered necessary and material without being unduly repetitious of other available evidence.

(b) Subpoenas issued pursuant to the authority of the chief counsel of the department shall be substantially in the following form: "The State of Arkansas to the Sheriff of _____ County: You are commanded to subpoena (name) _____, (address) _____, to attend a proceeding before the Department of Human Services to be held at _____ on the _____ day of _____, 20____, at ____ m., and testify and/or produce the following books, records, or other documents, to wit: _____ in a matter of (style of proceeding) _____ to be conducted under the authority of _____. WITNESS my hand this _____ day of _____, 20_____.

Chief Counsel or designee, Department of Human Services"

(c)(1) Subpoenas provided for in this section shall be served in the manner as now provided by law, and returned and a copy made and kept by the department.

(2) The fees and mileage for officers serving the subpoenas and witnesses answering the subpoenas shall be the same as now provided by law.

(d) Witnesses duly served with subpoenas issued pursuant to the authority provided in this section who shall refuse to testify or give evidence may be cited on affidavit through application of the chief counsel of the department to the Pulaski County Circuit Court or any circuit court of the state where the subpoenas were served.

(e) Failure to obey the subpoena may be deemed a contempt, punishable accordingly.

History. Acts 1991, No. 1208, § 7; 2001, No. 1210, § 10.

12-12-514. Child maltreatment investigative report.

(a) The agency responsible for the investigation shall make a complete written report of the investigation by the conclusion of the thirty-day time period set forth in § [12-12-509\(d\)](#) of this subchapter.

(b) The report shall include the following information:

- (1) The names and addresses of the child and his or her legal parents and other caretakers of the child, if known;
- (2) The child's age, sex, and race;
- (3) The nature and extent of the child's present and past injuries;
- (4) The investigative determination;
- (5) The nature and extent of the child maltreatment, including any evidence of previous injuries or child maltreatment to the child or his or her siblings;
- (6) The name and address of the person responsible for the injuries or child maltreatment, if known;
- (7) Services offered and accepted;
- (8) Family composition;
- (9) The source of the notification; and
- (10) The person making the notification, his or her occupation, and where he or she can be reached.

(c)(1)(A) A copy of the written report and any supporting documentation, including statements from witnesses and transcripts of interviews, shall immediately be filed at no cost with the central registry.

(B) All information gathered during the course of the investigation shall be contained in the file of the Department of Human Services whether or not the information supports the investigative determination.

(2)(A) Notification of the investigative determination shall be provided to the appropriate law enforcement agency and prosecuting attorney's office regarding reports of severe maltreatment.

(B) Notification of the investigative determination shall be provided to any appropriate licensing or registering authorities.

(3) If the investigative determination is true and the victim or offender is in foster care, notification of the investigative determination shall be provided to the juvenile division of circuit court, the juvenile division court-appointed attorneys ad litem of the victim and offender, court-appointed special advocates if appointed in an open dependency-neglect case, and the legal parents of the victim or offender who is in foster care.

(d) Notwithstanding any provision of this subchapter, the department shall forward the investigative determination, exclusive of the source of the notification, the name of the person making notification, the person's occupation, and where he or she can be reached, to the parents and alleged offender by a process server or by certified mail, restricted delivery, addressed to the recipient's last known address.

(e) The report, exclusive of information identifying the person making the notification, shall be admissible in evidence in any proceeding related to child maltreatment.

History. Acts 1991, No. 1208, § 6; 1995, No. 1341, § 12; 1997, No. 1334, § 8; 2001, No. 1210, § 11; 2003, No. 758, § 15.

12-12-515. Provision of information to person or agency making initial notification of suspected maltreatment.

(a)(1) If the person or agency making the initial notification of suspected child maltreatment is required to do so by this subchapter, the Department of Human Services, within ten (10) business days of the child maltreatment investigative determination, shall provide to the person the following information:

(A) The investigative determination; and

(B) Services offered and provided.

(2)(A) The department shall provide the local educational agency, specifically the school counselor where the maltreated child attends school, a report including the name and relationship of the offender to the maltreated child and indicating the department's founded investigative determination regarding the child and the services offered or provided by the department to the child.

(B) The department shall also provide the local educational agency, specifically the school counselor, a report indicating the department's founded investigative determination on any juvenile age ten (10) or older who is named as the offender in a true report and the services offered or provided by the department to the juvenile offender.

(3) Any local educational agency receiving such information from the department shall make this information, if it is a true report, confidential and a part of the child's permanent educational record and shall treat such information as educational records are treated under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

(b)(1) The department may provide information to a person or agency that provides services such as medical examination of, an assessment interview with, or diagnosing, caring for, treating, or supervising a victim of maltreatment, a juvenile offender, or an underaged juvenile aggressor.

(2) This information may include:

(A) The investigative determination or the investigation report; and

(B) The services offered and provided.

History. Acts 1991, No. 1208, § 9; 1992 (1st Ex. Sess.), No. 49, § 1; 1995, No. 1341, § 13; 1997, No. 1334, § 9; 2001, No. 1210, § 12; 2003, No. 758, § 16.

12-12-516. Protective custody of children.

(a)(1) A police officer, a law enforcement official, a juvenile division of circuit court judge during juvenile proceedings concerning the child or a sibling of the child, or a designated employee of the Department of Health and Human Services may take a child into protective custody or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parent or the guardian, whether or not additional medical treatment is required, if the:

(A) Child is dependent-neglected as defined in § [9-27-303\(17\)](#);

(B) Child is dependent as defined in the Arkansas Juvenile Code of 1989, § [9-27-301](#) et seq.; or

(C) Circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger of severe maltreatment.

(2) However, such custody shall not exceed seventy-two (72) hours except in the event that the expiration of seventy-two (72) hours falls on a weekend or holiday, in which case protective custody may be extended through the next business day following the weekend or holiday.

(b) The individual taking the child into protective custody may give effective consent for medical, dental, health, and hospital services during protective custody.

(c) In any case in which protective custody is invoked, the individual taking the child into protective custody shall notify the department in order that a child protective proceeding may be initiated within the time specified in this section.

(d) The department or prosecuting attorney may file a petition in the appropriate court seeking imposition of penalties for violation of this subchapter.

(e) A school, residential facility, hospital, and any other place that a child may be located shall not require a written court order for the department to take a seventy-two (72) hour hold under this section or § [9-27-313](#).

History. Acts 1991, No. 1208, § 10; 1999, No. 1340, § 31; 2001, No. 1210, § 13; 2003, No. 758, § 17; 2003, No. 1166, § 32; 2005, No. 1706, § 14.

12-12-517. Liability.

(a) Any person or agency required to participate and acting in good faith in making notification, the taking of a photograph or radiological test, or the removal of a child while exercising protective services shall be immune to suit and to liability, both civil and criminal.

(b) If acting in good faith, all persons making notification not named in this section shall be immune from liability.

(c) Any publicly supported school, facility, or institution acting in good faith pursuant to § [12-12-510\(a\)](#) (1)(2) shall be immune from liability.

History. Acts 1991, No. 1208, § 11; 2005, No. 1706, § 15.

12-12-518. Privileged communications as evidence - Exception.

(a) It is the public policy of the State of Arkansas to protect the health, safety, and the welfare of minors within the state.

(b)(1) No privilege, except that between a lawyer and client or between a minister, including a Christian Science practitioner, and any person confessing to or being counseled by the minister, shall prevent anyone from testifying concerning child maltreatment.

(2) When any physician, psychologist, psychiatrist, or licensed counselor or therapist conducts interviews with or provides therapy to any subject of a report of suspected child maltreatment for purposes related to child maltreatment, the physician, psychologist, psychiatrist, or licensed counselor or therapist shall be deemed to be performing services on behalf of the child.

(3) Adult subjects of a report of suspected child maltreatment cannot invoke privilege on the child's behalf.

(4) Transcripts of testimony introduced in a child maltreatment proceeding pursuant to this section shall not be received into evidence in any other civil or criminal proceeding.

History. Acts 1991, No. 1208, § 13; 2001, No. 1210, § 14; 2003, No. 1039, § 2.

12-12-519. Custody of children and services to families.

(a)(1) During the course of any child maltreatment investigation, whether conducted by the Department of Human Services, the Department of Arkansas State Police, or local law enforcement, the Department of Human Services shall assess whether or not the child can safely remain in the home.

(2) The child's health and safety shall be the paramount concern in determining whether or not to remove a child from the custody of his or her parents.

(b)(1)(A) If an investigation determines that the child cannot safely remain at home, the Department of Human Services shall take steps to remove the child under protective custody as outlined in § [12-12-516](#) or pursuant to the Arkansas Juvenile Code of 1989, § [9-27-301](#) et seq.

(B) After the Department of Human Services has removed the child, the child shall be placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at § [9-28-402\(12\)](#).

(C) No one, including the family, the Department of Human Services, the Department of Arkansas State Police, or local law enforcement shall allow the child to be placed in a nonapproved or nonlicensed foster home, shelter, or facility.

(2) If an investigation determines that the child can safely remain at home, the parents retain the right to keep the child at home or to place the child outside the home.

(c)(1) If the child maltreatment investigation is determined to be true, the Department of Human Services may open a protective services case.

(2) If the Department of Human Services opens a case, it shall provide services to the family in an effort to prevent additional maltreatment to the child or the removal of the child from the home.

(3) The services shall be relevant to the needs of the family.

(4) If at any time during the protective services case the Department of Human Services determines that the child cannot safely remain at home, it shall take steps to remove the child under protective custody as outlined in § [12-12-516](#) or pursuant to the Arkansas Juvenile Code of 1989, § [9-27-301](#) et seq.

(d)(1) If the report of child maltreatment is unsubstantiated, the Department of Human Services may offer supportive services to a family.

- (2) The family may accept or reject supportive services at any time.
- (3) Any family may request supportive services from the Department of Human Services.
- (4) Supportive services shall be offered for the purpose of preventing child maltreatment.

History. Acts 2001, No. 1210, § 15.

HANDOUT 3

WHAT ARE THE ISSUES

1. **Does this definition apply to any child care facility?**

This section of the Maltreatment Act only applies if the alleged act occurred in a facility licensed under the Child Welfare Licensing Act (so, one of the facilities licensed by the Child Welfare Agency Licensing Unit of DCFS).

2. **Were other methods available to control the behavior?**

There is no clear indication that the staff tried to de-escalate the situation.

3. **Was the child a danger to self or others?**

In this situation, it is a judgment call on whether the child was a danger to others. The physical restraint was applied prior to a clear demonstration that the behavior. Only collateral interviews will determine whether the staff member's perception of the immediate danger was justified.

4. **How would you verify the training that this staff member had been trained in restraints, conflict resolution and de-escalation techniques?**

To prove all elements required to be assessed, it would be necessary to verify that the staff member had been trained in these areas. An interesting area to consider would be how long ago the training was and whether there is any requirement for refresher courses or continuing education on these areas. The scenario did not address the type of facility but if this had been a licensed psychiatric facility, the staff member would have had to be **certified** in restraint technique.

Verifying training records is an area where you can reasonably expect help from the licensing authority. Licensing authorities are entitled to view facility records whenever they visit the facility. In other words, they may be able to get them more quickly than you can from a reluctant facility.

5. **Was the restraint for a reasonable amount of time?**

Licensing regulation permit a "take down" for up to 29 minutes.

6. **How would you call it? Did the child suffer more than transient pain and minor temporary marks?**

Other issues to consider in this scenario are the need to view the policy and training records. Check for an incident report that might have verified the staff member's story that the black eye was already there.

Use the licensing authority to help with these issues.

All elements of the legal definition must be met in order for the injury to fit the exception to maltreatment set out in the law.

HANDOUT 4

CHILD MALTREATMENT INVESTIGATIONS ALLEGED OFFENDER IS A SCHOOL EMPLOYEE SCHOOL INVESTIGATION FAQs

1. Does DCFS have the right to enter a school?

§ 12-12-510 permits the person investigating the complaint to enter the school for purposes of the child maltreatment investigation. No publicly supported school can deny access.

The better question in an allegation that the abuse or neglect happened in a school setting is “[do you need access to the school?](#)” Or, do you need access during the early stages of the investigation? Assess whether the first round of interviews – victim and offender – might not better be done at the homes of these individuals. There are confidentiality issues and there is the issue of the child interview needing to be in a safe and neutral place.

2. What do I do if the school refuses entry?

Unfortunately, many school boards and principals are not aware of this law. Their attorneys are either unaware of the statute or advise their clients to ignore it. DCFS employees are frequently denied access, even by schools where a school employee made the report to the Hotline. If access is denied

- a. Contact OCC regarding a petition to the appropriate juvenile division of circuit court for an ex-parte order for investigation.
- b. Be ready to supply convincing reasons why access to the school is needed.
- c. One reason you will eventually need access is the requirement in the Maltreatment Act to assess the environment. The environment at the time of the alleged maltreatment was the school. Another reason may be the need to conduct collateral interviews.

3. Can schools use physical punishment?

School Discipline Act (§ 6-18-505)

The School Discipline Act refers to the use of corporal punishment in the schools. If a school district authorizes corporal punishment:

- a. It must be included in the district's written student discipline policy.

- b. It must be administered in accordance with the written policy.
- c. It must be administered for the purpose of maintaining discipline and order

So, for investigations of allegations of physical abuse by a school employee, things to consider/verify include:

- a. Did the school have a written policy and was it followed?
- b. Was the employee a teacher or administrator (or were they a janitor, a teacher's aid, a secretary?) A teacher is defined as a person employed by the school who is required to have a state issued certificate as a condition of employment.
- c. Was there a clear issue of maintaining discipline?

4. I have heard that you can't make a finding of true if the allegation is physical abuse and the alleged offender is a teacher or vice-principal. Is that correct?

Caldwell vs. Arkansas Department of Human Services

In 1992, there was a case that involved a teacher who was named as an offender for leaving bruises on a child in the course of physical punishment. The substantiation was appealed and overturned by the court. The court determined that in and of themselves, bruises were insufficient to determine child maltreatment.

Contrary to some perceptions, the fact that it was overturned does not mean that schools with policies allowing physical punishment can inflict that punishment and be immune from a report of possible maltreatment. It means that the investigator must consider attendant circumstances.

The attendant circumstances would include those questions of:

- How severe was the injury?
- On what part of the body was the injury?
- Was there more than one injury? (For example, the policy allows three licks with a wooden paddle and the alleged victim has 10 marks on the back, buttocks and backs of the thighs).
- What was the child doing to deserve punishment?
- Were parents consulted/give permission?

- Would this same act, if committed by a parent or guardian have been of a severity to be considered maltreatment?

Case narrative and testimony in the hearing **must** address attendant circumstances. The FSW must be able to verbally explain why the punishment was excessive and of a degree to be considered maltreatment?

5. If the allegation involves abuse that occurred at the school, would I need to interview the child at school?

Best practice on interviewing child victims would suggest that the interview take place in a safe or at least a neutral setting. If the allegation has merit, the child is unlikely to perceive the school as a safe place and may be less likely to disclose what happened.

Point out that the investigator must make the personal decision: Do I do this interview in a manner that is best for the child, or do I do it in a manner that is most convenient for me.

In addition, would you want to interview the alleged offender at school?

What are the confidentiality issues involved?

The harder question (it is a case by case decision) is whether to interview possible collateral witnesses at school.

6. If the maltreatment allegation alleges abuse at school am I required to notify anybody?

In 2005, the Maltreatment Act was amended to permit – but does not require – notification of the receipt of the **initial** report if the department has determined that children under the alleged offender's care may be at risk (12-12-506).

In 2005, the Maltreatment Act was amended to permit release of information on **pending** reports to school boards, superintendents, or principals to the extent necessary to carry out their jobs (12-12-506).

7. If the report is found to be true, am I required to notify anybody?

While the Maltreatment Act was amended to permit initial notification and release of information during the investigation it does not specifically address notification at the end of the investigation. Tell participants, “When in doubt, confer with your supervisor and your OCC attorney.” Another suggestion might be to suggest to the school superintendent, board, etc, that they ask the teacher or school employee to consent to another Central Registry check. A final suggestion would be that the Maltreatment Act requires that you notify the LEA of true reports on school age children. That would at least permit notification of true reports.

HANDOUT 5

**CHILD MALTREATMENT ASSESSMENT CHECKLIST 2
INSTITUTIONAL SETTING**

Tasks	Yes	No	Comments
Immediate notification to the licensing authority (12-12-507) Notice to school if it seem there is reason to believe that children under the care of the alleged offender may be in danger of maltreatment.			
Is the allegation severe maltreatment? If yes, <ul style="list-style-type: none">• Assessment initiated in 24 hrs• Telephone notification to prosecutor with CFS-310 sent as written confirmation• Documentation in CHRIS of call and form sent If no, assessment initiated within 72 hrs Was reporter interviewed? (Collateral interview) Victim child interviewed, face-to-face; outside the presence of the alleged offender, Pub 052 given if the child is old enough to understand it. Victim child seen and assessed if too young for an interview **Other children in the home seen, assessed and interviewed; assess on case by case basis depending on exposure to same alleged offender. Not required if other children in the family have not been under the same caregiver's authority. Custodial parent(s) interviewed; Pub 052 given; CFS-310 given (CAPTA Requirement) Non-custodial parent interviewed (if applicable); Pub 052; CFS-310 (CAPTA Requirement) Alleged offender interviewed (if different from the parent); Pub 052 given; CFS-310 (CAPTA Requirement) Other collaterals identified and interviewed – there will be A LOT MORE COLLATERALS All interviews documented; all forms and Pubs documented			

Home visit made to determine child's environment and circumstances?

- Home visit documented
- Institutional environment assessed

Does the child need:

- Medical evaluation, including X-rays
- Psychological evaluation
- Drug/alcohol assessment
- CFS-327a completed (body diagram for physical abuse)

Are pictures needed (of child or of environmental setting)?

Within 30 days:

- Checked for previous reports via Central Registry or old records in the office
- Shared information with the licensing authority to enable it to do its job (12-12-506)
- Health and Safety Assessment (CFS-6025) completed on all children in the family. Only on victim child, unless the siblings have been under the alleged offender's care.
- Document all contacts and interviews
- Conference with supervisor and investigative determination made
- CFS-6003 (Report to Prosecuting Attorney) regarding case determination
- CFS-6003 sent to PA if the report is found to be true
- Risk Assessment (CFS-6026) completed on true reports. Only on victim child

If the Report is Found to be True

- Determine the names and condition of any minor children of the offender and whether these children have been or are at risk of being maltreated.
- If true and sexual abuse (underage juvenile aggressor) to the extent practical an assessment of children previously or currently under the same care for maltreatment or risk of maltreatment.
- Time frames for completing the investigation can be extended by 30 days to give time to do steps 1 and 2.

Within 10 days of case determination:

- CFS-307, Follow-up with reporter mailed
- CFS-312 sent certified mail to all subjects of the report with case determination decision
- Telephone notification to Local Education Agency on

<p>true reports (counselor or principal only)</p> <ul style="list-style-type: none">• Notified the licensing authority of the case determination True <u>and</u> unsubstantiated reports (12-12-512) <p>DON'T FORGET</p> <ul style="list-style-type: none">• Close the investigation in CHRIS• Key Case Connect Screen on cases to be opened for PS or Foster Care• Key Case Connect ASAP if child enters care on a 72 hr hold			
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HANDOUT 6

CHILD MALTREATMENT INVESTIGATIONS ALLEGED OFFENDER IS IN A LICENSED CHILD CARE FACILITY FAQs

1. **My supervisor has let them know there is a report. Do I have to share information with them? How much and when? Isn't it a HIPPA violation if I do?**

HIPPA is not an issue. HIPPA permits sharing information that is required by law.

§12-12-507 (d) [page 10 in your Handout 1] requires immediate notification.

§12-12-506 requires release of central registry data to licensing or regulatory authority on pending reports to the extent necessary to do its job. Look at attached [Example 1](#). What would the licensing authority need to do its job?

The Maltreatment Act puts the burden on the licensing agency to maintain the same confidentiality of records that you are required to maintain.

2. **If the report is found to be true and the offender appeals the decision, how many hearings could this involve for you?**

The answer to this question depends on how closely you have worked together. A facility may hold more than one licensure. There will be a determination of true or unsubstantiated on the maltreatment report. There will also be a determination by the licensing specialist about action to be taken on/by the facility. If the alleged offender appeals the decision and the facility appeals the decision, you could be looking at two or three hearings at minimum. – your Fair Hearing, and the board hearings for any facility license involved.

Board hearings on licensed facilities are held in LR. You will be expected to attend if you receive sufficient notice from the licensing agency. They are only required to give notice, not to subpoena you.

These may be issues to consider as you decide how closely you want to work with licensing on the front end of an investigation.

DO YOU HAVE TO ALLOW LICENSING IN ON YOUR INVESTIGATION?

DCFS Executive staff has noted that workers will be encouraged to let licensing in on any interviews that occur in the center.

FSWs are not required to wait for licensing if this would cause them to not initiate the investigation in required time frames.

The trickier question is whether or not the Licensing Specialist can/should sit in on the interview with the child. See also the discussion in 6 below. At this time, it is not required that the Licensing Specialist be present. However, if they are available and willing, there is nothing to prohibit them from attending. Under law, you have the authority to decide you sits in.

If the Licensing Specialist is involved in the interviews that led to a determination, and if that determination is appealed by one of the Licensing Boards, your presence will likely not be required at the licensing hearing because the Specialist has direct knowledge of everything that was said that led to licensing making the decision it made.

If the Licensing Specialist is using information that they obtained from the FSW but the Specialist has no first hand knowledge of those circumstances, the FSW will likely have to attend the licensing hearing and testify to what he/she knows.

3. What could the licensing folks do for me except get in the way and slow things down?

Let's go back to Example 1 attached. Licensing can:

- Get you in the door of the facility. Facilities may not deny access to the Licensing Specialist under any circumstances. If access is denied adverse action can be taken on the facility's license. Adverse action could include emergency action to suspend or revoke a license.
- Ensure the facility makes staff available for interviews.
- Get you immediate access to needed records.
- Take protective action for the other children in the facility. This plan may range from permitting the alleged offender to continue to work in a child care capacity with additional supervision, reassigning to non-childcare duties within the facility or sending the alleged offender home on administrative leave.
- Serve as your second eyes and ears. Take notes.

4. Licensing is always talking about "corrective action." What does THAT mean?

Corrective action is the equivalent to your case plan. Based on the information received and what's going on, they take short-term action to protect children and long-term action to correct problems that led to the situation.

5. Who gets to decide if the report is true – us or them?

Ultimate responsibility for determining whether the maltreatment report is true falls to DCFS.

6. Isn't it bad for children to have lots of people in on an interview?

Literature on child maltreatment investigations shows that two people being present while a child is interviewed is not necessarily detrimental to the child if the interviewers work well together.

- Decide who will take the lead
- Do not interrupt each other
- Secondary interviewer waits until primary is through to ask clarifying questions (if possible).

It is much more detrimental to have multiple interviews by multiple interviewers. This action is not only potentially more damaging to the child but also to each agency's case, as seemingly contradictory information may arise in different interviews by different folks that makes each agency's case more difficult to defend.

If the Licensing Specialist is not involved at the front end, he or she will have to interview the child again, unless the FSW is familiar enough with the workings of licensing to ask all the questions that need to be asked from that agency's perspective.

7. If I unsub, doesn't that mean it's over?

The child maltreatment investigation is over, but licensing issues that require corrective action may still arise in the course of even an unsubstantiated investigation. DCC needs the information from the investigation to correct the other problems that were discovered during the investigation. Look at Example 2 attached to this handout.

Remember as you look at this that if Licensing is depending solely on your information, you will have to come to the licensing hearing if the facility appeals.

EXAMPLE 1

You have an allegation that a 3 ½ year old child was left alone on the child care van. The caller alleges that it happened on December 11, 2003. The child was alone on the van from the time the class got back from a trip to see Santa until a parent noticed the child on the van when she came to the center at 5:15 pm to pick up her own child. The caller would only identify herself as an employee of the center but was afraid to give her name because she was afraid she would be fired.

EXAMPLE 2

You received and investigated a complaint of lack of supervision in a child care center. Allegedly a 4 year old child was found wandering around in the middle of a busy intersection three blocks from the facility.

As the investigation unfolds, it turns out that the child got out of a gate on the playground that was supposed to be locked but wasn't. The staff member on the playground, who was supervising 25 4-year-olds, turned around and saw the child go out the gate. She caught him before he got into the street although he was close to the curb. The child never got off the grounds of the facility. The call was made by a woman who lives close to the facility, does not like having a child care facility in her neighborhood and has made numerous complaints to both licensing and the Hotline before. The facility is already under a corrective action plan due to chronic non-compliance with staff/child ratios.