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CHILD PROTECTIVE SERVICES

# Facility Investigations Handbook



IOWA DEPARTMENT OF HUMAN SERVICES

## FACILITY INVESTIGATIONS

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**C**onsiderable attention has been devoted to intrafamilial child abuse and neglect. Recently, however, attention has also been devoted to child abuse and neglect in out-of-home child care settings. National attention has been focused on allegations of child abuse and neglect in day care centers, residential centers, and other private and public child-care facilities. These cases have been difficult to investigate and have pointed to the need for a set of guidelines for investigators to follow. The lack of consistent guidelines for such investigations can prolong the trauma of the child victim, may jeopardize other children in the child care settings, and may result in inaccurate assessments or determinations.

This handbook provides a useful guide for investigation of child abuse and neglect in out-of-home child care settings. It will facilitate the provision of protective services to this vulnerable section of our population.

This handbook is intended for use with child protective investigations in the following facilities:

1. Licensed child day care centers
2. Licensed group foster care facilities
3. Licensed psychiatric medical institutions for children
4. Licensed substance abuse facilities
5. Approved juvenile detention homes
6. Approved juvenile shelter care homes
7. Iowa Juvenile Home (Toledo)
8. State Training School (Eldora)
9. Iowa Braille and Sight-Saving School
10. Iowa School for the Deaf

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This handbook was developed by a committee composed of the following individuals. The department wishes to thank these individuals for the time and effort devoted to the completion of this handbook.

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# FACILITY INVESTIGATIONS HANDBOOK

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## I. INTAKE

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Referrals from facilities are subject to similar acceptance criteria as other child abuse referrals in that:

1. There must be a child (an unmarried person under 18 years of age).
2. The alleged perpetrator must be the "person responsible for the care of the child."
3. The conditions reported must fall within the legal definition of child abuse.

### PERSON RESPONSIBLE FOR THE CARE OF A CHILD

Iowa Code Section 232.68(6) states "Person responsible for the care of a child means:

1. a parent, guardian, or foster parent.
2. a relative or any other person with whom the child resides, without reference to the length of time or continuity of such residence.
3. **an employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.**
4. any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care."

The person "responsible for the care of the child" in a facility is dependent upon:

1. the degree and type of involvement the person has with the individual child at the time of the incident or allegations.
2. the type of responsibility given to that person.

#### Comment

Some issues in facilities (policy, training, staffing levels) may be best dealt with through the "Notice to Facility" process outlined in the Department of Human Services Employees' Manual, XVI-E, and in Section XIII of this handbook. Facility administrators, governing bodies and regulatory entities have primary responsibility in such areas.

### PHYSICAL ABUSE

These are the three basic requirements for physical abuse in facility situations:

1. There is a nonaccidental physical injury.
2. The injury is suffered by a child.
3. The injury occurred as a result of the acts or omissions of the person responsible for the care of the child.

A physical injury is damage to bodily tissue, such that it must undergo a healing process.

## INTAKE

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An injury would be considered nonaccidental, if:

1. it was administered intentionally, or
2. a reasonable and prudent person would have intervened to prevent the injury from occurring, or
3. a reasonable and prudent person would have known or should have known that injury would occur and injury was avoidable.

Acts in a physical abuse allegation involve the direct inflicting of injury to a child by the person responsible for the care of the child.

Omissions in a physical abuse allegation involve the failure to act where a reasonable and prudent person, facing similar circumstances, would have acted to prevent physical injury to the child.

NOTE: Minor injuries resulting from properly administered physical restraint are not child abuse. Corporal punishment is not permitted in facilities. The questions below will help determine if physical restraint was properly administered.

### PHYSICAL RESTRAINT

Referrals alleging that a child has suffered an injury during a restraint episode may or may not meet intake criteria. During intake, questions to be considered include, but are not necessarily limited to the following:

1. Was the behavior displayed by the child prior to restraint extremely disruptive to others or likely to lead to injury to the child, other persons, or to property?

While the allegation may provide specific examples of behavior which demonstrate harm or imminent danger of injury to self, others, or property, the issue of determining behavior "extremely disruptive" to others is somewhat less clear and certainly open to interpretation.

Generally, simple refusal to follow directions which do not involve injury to self, others, or property; failure to follow programming; or failure to follow facility rules would not be considered to be examples of "extremely disruptive" behavior. Inciting others to insurrection, displaying uncontrolled physical behavior which may result in injury to self, others, or property, or behavior which in itself prevents the normal operation of the facility such that the safety of other persons is endangered are examples of behavior which is extremely disruptive.

2. Were other less restrictive methods used to calm the child before restraint was used?

Facilities are generally required to use a succession of methods to control residents. The succession is generally as follows:

Gestural redirecting  
Verbal command  
Blocking  
Physical redirecting  
Physical restraint  
Mechanical restraint

There are exceptions to the use of this hierarchy which are based on both the seriousness of the behavior and treatment issues involved. At the time of intake, the worker should try to get some sense that a succession of more restrictive measures (as appropriate) were undertaken in order to control the resident, and that those measures failed to adequately control the behavior.

3. Were the reported injuries suffered by the child consistent with the application of reasonable and properly applied physical restraint?

Restraint injuries are generally not serious and involve minor scrapes and scratches. They may involve bruises if the resident displayed very resistant behavior or was self-abusive before or during the restraint episode.

4. Does the reporter believe that the restraint was both justified and appropriately applied by staff?

Often times the reporter can give insight into both the resident and the staff who were involved in the restraint episode. Supervisors and trusted staff can often be relied upon to give candid opinions of whether or not the restraint was within policy limits or was abusive in intent or application.

5. Was the restraint method used appropriate to the type of facility in which the child was placed?

Secure facilities may use physical restraints, control rooms, locked cottages, mechanical restraints, or chemical restraints. Nonsecure facilities may use control rooms or physical restraints. The designation of secure vs. nonsecure facilities is established by the facility's license.

6. Was the child's behavior of a nature which would justify legitimate use of restraint?

Restraint may not be used as corporal punishment.

7. Does the child's account of the incident correspond with appropriately applied physical restraint?

This information may be obtained through the reporter's statement or independent assessment by the placing caseworker.

If the answer to any of these questions is in the negative, or there are substantial concerns on any of them, a child abuse investigation should be commenced.

### SEXUAL ABUSE

These are the three basic requirements for sexual abuse in facility situations:

1. A sexual offense has occurred.
2. The offense has occurred to a child.
3. The offense occurred as a result of the acts or omissions of the person responsible for the care of the child.

Sexual offenses are defined in Iowa Code Chapters 709, 726, and 728. These definitions are available for review in the "Child Protective Investigation Handbook." (Employees' Manual, XVI-E-Appendix.)

## INTAKE

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Acts in a sexual abuse allegation involve the performance of the prohibited sexual behavior directly by the person responsible for the care of the child.

Omissions in a sexual abuse allegation involve the failure to act where a reasonable and prudent person, facing similar circumstances, would have acted to prevent the child from suffering a sexual assault.

The engagement of children in sexual activity with their peers, especially among older children, does not, in and of itself, constitute an allegation of sexual abuse through omission.

## DENIAL OF CRITICAL CARE

The three basic requirements for denial of critical care in facility situations are that:

1. A child
2. has been subjected by a person responsible for the care of the child
3. to a condition meeting the definition of denial of critical care.

Denial of critical care consists of:

1. a pattern of failure to provide adequate food, clothing, shelter, medical care or other care to such an extent that there is imminent danger of injury or death to the child.
2. a failure to provide necessary mental health care to treat a child's serious social maladjustment.
3. a gross failure to meet the emotional needs of the child as evidenced by developmental delays or regression in age-appropriate behavior.
4. a failure to provide for the proper supervision of the child to such extent that the child's life or health are endangered or the child is cruelly or unduly confined.
5. a failure to provide necessary nutrition, hydration and medication to correct a child's life threatening condition.

Facility use of control rooms, isolation, or other treatment regimens, which are in compliance with applicable rules or are medically ordered is not child abuse.

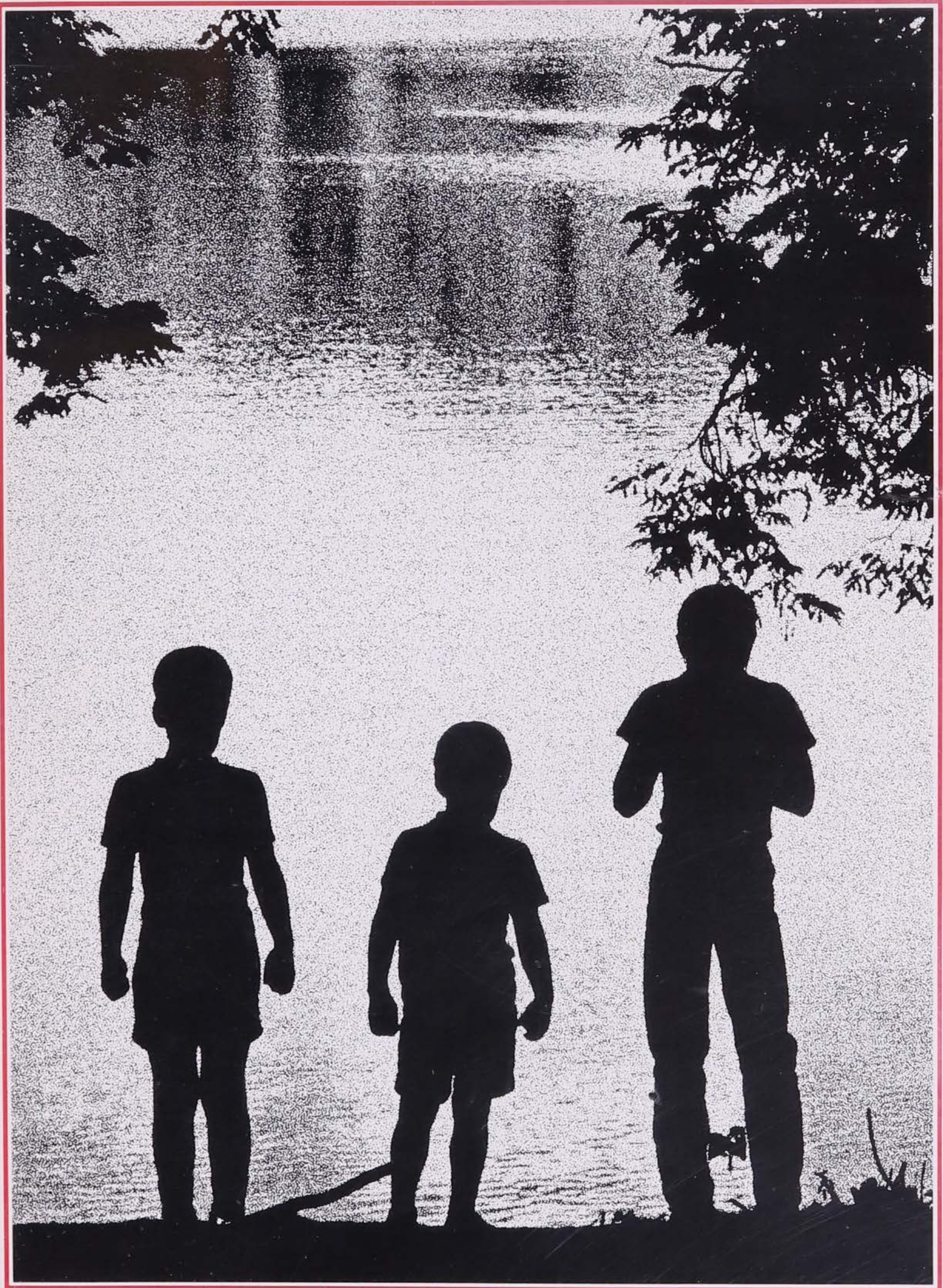
## NONINVESTIGATABLE COMPLAINTS

Information received by an investigative unit and not taken as an investigation shall be passed on to the appropriate:

1. licensing or regulatory body (see NOTICE to FACILITY section).
2. law enforcement or county attorney.
3. district purchase of service (P.O.S.) manager or day care consultant.
4. DHS caseworker(s) if individual children are identified.

The information may be passed on through a phone call but in all cases should be followed by a letter identifying the basic facts of the referral. The recipient of such information shall take action as appropriate, including notification to the facility.

Informants should also be encouraged to make their own referral to more appropriate resources when the information does not fall within the definitions of child abuse.







## II. OPENING AN INVESTIGATION

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The investigative worker shall take such steps as necessary to ensure the protection of the child. If the allegation concerns a group foster care or residential facility, contact the project manager and the DIA licensing consultant. If the alleged abuse occurred in a day care facility, contact the project manager and the day care licensing consultant. Identify an investigative plan with the manager and consultant and proceed. For facilities, the facility administrator or director should be the principal contact person. When appropriate, in compliance with local protocol, law enforcement should be notified for sexual abuse, serious physical abuse or serious denial of critical care investigations. The caseworker for the alleged child victim(s) shall be notified, involved in the investigation as practicable, and kept apprised of investigative developments.

### INITIAL NOTIFICATION

The investigative worker shall contact the director of the facility and inform the director of the allegations. (This contact may be simultaneous with the first investigative visit to the facility.) If the director is not available, contact other appropriate supervisory personnel. The facility should be encouraged to designate first contact personnel for business hours and for evening and weekend hours. Appropriate personnel within the DHS chain of command should be notified as required by local protocol. The parents of the alleged child victim(s) shall be notified within five working days of commencing the investigation using form 470-2585 (Parental Notification), unless a court finds good cause exists not to notify them.

If the director is the alleged perpetrator, the investigator shall seek supervisory consultation for consideration of alternative notification.

### ENSURING THE SAFETY OF THE CHILD

The investigative worker shall ask the director or the contact person of the facility what steps the facility will be taking to ensure the safety of the child until the investigation is completed. Steps may include one or more of the following:

1. curtailing the contact between the alleged perpetrator and the victim
2. placing the alleged perpetrator on leave status (vacation, leave with pay, leave without pay)
3. assigning the alleged perpetrator to duties that are not client related
4. moving the child to another facility (This option should be implemented only after consultation with the placing worker. The best interest of the child, planning issues, and safety issues should be considered. There may be situations where the juvenile court may be consulted for a possible ex parte order for removal of the child. Supervisory consultation is strongly recommended if an ex parte order is being considered.)

# OPENING AN INVESTIGATION

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## INVESTIGATIVE CONTACTS

Child abuse allegations in facilities provide investigative staff with opportunities for additional information that generally are not found in a family setting. The child victim(s) shall be interviewed. The alleged perpetrator shall be interviewed or offered the opportunity to be interviewed. Individuals believed to have been in the area when the incident occurred and individuals believed to have knowledge about the incident should also be interviewed.

The following is a partial list of other possible investigative contacts:

1. The facility log, including daily, incident, changeover, medication, meal, sleep, night check, control room and restraint logs (Not all facilities will have each type of log)
2. The child's case record at the facility
3. The alleged perpetrator's supervisor
4. The alleged perpetrator's personnel file
5. The child's placement worker
6. The incident report developed by the facility
7. The facts and findings of any internal investigation conducted by the facility
8. The in-service training plans for the alleged perpetrator and for other service staff
9. The facility's admission criteria, policies and procedures
10. The facility's licensing standards and any current noncompliance issues

The director of the facility or the designee should be kept informed as to the progress of the investigation. The alleged perpetrator may also be kept informed as appropriate.

In the course of an investigation, additional information or new allegations may surface. Such information or allegations may concern additional child victims or alleged perpetrators. If the new information or allegations involve non-sibling children or non-related caretakers or perpetrators, then a new, separate investigation is warranted with each additional child victim or additional perpetrator.

## INVESTIGATIVE AND INTERVIEW SUGGESTIONS

1. Team the investigation (CPI and licensing/regulatory worker or other appropriate personnel).
2. Tape record interviews (if possible).
3. Verify quotes or statements of interviews (especially of facility employees) prior to including such quotes or statements in a report.
4. Use expert consultation (such as the local multidisciplinary team).
5. Fully inform alleged perpetrators of their appeal and evaluation rights.

## OPENING AN INVESTIGATION

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### Interviewing Witnesses - Record the following information:

1. Time, place and date statement was taken
2. Description of witness (name, address, age, employment, marital status, relationship to parties if any, etc.)
3. Basis of witness's knowledge of factual situation (one of the parties, friend that was in attendance, observer, etc.)
  - a. Where was the witness when the witness saw/heard/smelled/felt?
  - b. What did the witness actually see/smell/feel?
  - c. What did the witness actually hear? An effort should be made to obtain actual quotes that the witness can give of the conversation heard.
  - d. How long did the witnessed incident last?.
  - e. What conditions were present that would affect ability to see or hear (dark, light, background noise, etc.)?
  - f. What other witnesses were present?

Use the witness's style and grammar, as nearly as possible, in documenting the interview.

### Handwritten Statements

1. Each page should have the time, date, place, page number and number of pages on it.
2. Corrections should be initialed and witnessed.
3. Always have carryover from one page to the other.
4. Each page should be signed.
5. Include the witness's declaration that the statement has been read, that it is complete and that it is true ("I have read the above 21 pages which contain all the information I know regarding this matter and it is true.").

### Recorded Statements

1. The witness should acknowledge that the statement is being recorded and consent to the recording.
2. The voices of the individuals should be clearly identified ("I am Jane Doe, a child protective investigator for the Department of Human Services, and you are...").
3. Recorded statements that occupy more than one tape should have carryover ("This statement will continue on the next tape", and "This is tape number two of a recorded conversation between Jane Doe and John Brown taken at 1111 Ninth Street, Suite 380 on February 24, 1990, at 1:30 p.m. That is correct, isn't it, Mr. Brown?").
4. There should be a closing statement by the witness, again acknowledging the recording, that information provided was given voluntarily, and that the statement is complete and truthful.

# OPENING AN INVESTIGATION

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## Physical Evidence

1. Written materials such as facility logs, medical or education records shall be reviewed. Copies of pertinent information shall be supplied by the facility (originals shall not be removed from a facility without facility consent, a court order or a search warrant).
2. Objects such as restraints, handcuffs, weapons (such as a knife wielded by an out-of-control child) shall be observed. A request may be made to turn them over to the investigator. Objects shall not be removed from a facility without facility consent, a court order, or a search warrant.
3. Photographs may be taken of injuries, living arrangements or other necessary items. The facility shall be informed prior to the taking of photographs.

## RIGHTS

**Appeal Rights:** (Iowa Code Section 235A.19) Subjects of a child abuse report (child victim, alleged perpetrator, child's parents, legal custodian or guardian of the child, or the attorney for any of these) have the right to appeal the findings and disposition of a report. They must do so within six months of completion of the investigation and notification of the outcome of the report. The appeal process is commenced by writing a letter requesting correction or expungement of the report to:

Child Abuse Registry  
Fifth Floor, Hoover Building  
Des Moines, Iowa 50319-0114

**Information Rights:** (Iowa Code Section 235A.15) Subjects also have the right to receive a copy of the child abuse report (minus the identity of the informant). They can receive the report by completing form SS-1606-0 (Request for Child Abuse Information), having a DHS employee verify their identity in writing on the form and mailing it to the Child Abuse Registry at the above address.

**Evaluation Rights:** [Iowa Code Sections 237.8 (foster care), 237A.5 (day care), 125.14A (substance abuse), 135H.7 (PMIC) and Iowa Administrative Code 441—105 (approved shelter or detention facilities)]. Individuals named in a child abuse report as founded perpetrators of child abuse shall not work with children, unless an evaluation has been done by DHS which determines that the founded abuse does not warrant prohibition of employment with children. Individuals may request such an evaluation by completing form 470-2310 (Record Check Evaluation) and returning the completed form to the local DHS office.





### III. APPLICABLE ADMINISTRATIVE RULES

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#### GROUP FOSTER CARE

##### CRITERIA FOR EMPLOYMENT OF RESTRAINT

These criteria are outlined in:

Iowa Administrative Code Section 441—114.20(237):

##### **Discipline**

114.20(1) Generally. The facility shall have written policies regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep.

114.20(2) Corporal punishment prohibited. The facility shall have a policy that clearly prohibits staff or children from utilizing corporal punishment as a method of disciplining or correcting children. This policy is to be communicated, in writing, to all staff of the facility.

114.20(3) Physical restraint. The use of physical restraint shall be employed only to prevent behavior extremely disruptive to others or to prevent the child from injury to self, to others, or to property. The rationale and authorization for the use of restraint, and staff action and procedure carried out to protect the child's rights and to ensure safety shall be set forth clearly in the child's record by responsible professional staff.

"Physical restraint" means direct physical contact required on the part of a staff member to prevent a child from hurting self, others or property.

114.20(4) Other restraints. Only comprehensive residential facilities may use a control room, locked cottages, mechanical restraints or chemical restraint.

"Control room" means a locked room used for treatment purposes in a comprehensive residential facility.

"Mechanical restraint" means restriction by the use of a mechanical device of a child's mobility or ability to use the hands, arms, or legs.

114.20(5) Behavior expectations. The facility shall make available to the child and the child's parents or guardian written policies regarding the following:

- a. the general expectation of behavior including the facility's rules and practices;
- b. the range of reasonable consequences that may be used to deal with inappropriate behavior.



## APPLICABLE ADMINISTRATIVE RULES

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ADDITIONAL REQUIREMENTS FOR THE USE OF PHYSICAL RESTRAINT of a child by staff in comprehensive care facilities are outlined in:

Iowa Administrative Code Section 441—115.5(237).

### **Restraints**

115.6(1) Nonsecure facilities. Physical restraints and a control room are permitted in nonsecure facilities.

115.6(2) Secure facilities. Secure facilities may use physical restraints, a control room, locked cottages, mechanical restraints, and chemical restraints.

115.6(3) Written policies. A facility which uses restraints shall have a written policy on their use. This policy shall include:

- a. a statement specifically identifying each form of restraint in use at the facility.
- b. criteria for use of each form of restraint.
- c. identification of staff authorized to approve and use each form of restraint.
- d. a requirement for documentation in the child's individual case file.
- e. procedures for application or administration of each form of restraint.
- f. a maximum time limit for use of restraints.

115.6(4) Use of restraint.

- a. A facility shall not use, apply, or administer restraint in any manner which causes physical injury.
- b. A facility shall not use restraint as a disciplinary or punitive measure, for staff convenience, or as a substitute for programming.
- c. A secure facility which uses any form of restraint other than physical restraining shall ensure that all direct service staff are adequately trained in the following areas:
  1. The appropriate use and application or administration of each approved form of restraint
  2. The facility's policies and procedures related to restraint
  3. Crisis management techniques
- d. A secure facility shall continually review any placement of a child in any form of restraint other than physical restraint. The facility shall release the child from restraint immediately when the situation precipitating restraint no longer exists.

# APPLICABLE ADMINISTRATIVE RULES

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## DAY CARE

REQUIREMENTS FOR THE OPERATION OF DAY CARE are outlined in:

Iowa Administrative Code Section 441—109.7(237A)

### **Discipline**

#### 109.7(2) Discipline

- a. Corporal punishment, including spanking, slapping and shaking, shall not be used.
- b. Punishment which is humiliating or frightening shall not be used.
- c. Punishment shall not be administered because of a child's illness, or progress or lack of progress in toilet training; nor shall punishment or threat of punishment be associated with food or rest.
- d. No child shall be subjected to verbal abuse, threats, or derogatory remarks about the child or the child's family.
- e. Nothing in this rule shall preclude the use of professionally prescribed treatment for the severely retarded or handicapped. The treatment plan shall be recorded in the child's record.

COMMENT: Any professionally prescribed treatment must be reviewed by the day care consultant to assure compliance with all rules concerning discipline as well as with other administrative rules.

### **Play material**

109.7(3) Play material and equipment for both indoor and outdoor play shall be in sufficient variety and quantity to meet the interests and needs of the children. Equipment and materials shall be suitable for the age range served and shall be kept in good condition, free of sharp, loose, or pointed parts, and if painted, only lead-free paint shall be used. Permanent outdoor play equipment must be firmly anchored.

### **Premises**

109.5(5) Premises used for outdoor play by the center shall be maintained in good condition throughout the year; shall be fenced off when located on a busy thoroughfare or near a hazard which may be injurious to a child; and shall provide both sunshine and shade areas. The premises shall be kept free from litter, rubbish and flammable materials at all times, and shall be free from contamination by drainage or ponding of sewage, household waste, or storm water.

109.5(6) The facility and premises shall be maintained in a clean, sanitary, and safe manner.

109.5(7) An area shall be provided properly and safely equipped for the use of infants and free from the intrusion of children over two years of age. Children over 18 months may be grouped outside this area.

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## IV. FOUNDED REPORTS

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Child abuse reports are "founded" upon a preponderance of the evidence that it is "more likely than not" that a child suffered abuse as a result of the acts or omissions of the person responsible for the care of the child.

Essential elements are credible evidence from a credible person that a child has been abused. These concepts are explained in the DHS Employees' Manual, XVI-E, Appendix: Child Protective Investigations Handbook.

### PHYSICAL ABUSE

These are the basic criteria:

1. A nonaccidental physical injury (credible evidence from a credible person of existence of a physical injury)
2. was suffered by a child
3. as a result of the acts or omissions of a person responsible for the care of the child

Please review the "INTAKE" section of this handbook for a discussion of "acts," "omissions," "nonaccidental" and "person responsible for the care of the child."

### PHYSICAL RESTRAINT

In order to determine if a physical injury to a child as a result of a physical restraint episode constituted child abuse, each of the following items need to be considered:

1. Did the precipitating situation which resulted in the use of physical restraint meet Iowa Administrative Code requirements to prevent the child from injuring self or others, damaging property or engaging in extremely disruptive behavior?
2. Was the restraint or force used reasonable, considering the situation? Could a reasonable and prudent person anticipate or determine likelihood of injury, given similar facts and circumstances? Would a prudent person have intervened during the course of events to prevent injury?
3. What was the degree of injury to the child?
4. Was the injury foreseeable?
5. Were attempts made to avoid injury to the child?
6. Was the injury compatible with the explanation provided for the injury?

### SEXUAL ABUSE

These are the basic criteria:

1. A sexual offense (credible evidence from a credible person of the occurrence of a sexual offense)
2. occurred to a child
3. as a result of the acts or omissions of the person responsible for the care of the child

Please review the "INTAKE" section of this handbook for a discussion of "acts," "omissions," "person responsible for the care of the child," and of older children's sexual activity with peers. Please review the Employees' Manual, XVI-E, Appendix, "Child Protective Investigations Handbook," for a discussion of sexual offenses.

# FOUNDED REPORTS

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## DENIAL OF CRITICAL CARE

These are the basic criteria:

1. A child
2. has been subjected by a person responsible for their care
3. to a condition meeting the definition of denial of critical care (credible evidence from a credible person of situation or pattern)

Denial of critical care is defined in the "INTAKE" section of this handbook. Facility restraints, use of control rooms, isolation and other treatment regimens which are in compliance with applicable rules or are medically ordered are not child abuse. The facility shall provide the investigator with legal or medical references and materials to justify actions.

## "CHAIN OF COMMAND" SITUATIONS

The person "responsible for the care of the child" in a facility is dependent upon:

1. the degree and type of involvement the person has with that individual child at the time of the incident or allegations.
2. the type of responsibility given to that person.

Prior to considering whether to make a finding that a person higher up in the "chain of command" is a perpetrator of abuse, approval must be given by the supervisor of the investigative unit, district administrator or designee. Central office may be consulted in the process. There should be multidisciplinary consultation which includes expertise in facility operation.

Questions to ask to determine if such a finding is appropriate:

1. Did the person know about the abuse? When did the person know about the abuse? Did the person take reasonable measures to protect the individual child? Was the child left in a high-risk situation? Did the abuse reoccur?
2. Did the person have the authority or the ability to intervene to protect the child? Did the person respond in a reasonable and prudent fashion?
3. Did the person participate in the act or decide to implement an act which resulted in injury to the child? Does the procedure as implemented fit the definition of child abuse?
4. Did the person direct another employee to commit an act that caused injury to a child or which could be considered abuse?

There must be clear and specific documentation that the above conditions existed in order to find that a person in a higher level of authority is a perpetrator of child abuse.

Careful consideration should be given before making a finding of abuse on a direct care worker who is following the directives of the supervisor or the standard operating procedures at the facility.

Careful consideration should be given to making a finding of abuse against an employee when the abuse would not have occurred if state guidelines or standards had been implemented in an appropriate way.

### CLOSURE MEETING

The Department shall provide the facility director or the designee of the director the opportunity to meet with the investigative team prior to filing the complete investigative report. The purpose of this meeting is to exchange information regarding the findings of the child abuse investigation and the findings of the agency's internal investigation. This exchange ensures that all parties have complete information. This meeting should include:

- DHS investigator/supervisor
- Facility administrator or designee
- Appropriate regulatory personnel (DHS day care consultant, POS project manager, or DIA licensing manager)
- DHS service administrator (as appropriate)
- DHS service workers for children in question
- Consultative resources (as appropriate, psychiatrist, psychologist, educator, etc.)

### Consider the Facts



The Department of the Interior is pleased to announce the availability of the following information. The Department is pleased to announce the availability of the following information. The Department is pleased to announce the availability of the following information.



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## **V. DISTRIBUTION, EXTENSIONS AND NOTIFICATION**

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### **Investigative Reports**

The investigative worker is required to complete and submit a preliminary or complete investigative report on all child abuse investigations within four working days of the receipt of the abuse report.

Form SS-1706-0, Preliminary Child Abuse Report: Part 1 (with attachments as needed) shall be used for the preliminary report. If this report is a complete report, form SS-1748-0, Child Abuse Report: Part 2, shall be submitted at the same time.

When the SS-1706-0 is a preliminary report, a complete investigative report shall be submitted using form SS-1748-0 within 10 working days of receipt of the allegations.

Forms SS-1706-0 and SS-1748-0 are constructed so as to meet all legal requirements for the investigative report. No other form or format is authorized.

Complete instructions for completion of the investigative report form appear in Employees' Manual XVI-E-Appendix. Of great importance in structuring the investigative report is the need to provide a complete and objective presentation of all pertinent information available in the case. Of equal importance is the need to present the information in a logical progression and the need to formulate reasonable conclusions based upon the information available.

The four-day report (form SS-1706-0), the 10-day complete report (form SS-1748-0), and any addenda to the report shall be forwarded to the Registry, county attorney and to the juvenile court of the county where the facility is located and to the county of the child's residence prior to placement (where original juvenile court jurisdiction is located).

### **Extensions**

If extensions of time to complete the investigation are obtained, the facility director or designee shall be verbally apprised. The alleged perpetrator may also be informed. The procedure for securing extensions of time is outlined in the DHS Employees' Manual XVI-E. The court of original jurisdiction of the alleged child victim, or the court having jurisdiction where the facility is located shall be the court to grant extensions of time.

### **Notification**

The investigator shall orally notify the mandatory reporter (if any) and may orally notify the subjects of an investigation of the results of the case investigation and of the confidentiality provisions of Iowa Code Sections 235A.15 and 235A.21.

Upon completion of the investigation report, the worker shall transmit form SS-1747, Child Abuse Notification, to the mandatory reporter and to the subjects of the report. This is a written notice regarding the investigation results, confidentiality provisions, and the subjects' rights to request correction of child abuse information.





## VI. ROLE OF DAY CARE CONSULTANT

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### PROTECTIVE SERVICES INVESTIGATIONS

The consultant has a dual role in child abuse investigations. One is to focus on issues concerning compliance with the child care law and the requirements for licensure. The other is to support the child abuse investigator, as well as law enforcement and the county attorney, as appropriate.

#### **Licensing:**

These are the responsibilities of the consultant for licensing purposes:

1. Determine whether or not child care laws have been violated.
2. Establish a confidential complaint file.
3. Once a complaint has been checked out, prepare a documented summary for the licensing file and destroy the complaint file.
4. Handle any notifications or follow-up required for licensing.
5. Communicate the situation to central office licensing staff and the Attorney General, as appropriate.
6. Provide technical assistance and consultation to the day care provider to correct deficiencies and improve the quality of services or, if necessary, pursue denial or revocation of the license.

#### **Support Role of the Consultant:**

These are the activities and responsibilities that are appropriate for day care consultants in a child protective investigation:

1. Provide consultation on child development issues, licensing standards, and minimum safety requirements.
2. Provide relevant information regarding the facility, the program, the history of the facility, the personnel, past complaints, etc.
3. Assist the child abuse investigator, police, and county attorney in identifying critical information that may be pertinent to planning and conducting the investigation.
4. Assist in any activities necessary to assure the children's safety (such as temporary supervision, follow-up spot checks or visits).
5. Assist in notifying parents (if necessary) and in identifying alternative day care providers (if requested).
6. Respond to media regarding general licensing issues (not specifics of the case).
7. Assist as needed in collecting necessary information (such as parents' names and addresses).

The first part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The second part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The third part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The fourth part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The fifth part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The sixth part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The seventh part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The eighth part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

## VII. ROLE OF LICENSING MANAGER (LM)

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Licensing managers should be contacted when a facility investigation is initiated, so that a determination can be made as to whether a joint investigation should be conducted. Licensing managers will request needed information at the point of initial contact. A Request for Child Abuse Information (DHS form SS-1606) may be completed at that time so that information is available in a case where a report is founded. The Child Protective Services Investigative Unit (CPI) may want the licensing manager involved in an investigation since licensing violations are part of the pattern of abuse or may be contributing factors to the abuse. After discussing the incident, the CPI investigator and supervisor, along with the licensing manager and supervisor should decide on whether a joint investigation is necessary. Licensing managers can provide consultation regarding facility investigations or licensing standards at any point in an investigation upon the request of the investigator. If a joint investigation is appropriate and necessary, the licensing manager will focus on policy, procedure, and documentation which relates to specific standards, while the child abuse investigator investigates the specific alleged incident of child abuse.

If an investigation results in a founded report, the licensing manager may choose to follow up to determine if legal remedies have been sought, if the perpetrator is no longer working with children, or if an evaluation has been conducted by DHS. It is the responsibility of the licensing manager to review the "Notice to Facility" letters and follow up if there is an indication of a standard violation. The licensing manager may request a corrective action plan from the facility. Depending upon the circumstances and investigative information, a complaint investigation may be ongoing after completion of the child abuse investigation. The licensing manager may refer non-licensing problems to appropriate agencies (fire marshal's office, state health department, etc.).

### FACTORS THAT LEAD TO CHILD ABUSE AND NEGLECT IN FACILITIES

1. Facility Policy. The facility itself can play a significant role in contributing to the abuse or neglect of children. Some key issues in deciding a facility's role in an incident of child abuse or neglect depend on whether or not the facility has made provisions for training of staff in the facility's policies, procedures, and practices as follows:
  - a. Program description and population to be served
  - b. Current service plan for each child, the engagement of each person responsible for service delivery, including child care staff, and the mechanisms for evaluating and updating service plans
  - c. Rights of children and their families and a grievance and reporting system when children or families feel their rights have been violated
  - d. Expectations of children and their families
  - e. Discipline of children
  - f. Problem management, physical restraint, time out and isolation
  - g. Staffing patterns and coverage requirements which include action plans for staff absences, emergencies, planned or respite breaks from children and integration and assignment of new employees, especially child care staff

## **ROLE OF LICENSING MANAGER (LM)**

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- h. Staff job descriptions, staff behavioral guidelines and expectations, staff evaluations, possible corrective or disciplinary actions for staff and staff grievance procedures
  - i. Staff orientation and their ongoing training plan
  - j. Supervision of all levels of staff, including chain of command for the facility according to the table of organization
  - k. Required written and oral communications (reports)
  - l. Medical care for children (routine and emergency)
  - m. Safe keeping, transporting and dispensing of medications
  - n. Use of psychotropic medications
  - o. Use of a reporting and maintenance system for hazardous conditions on grounds, in buildings or with equipment (including vehicles)
2. Situations which can lead to abuse in a facility.

These are some common situations in a facility which, when handled inappropriately, can lead to abuse:

- a. Staff are not given training on how to control a child who is verbally or physically aggressive
  - b. Staff are not provided with training and instruction on how to break up fights between children
  - c. Staff are not provided with training on how to redirect a child who refuses to follow instructions
  - d. The facility fails to provide the type of program that is needed for the population served
  - e. The facility provides no means for staff who have had a heated exchange with a child to remove themselves from the situation to regain self control
  - f. Staff are unaware of the facility's policies or procedures (i.e. restraint, discipline, how to respond to emergencies, etc.)
3. Situations which can lead to sexual abuse in a facility.

These are some common situations in facilities which, when handled inappropriately, can cause failure to address sexual contact between staff and children:

- a. There are no policies or procedures provided by the facility regarding staff removing children from their living unit.
- b. Criminal records or child abuse registry checks are not conducted.

The engagement of children in sexual activity with their peers, especially among older children, does not, in and of itself, constitute an allegation of sexual abuse through omission.

## ROLE OF LICENSING MANAGER (LM)

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### 4. Situations which can lead to denial of critical care in a facility.

These are some common situations in a facility which, when handled inappropriately, can lead to neglect:

- a. The facility's staffing patterns and coverage require persons to work long shifts
- b. The facility does not make provisions for supervision of child care staff on a unit and, as a result, staff sleep, are under the influence of drugs or alcohol, or are engaged in other duties outside their work assignments while on the job
- c. The facility lacks clear guidelines on the safekeeping of medication or the dispensing of medication, and as a result, there is misuse of medication by children
- d. Staff do not supervise children or ignore or fail to remedy a problem
- e. Staff are not trained on how to handle a medical emergency
- f. Inexperienced staff are placed alone in charge of dangerous or unruly children
- g. Mental health treatment plans are ignored for a child with a serious social maladjustment

All of these factors would require a "Notice to Facility" as outlined in Iowa Code Section 232.71(4).

### ROLES OF CHILD ABUSE INVESTIGATOR AND LICENSING MANAGER

#### Investigator

1. Specific children
2. Specific act or denial of critical care (life-threatening)
3. Generally focuses on care of one child
4. Investigation is after the act
5. Protective action can be immediate for an individual child through court intervention.
6. Investigation is time-limited to assure protection of child.
7. Confidentiality is strictly protected.

#### Licensing Manager

1. All children at that facility
2. Pattern of noncompliance with standards
3. Enforces a consistent base level of care
4. Preventative in nature: regulation and review of care prior to problem. Complaint investigations may begin with a specific incident but are generalized to standards.
5. Action through revocation or denial of license generally is a lengthy process subject to appeal before action.
6. Initiation of complaint check is based on the circumstances of the report; check may not be initiated until the scheduled annual review.
7. Annual reviews and complaint checks are public information.

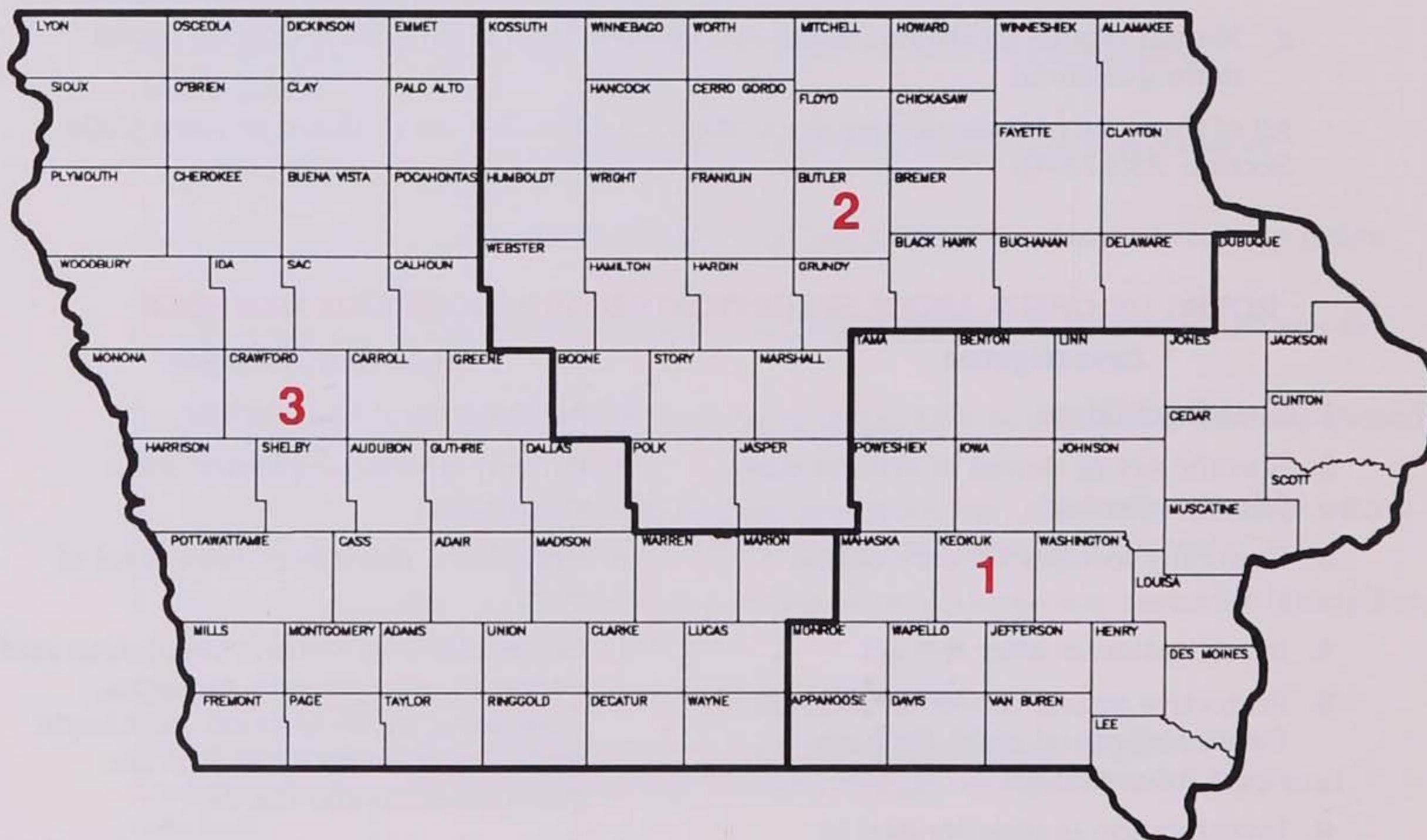
# ROLE OF LICENSING MANAGER (LM)

## LICENSING STANDARDS WHICH RELATE TO ABUSE

Although many standards relate to safety issues as a basic level of care, there are several standards that if violated consistently result in risk to children. They are in the following areas:

1. Child-care ratios
2. Control-room usage
3. Restraint
4. Medication administration
5. Training of new staff in physical restraint techniques and early intervention techniques
6. Appropriate placement of children; well-defined intake policy and program description

## LICENSING MANAGER REGIONS

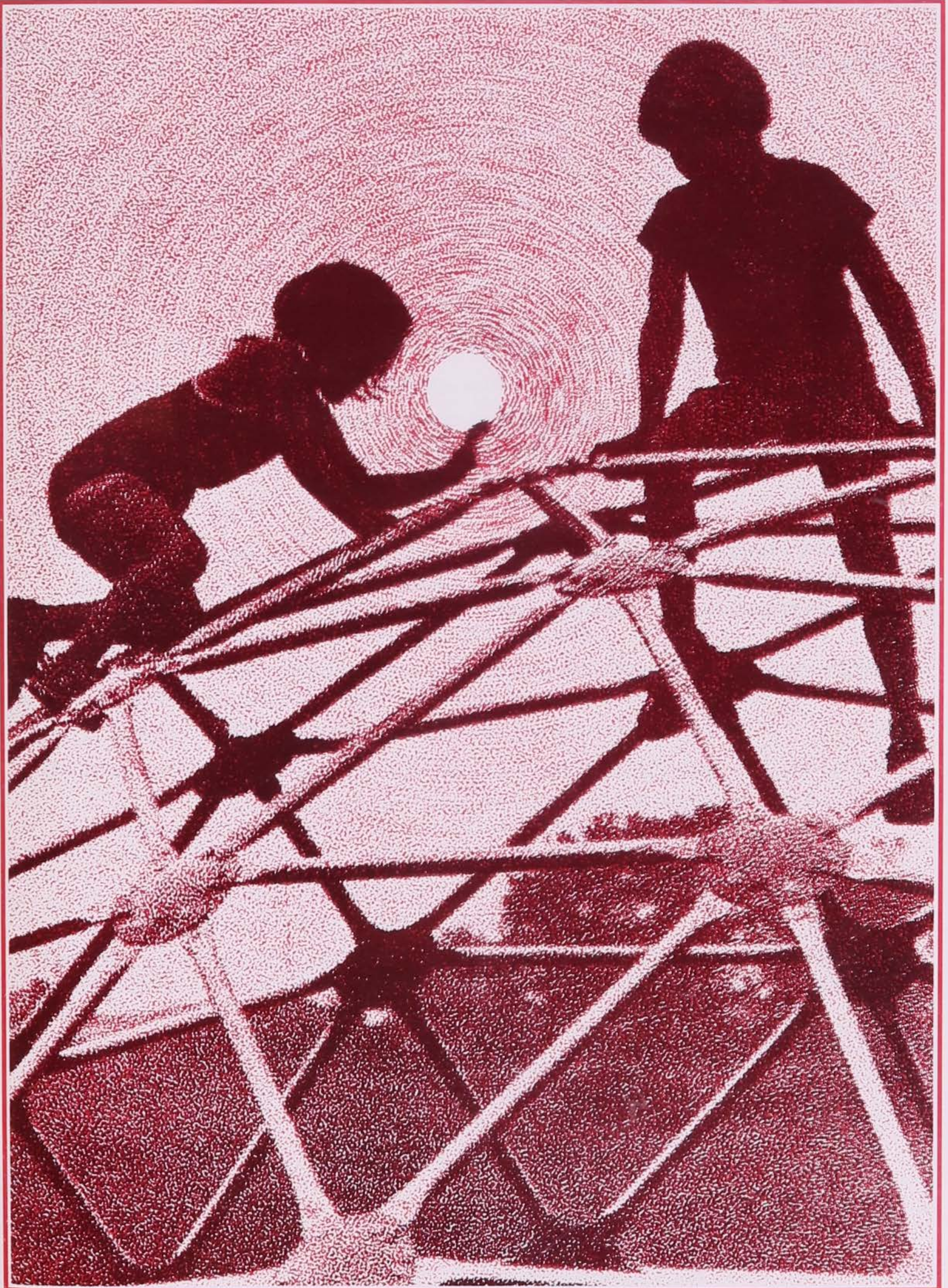


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## VIII. NOTICE TO FACILITY

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The final responsibility for the child abuse investigator in the investigation of allegations of child abuse in a facility is to draft and send a "notice to facility" letter.

This notice is required for any investigation in which the investigator finds problems with facility policy or practice, regardless of whether the child abuse allegations are founded, undetermined, or unfounded. The investigator shall prepare a letter which includes sufficient information to identify the problem areas. However the letter shall not include any personally identifiable information about the subjects of the investigation.

### RECIPIENTS

The letter shall be sent over the signature of the investigator's supervisor to:

1. the governing body of the facility, and
2. the administrator in charge of the facility, and
3. the licensing authority for the facility.

### LICENSING AUTHORITY

The letter to the licensing authority for group foster care facilities shall be sent to:

1. Chief, Bureau of Support Services, Division of Adult, Children and Family Services, Department of Human Services, 5th Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, and
2. Administrator, Division of Licensing Inspection, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, and
3. District POS manager where the facility is located.

The letter to the licensing authority for day care centers and homes shall be sent to:

1. Chief, Bureau of Support Services, Division of Adult, Children and Family Services, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, and
2. District day care consultant where the facility is located, and
3. District POS manager where the facility is located.

The letter to the licensing authority for health care facilities shall be sent to the Administrator of Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

To determine the licensing authority for any facility not named above or to determine how to contact the governing body (usually a board of directors) of the facility, contact the facility administrator, who will provide that information.

# NOTICE TO FACILITY

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## PURPOSE OF NOTICE

The notice to facility may be viewed as the final chapter of the investigation. It is a way to provide closure. The notice should be drafted and sent within five working days of filing the complete investigative report. The purpose of the notice to facility, established by statute, is to inform recipients of any of the following:

1. A violation of facility policy noted during the course of the investigation.

The facility may have a policy on training of staff which requires that all staff must be trained in appropriate restraint techniques within two weeks of employment. During the course of the investigation, the investigator may determine that a certain staff member who has been employed for six months has not received the training. This would be considered a violation of policy.

2. An instance in which facility policy or lack of facility policy may have contributed to the alleged child abuse.

An investigation may concern an allegation that a child had been isolated for long periods of time for such reasons as swearing at staff, throwing paper wads or being "noncompliant." The investigator determines that the child had been isolated in his/her room for several days and allowed to come out only for school, bathroom and meals. The investigator also determines that there was no policy guiding staff behavior or treatment of children who behave obstreperously.

3. An instance in which general practice in a facility appears to differ from the facility's written policy.

An investigation may reveal that in a particular group home when children swear at staff, they lose supper. Policy of the facility indicates that food is never to be used as a punishment. However, upon interviewing staff and children, it is determined that withholding food is used frequently as punishment.

As the examples show, the information in the notice to facility has a different focus than that found in the child abuse report. A chronological listing of observed or perceived violations is not important in the notice. The suggested format is to address the notice to the administrator in charge of the facility, with courtesy copies to the licensing agent, the agency board president, and the POS project manager (when applicable). Care must be taken that all of the information in the notice to facility letter is de-identified, so that the identity of the subjects involved in the child abuse investigation itself is not revealed. Rather than speaking specifically to the child abuse incident, the purpose of the notice to facility letter is to point out problems so that they can be effectively addressed by administrators, licensors, and governing bodies.

The type of violation of policy or procedure, or lack of policy or procedure which contributed to the facility difficulties should be listed and expanded upon to in paragraph form. If specific Iowa Administrative Code or Code of Iowa violations were observed, they should be cited.

## NOTICE TO FACILITY

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Finally, it is the responsibility of the investigator to make recommendations for any action viewed as necessary or advisable to protect the children who reside in the facility. These recommendations should be based upon the information obtained during the course of the investigation. The recommendations for action should logically follow from the citations noted earlier in the body of the letter. The recommendations can be generic ("Develop policy in an area of concern") or specific ("Stop using a closet with no light or ventilation as a time-out room").

The notice itself is subject to appeal, as is any action taken by DHS or DIA. Therefore, the worker should provide sufficient information to support observations made and actions recommended. Good notes and records should be kept to support observations should the occasion arise.

The notice does not, by itself, constitute a call for a "corrective action plan." However, with subsequent communication with the child abuse investigator, the notice can cause the licensing agent or the project manager to request such a plan.

An example of a "Notice to Facility" letter is on the following page.





## Sample Format

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Joe Smith, Director  
XXXX Youth Services  
Anytown, Iowa

Re: Notice to Facility

Dear Mr. Smith:

I recently completed a child abuse investigation involving an employee of XXXX Youth Services. Iowa Code 232.71(4) requires that I notify you, your board and the licensing authority in cases where it appears facility policy has been violated, facility policy or lack thereof may have contributed to an alleged child abuse, or general practice appears to differ from the facility's written policy.

**Areas of Concern:**

- A. (In paragraph form discuss each of the elements of concern found during the course of the investigation, making clear to which of the three categories the concern relates. Include observations and note specific agency policy and IAC references. Use letters to differentiate concerns.)

**Recommendations:**

1. (Make recommendations for agency/facility action which is necessary or advisable to protect the children in the facility. Relate recommendations to specific concerns or groups of concerns noted above. Use numbers to differentiate the concerns.)

Sincerely,

(Your Name) CPI

(Your Supervisor) SWIV

cc: (Board President)  
(Licensing Agent)  
(POS Manager)

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