



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES**

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**Manual Transmission Letter (MTL)
Family Programs Office: Statewide Child Welfare Policy Manual**

MTL # 0901-051710

05/17/10

TO: Amber Howell, Deputy Administrator - Division of Child and Family Services – Central Office
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POLICY DISTRIBUTION:

Enclosed find the following policy for distribution to all applicable staff within your organization:

- 0901 Investigating Child Abuse and Neglect in Residential Institutions

This policy is/was effective: 06/18/08

This policy is new. Please review the policy in its entirety

This policy replaces the following policy(s): MTL # 0901-082008 Policy Name: 0901 Investigating Child Abuse and Neglect in Residential Institutions

This policy has been revised. Please see below for the type of revision:

- This is a significant policy revision. Please review this policy in its entirety.
- This is a minor policy revision: (List page number & summary of change):
 - Definitions have been updated to reflect standardized definitions approved at DMG.
- A policy form has been revised: (List form, page number and summary of change):
 -

NOTE:

- Please read the policy in its entirety and note any areas that are additionally required by your agency to be in compliance with the policy enclosed.
- This is an **All STAFF MEMO** and it is the responsibility of the person listed above to disseminate the policy enclosed to appropriate staff within his/her organization and to ensure compliance.
- The most current version of this policy is posted on the DCFS Website at the following address: http://www.dcfs.state.nv.us/DCFS_Policies_CW.htm. Please check the table of contents on this page for the link to the chapter you are interested in.

0901.0 Investigating Child Abuse and Neglect in Residential Institutions

0901.1 Policy Approval Clearance Record

Check one only: <input type="checkbox"/> State Policy <input checked="" type="checkbox"/> Collaborative Policy	This policy supersedes: 0901-082008	Number of pages in Policy: 9 Date Policy Effective: 06/18/08
PART Recommendation Date:	Unknown	Policy Lead: A. Howell
DMG Approval Date:	06/18/08	Policy Lead: A. Howell
Review by Representative from the Office of the Attorney General:	Yes	Signature: ON FILE
DCFS Administrator Approval:	06/20/08	Signature: ON FILE

0901.2 Statement of Purpose

0901.2.1 Policy Statement: Consistency among Nevada's public child welfare agencies in the conduct of investigations into reports of alleged abuse or neglect of children residing in out-of-home care in Nevada is essential to ensure that all children in such care are protected, that residential institutions are fairly treated, and that investigations are thorough.

0901.2.2 Purpose:

- A. The purpose of the CPS investigation is to assure the protection of the children residing in a residential institution while respecting the integrity of the facility's operation.
 1. When child abuse and neglect reports are investigated, a distinction should be made between suspected noncompliance with licensing or operational standards and the abuse and/or neglect of a child. When an investigation reveals a problem in the operation of the facility or licensing standard and not one of abuse or neglect to a child, the matter should be referred to the licensing authority in licensed facilities and to the authorizing agency in non-licensed facilities.
 2. Abuse and neglect investigations are appropriate only when there is reason to suspect that a child has been harmed or is threatened with harm. The purpose of the investigation is twofold:
 - To protect the alleged victim and other children in care from present and or impending danger, and
 - To evaluate the facility's ability to assure that the child can be protected.
- B. This policy includes the following facilities (Refer to FPO 0901A: Definitions of Residential Institutions for complete definitions of the following facilities).
 1. Foster Homes
 - **Family Foster Home:** NRS 424.013
 - **Foster Home:** NRS 424.014
 - **Group Foster Home:** NRS 424.015
 - **Treatment Home:** NAC 424.075
 2. Child Care Institutions.
 - **Child Care Facility:** NRS 432A.024
 - **Child Care Institution:** NAC 432A.070
 - **Outdoor Youth Program:** NRS 432A.028

- A. Hospitals.
 - 1. **Hospital:** NRS 449.012
 - 2. **Psychiatric hospital:** NRS 449.0165(NOTE: Acute care hospitals which are not a child's place of residence are not considered residential institutions.)
- B. Facilities for the Mentally Retarded.
 - 1. **Division facility:** NRS 433.094
 - 2. **Mental retardation center:** NRS 433.184
- C. Juvenile Detention Facilities
 - 1. **Local facility for the detention of children:** NRS 62A.190
 - 2. **Regional facility for the detention of children:** NRS 62A.280
 - 3. **State facility** NRS 62A.330
- D. Convalescent Homes.
 - 1. **Facility for intermediate care:** NRS 654.025
 - 2. **Facility for skilled nursing:** NRS 449.0039
- E. Drug or Alcohol Abuse Treatment Facilities
 - 1. **Treatment facility:** NRS 62A.340
 - 2. **Facility for the treatment of abuse of alcohol or drugs:** NRS 449.00455
- F. Boarding Schools.
 - 1. **Private school:** NRS 394.103

0901.3 Authority

NRS 432A.177
NRS 432B.190; .260; .350
NAC 432B.330; .340; .350; .360; .370

0901.4 Definitions

- 0901.4.1 Authorizing entity:** The judicial district, board of governors or trustees, board of county commissioners, or other entity which authorized the facility to operate.
- 0901.4.2 Agency which provides child welfare services:** means A) In a county whose population is less than 100,000, the local office of the Divisions of Child and Family Services; or B) In a county whose population is 100,000 or more, the agency of the county which provides or arranges for necessary child welfare services. C) May also be referred to as "Agency" or "Child Welfare Agency."
- 0901.4.3 CCDFS:** Clark County Department of Family Services.
- 0901.4.4 CCDJJS:** Clark County Department of Juvenile Justice Services.
- 0901.4.5 Division of Child and Family Services (DCFS):** The Division of Child and Family Services of the Department of Health and Human Services of the State of Nevada.
- 0901.4.6 Facility operator:** the director, administrator, principal, or other individual in charge of the facility or the on-site foster parent who operates the foster home.
- 0901.4.7 Immediately:** When first known to the agency, or no more than 24 hours after receipt of the information.
- 0901.4.8 Institution operator:** the director, administrator, principal, or other individual in charge of the facility or the on-site foster parent who operates the foster home.
- 0901.4.9 Investigator:** the child protective services (CPS) investigator assigned by the responsible child welfare agency.

- 0901.4.10 LVMPD:** Las Vegas Metropolitan Police Department.
- 0901.4.11 Mental injury:** An injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of his ability to function within his normal range of performance or behavior (NRS 432B.070).
- 0901.4.12 NAC:** Nevada Administrative Code (regulations promulgated by the Nevada Revised Statutes).
- 0901.4.13 NRS:** Nevada Revised Statutes (as enacted by the Nevada Legislature).
- 0901.4.14 Physical Injury:** Includes, without limitation (NRS 432B.090): A) A sprain or dislocation; B) Damage to cartilage; C) A fracture of a bone or the skull; D) An intracranial hemorrhage or injury to another internal organ; E) A burn or scalding; F) A cut, laceration, puncture or bite; G) Permanent or temporary disfigurement; or H) Permanent or temporary loss or impairment of a part or organ of the body. A non-accidental physical injury to a child including but not limited to, sprains, dislocations, damage to cartilage, bone fractures, intracranial hemorrhage, injury to an internal organ, burns, cuts, lacerations, puncture wounds, bites, permanent or temporary disfigurement, and permanent or temporary loss or impairment of a part of a child's body.
- 0901.4.15 Residential institution:** As used in NAC 432B.330 to 432B.370, inclusive, unless the otherwise requires "residential institution" means a facility which provides care to a child on a 24-hour basis and which is operated by a public agency or private person, including facilities for the training and detention of youth, institutions for child care, facilities for mental health and mental retardation, boarding schools, residential programs for alcohol and drug abuse group and family foster homes, and nursing homes caring for a child.
- 0901.4.17 State:** An alternate word for the Division of Child and Family Services (DCFS); Family Programs Office (FPO); or the Bureau of Services for Child Care (BSCC).
- 0901.4.18 Supervisor:** The supervisor of the CPS investigator.
- 0901.4.19 UNITY:** Means Unified Nevada Information Technology for Youth, Nevada's Statewide Automated Child Welfare Information System (SACWIS).
- 0901.4.20 WCDSS:** Washoe County Department of Social Services.

0901.5 Procedures

0901.5.1 Explanation of Physical or Mental Injury

- A. To be considered abuse or neglect, the harm or threatened harm must be non-accidental (NRS 432B.020). An "accident" is an event or effect that a person responsible for a child's welfare could not reasonably be expected to foresee. That a person responsible did not "intend" to abuse or neglect a child does not mean that the child was not abused or neglected.
- B. Residential institutions are responsible for knowing the possible consequences of actions or failure to act in regards to the children in their care. Institutions are also responsible for knowing the possible consequences for an individual child when, because of the child's circumstances, the possible consequences to him are greater than they would be to most children. Ignorance of the possible consequences of actions or failure to act on the part of the person responsible for a child's welfare does not make any harm or threatened harm "accidental."
- C. Residential institutions are responsible for providing the resources needed to prevent foreseeable harm to children. Not having the resources needed to prevent harm or threatened harm does not make the consequences "accidental."

0901.5.2 Coordination

- A. If child abuse or neglect (pursuant to NRS 432B) is alleged, it is the responsibility of the child welfare agency that receives the report to ensure that an investigation takes place.

The DCFS Family Programs Office staff is available to assist, consult and/or participate on institutional investigations at the request of the jurisdictions.

- B. If the report involves the acts or omissions of the child welfare agency or its staff, a team must be called by a different, properly constituted investigative agency familiar with child abuse and neglect situations. Each child welfare agency should establish a protocol for ensuring that an investigation occurs by a different agency. If the agency that is requested to participate declines the request, the agency responsible for convening the team will notify DCFS to assist in facilitating and forming the team.
- C. The lead investigator should coordinate the investigation, team meetings, documentation of the investigation and its findings, and notices to appropriate parties. The CPS worker is the lead investigator in all investigations except those in which the acts or omissions of the child welfare agency or its staff are alleged and another agency is responsible for the investigation. In such cases, that agency shall designate a lead investigator who shall coordinate the investigation.
- D. If it is suspected that a serious crime such as sexual abuse, physical abuse, and/or severe neglect of a child has been committed, the lead investigator should ensure that the appropriate law enforcement agency is notified about the receipt of the report. Notification to law enforcement should be made as soon as possible after the suspicion of a serious crime has arisen.

0901.5.3 The Team Approach

- A. Investigation of reports of child abuse and neglect in institutional settings may be conducted by a team. In cases that do not involve the acts or omissions of the child welfare agency, the decision to use a team approach should be made by the CPS worker and supervisor. Pursuant to NRS 432B.350, "Members of the team serve at the invitation of the child welfare agency and must include representatives of other organizations concerned with education, law enforcement, or physical or mental health." The team must have a representative from at least one of these disciplines. A team may consist of a CPS worker, a representative of the facility's licensing or regulatory agency, a law enforcement agency, the District Attorney's office, a member of a discipline similar to the institution where the complaint occurred, or other experts such as a substance abuse expert, expert in the use of restraints, expert in the use of force, etc. Team members should be selected based on their expertise and the insight they will bring to the investigation. CPS offices are encouraged to include specialized team members to lend expertise to institutional investigations as required. Team members may participate on a consultation basis and need not be present at team meetings.
- B. When investigating a juvenile justice or residential treatment facility, consideration should be given to bringing in a subject matter expert to be part of the team. If an expert is not brought in initially, and upon investigation there appears to be no validity to the allegations, and the report will be unsubstantiated, it is not required to consult with a juvenile justice expert. If however, the investigation involves restraint, use of force and/or other policies specific to juvenile justice or residential treatment facilities, or if substantiation is being considered, a subject matter expert must be brought in as part of the team prior to the investigation being completed and the disposition finalized.
- C. A subject matter expert is an individual knowledgeable about the type of institution or the practice or technique under investigation. (Refer to FPO 0901D for a list of recommended subject matter experts).
- D. Unavailability of other agency staff members to participate on a team should not restrain an investigation.

0901.5.3 Receiving Complaints of Child Abuse and Neglect in Residential Settings:

- A. The intake worker who receives a complaint of child abuse and/or neglect in a residential setting completes the referral and immediately gives the report to CPS or assigned supervisor.

- B. The supervisor reviews the report, clarifies the CPS issues, and will assign for an investigation if warranted. If the report involves acts or omissions of the agency, the supervisor must invoke outside-agency investigation.
- C. If the report is to be investigated by child welfare agency staff, the supervisor assigns a worker to lead the investigation, and the supervisor, within one day of the report or if the complaint suggests present danger, the lead investigator should intervene immediately to protect the child. In addition, the supervisor advises the local CPS Director or rural agency manager that a report has been received and whether or not an investigation will occur.
- D. If the report is not to be investigated and if the residential institution made the report, the residential institution must be informed that no investigation will occur.
- E. Some reports may not clearly indicate if the complaint is a licensing issue or a CPS issue. If there is doubt, the report should be handled as a CPS issue and an investigation should be initiated accordingly.

0901.5.4 Notifications

- A. The lead investigator shall ensure that the following are promptly notified:
 - 1. The regulatory agency when a report is received, and
 - 2. If the report is to be investigated:
 - The child's child-welfare-agency caseworker,
 - The child's parents if parental rights have not been terminated,
 - At the time of first contact with the alleged perpetrator, the alleged perpetrator, and
 - If appropriate, the law enforcement agency.
 - 3. Other persons who may be notified provided that the provisions of NRS 432 B.290 are observed:
 - The child's probation officer, parole officer, or other individual not employed by the facility whose role it is to oversee the child's placement in the facility, and
 - Unless contraindicated, the institution operator.

0901.5.5 Initial Investigation

- A. The Child Welfare Agency is responsible for completing an immediate investigative assessment to determine if the report indicates the need to call a team.
 - 1. If the complaint reveals present danger to a child, the lead investigator should intervene immediately to protect the child (such as ensuring that the child is removed pending an investigation, requesting the institution remove the alleged perpetrator pending an investigation, requesting the licensing authority to suspend the facility license or take other action, etc.). The investigator is cautioned that he or she does not have authority to demand removal of an employee or otherwise direct the institution. The licensing authority, however, may have such authority.
 - 2. If the report is to be investigated, the lead investigator should assure that the agency, court, parents, or other person legally responsible for the child involved in the complaint is notified of the investigation.
 - 3. Investigation and contact with the alleged victim(s) should be initiated in accordance with timelines outlined in Intake Policy and NAC 432B.155.

0901.5.6 Investigative Teams

- A. The lead investigator serves as the coordinator of the investigative team. Team members plan how to conduct the investigation, determine which individuals should be interviewed, what records should be researched, and which team member will complete these tasks. It is not necessary for each team member to interview every person involved in the report. However, team members need to decide if some persons need to be interviewed jointly.

1. The supervisor of the lead investigator remains involved and monitors the ongoing process of the investigation in order to provide consultation and supervision as needed.
2. The team in conjunction with law enforcement (if appropriate) completes an investigation to determine:
 - The immediate safety of the alleged victim and the safety of other children in the institution (if not addressed in the initial investigation);
 - Whether abuse or neglect occurred;
 - Whether the perpetrator can be identified;
 - Whether the facility is administratively responsible for the abuse or neglect; and
 - Whether the underlying cause of the abuse or neglect can be corrected administratively and, if so, to what extent.

0901.5.7 Guidelines for the Conduct of the Investigation:

- A. Investigative techniques may vary depending upon the nature of the report and the institutional setting. Investigations may include, but are not limited to:
 1. Reviewing the institution's policies and procedures pertinent to the report;
 2. Reviewing children's records, including child-specific records, daily log sheets, medical reports, and incident reports;
 3. Past child abuse or neglect reports concerning the child, the institution, and/or the alleged perpetrator;
 4. Photographing the children alleged to have been abused or neglected if there is physical evidence of such;
 5. Examining and photographing the physical facilities of the institution;
 - Reviewing licensing and/or certification records including corrective action plans and that the facility is appropriately licensed;
 - Reviewing institutional staff records; and
 - Conducting recorded interviews.
- B. Persons who must be interviewed are:
 1. The reporting party;
 2. The child alleged to have been abused/neglected;
 3. The alleged perpetrator of the abuse or neglect;
 4. Administration and staff of the institution, current and former, as appropriate;
 - Other residents of the institution, current and former, who may have relevant information, such as roommates, cottage mates, and those in close proximity to the alleged incident or the victim (Parent or guardian permission needs to be obtained prior to the interview a minor who is not related to the victim(s) and is not a subject of the report) ; and
 - Persons who may have witnessed the acts or omissions alleged in the report.
- C. Persons whom it may be appropriate to interview include, but are not limited to:
 1. Parents of the child;
 2. School administration and staff where the child attends school;
 3. Staff of county and state social service agencies and/or parole and probation officers located in the county of the institution and/or the county having responsibility for the alleged victims;
 4. Local law enforcement personnel;
 5. Medical, mental health, and treatment providers; and
 6. Other direct service providers, support staff, mentors, etc. who have had contact with the child, the institution, or the alleged perpetrator.

0901.5.8 Findings and Recommendations.

- A.** All investigations should be completed within 90 days, excluding foster homes, which have a 45 timeframe for completion of investigations from the date of assignment. Any cases remaining open past this time frame must be approved by a supervisor. Reasons the case has not been closed within the 45-day time frame must be documented.
- B.** The team, if one has been formed, should review the case and agree on the case findings. The lead investigator may consult with counsel regarding the strength of evidence for the finding. The lead investigator must complete or ensure completion of required UNITY screens.
- C.** If the report was found to be unsubstantiated, the lead investigator should notify the director, operator, or administrator of the institution in writing. A copy of the letter should be sent to the licensing or regulatory authority and to the child welfare agency Director or the Rural Region Manager.
- D.** The following information must be explicitly and separately addressed in the report of any investigation of child maltreatment in a residential institution:
 1. Each allegation of wrongdoing investigated;
 2. The name of each alleged victim and each alleged perpetrator;
 3. The names of all witnesses;
 4. All documents reviewed during the investigation;
 - Prior allegations of abuse or neglect and the results of any investigations thereof about the facility, the child, and/or the alleged perpetrator (A history list from UNITY providing this information may be attached to the report); and
 - A determination as to whether or not any facility staff person knew of, but did not report the alleged abuse or provided false information during the investigation.
- E.** The investigative team may include in the letter any findings of the investigation that represent concern or potential concern for risk of harm to children.
- F.** If the report was found to be substantiated, the team should evaluate the institution's ability to assure the protection of the children in placement and recommend a corrective action plan.
 1. The lead investigator is responsible for recording the recommendations of the team and for transmitting a copy to the operator of the institution and the appropriate licensing agency or authorizing agency. The lead investigator should attempt to obtain input from the licensing entity, if one exists, or from the authorizing agency of the non-licensed facility regarding the findings and any corrective action plan.
 2. The recommendations should relate directly to the specific incidents of harm to children that were investigated or to situations that have resulted or may result in harm to children. The following are examples of the kind of recommendations that may be appropriate to include in a corrective action plan:
 - Training of staff in specific areas of care of children in a residential setting;
 - Development of a specific policy regarding, for example, medical care, treatment, supervision, use of restraints, reporting of possible child abuse and neglect;
 - Improvement of physical plant;
 - Hiring of additional staff; and
 - Improvement of staff recruitment and hiring practices.
 3. The team will forward the recommendations to the designated licensing agency or an authorizing agency for continued monitoring and follow up.
- G.** The institution must be notified in writing by the Administrator of the investigating child welfare agency (local Child welfare agency, the rural agency, or by the outside investigating agency) or his or her designee of substantiated findings and of the process to appeal findings.

- H. Written notification of findings should also be made to those individuals enumerated in section 901.5.5 if such disclosure is permitted by NRS 432B.

0901.6 Child Welfare Agency Policy Compliance Requirements

0901.6.1 Development of Internal Policies: Agencies will follow this statewide collaborative policy as written.

0901.6.1 Timelines:

Table 1: Timelines for Development of Regional Institutional Abuse Policies and Protocols

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Residential Investigations, excluding foster homes	90 days	Date of Assignment	Investigative Team	Completion of the investigation and a written report of findings must be submitted to the institution
Foster Home Investigations	45 days	Date of Assignment	Investigative Team	Completion of the investigation and a written report of findings must be submitted to the institution

0901.6.2 Tools and Forms: None

0901.6.3 Documentation:

- A. Case File Documentation (paper): None
- B. UNITY Documentation (electronic): None

0901.6.4 Supervisory Responsibility: No additional responsibilities other than listed in this policy.

0901.7 State Responsibilities

0901.7.1 Participants in Policy Development

- C. **FPO Staff:** Social Services Chief II, Bureau of Services for Child Care Chief, Clinical Program Planner I, Social Services Program Specialist III, Social Services Program Specialist II, Social Worker III, Administrative Assistant II
- D. **Jurisdictional Representatives:** DCFS Rural Region Manager, DCFS Rural District Managers, CCDFS Deputy Administrator, CCDFS Manager of Shelter Services, WCDSS Children’s Services Coordinator, WCDSS Case Compliance Reviewer -- CPS, WCDSS Social Worker III
- E. **Stakeholders:** Deputy Attorneys General, Washoe County Chief Deputy District Attorney, Clark County Deputy District Attorney, DCFS Assistant Youth Facility Superintendent, CCDJJS Assistant Director, CCDJJS Detention Manager, CCDJJS Assistant Detention Manager, Washoe County Department of Juvenile Services Division Director Detention Services, Health Division Health Bureau Chief II, Health Division Health Facility Surveyor IV – Nurse, Health Division Health Facility Surveyor III – Nurse, Health Division Health Program Specialist 2, LVMPD Captain, LVMPD Lieutenant, LVMPD Supervisor, Reno Police Department Detective, Carson City Sheriff’s Office Lieutenant, Elko County Sheriff’s Office Detective, Lyon County Sheriff, Sierra Association of Foster Families Executive Director
- F. **Contractors:** DCFS contractor; SG Solutions, Inc.

0901.7.2 Technical Assistance

- A. Requesting Technical Assistance: None
- B. Relaying TA Information: None
- C. Evidenced Based Practice: None

0901.7.3 Clearance Process: Policy approved by DMG on June 18, 2008

0901.7.4 State Oversight:

- A. The State has the responsibility to ensure that all State and County CPS agencies comply with this policy as outlined in this policy.

0901.8 Policy Cross Reference

- 0506 Intake
- 0509 Nevada Initial Assessment (NIA)
- 0510 Nevada Safety Assessment
- 0511 Risk Assessment

0901.9 Attachments

- FPO 0901A - Definitions of Residential Institutions
- FPO 0901B - Factors that lead to Child Abuse and Neglect in Institutions
- FPO 0901C - Residential Institutions for Children in Nevada
- FPO 0901D - Subject Matter Experts
- FPO 0901E - Nevada Assoc. of Juvenile Justice Administrators Mailing/Member List 2007