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Change # **05-2008** Investigative Assessments in Child Care Facilities **June 2008**  
**1418 - INVESTGATIVE ASSESSMENTS IN CHILD CARE FACILITIES**  
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**June 2008**

## I. INTRODUCTION

Child abuse and neglect occurring in child care facilities are violations of the licensure standards and of the licensure law. ([N.C.G.S § 131D-10.1 et seq](#) ) Refer to page 2 for definitions of child care facilities. North Carolina law requires county Departments of Social Services (DSS) to conduct Child Protective Service (CPS) assessments in child care facilities. ([N.C.G.S § 7B-302](#), [N.C.G.S. § 7B-101\(3\)](#) ) Child care facilities are the only “part-time” non-relative caretaker relationships subject to CPS assessments. This section outlines the dual responsibility of county Departments of Social Services (DSS) and the Division of Child Development (DCD) in response to child abuse and neglect in child care facilities. All reports, regardless of the allegations, involving allegations concerning a child in the custody of a local DSS, family foster home, residential facility, or child care facility must be assigned to the **Investigative Assessment** response, and completed according to CPS policy.

## II. LEGAL BASIS

Recognizing the importance of the early years of life to a child's development, the North Carolina General Assembly declares in North Carolina General Statutes ([N.C.G.S. §110-85](#)) the following with respect to the early care and education of children:

"The State should protect children in child care facilities by ensuring that these facilities provide a physically safe and healthy environment where the developmental needs of these children are met and where these children are cared for by qualified persons of good moral character. Achieving this level of protection and early education requires the following elements: mandatory licensing of child care facilities; promotion of higher quality child care through the development of enhanced standards which operators may comply with on a voluntary basis; and a program of education to help operators improve their programs and to deepen public understanding of child care needs and issues."

North Carolina law requires that the county Departments of Social Services provide protective services for children alleged to be abused, neglected, or dependent. ([N.C.G.S. § 7B-302](#) ) Protective services include screening and assessments of reports. ([N.C.G.S. § 7B-300](#) ) Because the caretaker definition includes all child care facilities ([N.C.G.S. § 7B-101\(3\)](#) ), the law requires Investigative Assessments of reports of abuse, neglect, or dependency in child care. ([N.C.G.S. § 7B-302](#) )

#### A. Definition of Child Care and Non-Licensed Home Providers

Under [N.C.G.S. §110-86\(2\)](#), **child care** is a program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. The same statute provides that the following child care arrangements are exempt from the licensing requirements of the DCD and therefore do not meet the definition of child care for the purposes of Investigative Assessments:

- 1.) Arrangements operated in the home of any child receiving care if all the children in care are related to each other and no more than two additional children are in care;
- 2.) Recreational programs operated for less than four consecutive months in a year;
- 3.) Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
- 4.) Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
- 5.) Public schools (School teachers and other school personnel do not meet the definition of caretaker. Refer to F on page 43 for clarification of child care facilities in public schools);
- 6.) Nonpublic schools, private church schools and schools of religious charter, described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
- 7.) Bible schools conducted during vacation periods;
- 8.) Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes (These are facilities that provide services for the mentally ill, developmentally disabled and substance abusers. While these facilities do not meet the definition of a child care facility, they could meet the definition of caretaker and therefore, could require an Investigative Assessment);

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- 9.) Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
- 10.) Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

### **B. Non-licensed Home Facilities**

Non-licensed home facilities are homes that do not meet the criteria requiring licensure but meet the minimum standards to provide child care for the purpose of accessing subsidized child care funds. The county Department of Social Services approves these arrangements.

Reports alleging neglect and/or abuse of a child who is in the care of a relative or an adult member of the child's household who is providing child care services as a non-licensed provider are assessed by the county Departments of Social Services. Reports alleging neglect and/or abuse of a child who is in the care of a non-relative who is providing child care services as a non-licensed provider are investigated by the Regulatory Services Section of DCD.

Because these distinctions need to be made quickly when reports are received, County Departments of Social Services may want to designate a specific county social worker to receive or screen the reports before calling the DCD. The designated social worker would determine if the alleged perpetrator is a non-licensed home provider by reviewing an in-house file, such as the provider enrollment file. If the provider is a non-licensed, non-relative home provider, a report must be made to the DCD on the same day as the report is screened and a copy of the report faxed to the DCD. Refer to [Attachment A](#) for contact information.

### **C. Child Care Facilities**

The definition of a child care facility includes child care centers, family child care homes, and any other child care arrangement not excluded by [N.C.G.S. §110-86\(2\)](#), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit. ([N.C.G.S. § 110-86\(3\)](#))

### **D. Child Care Centers**

A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care. ([N.C.G.S. § 110-86\(3\)](#))

### **E. Family Child Care Homes**

A family child care home is a child care arrangement located in a residence where at any time, more than two children, but less than nine children, receive care. ([N.C.G.S. § 110-86\(3\)](#)) Of the children present, no more than five children, including

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the provider's own preschool children, can be preschool age. The provider's own school-aged children are not counted. Family child care homes are required to be licensed by the DCD.

**F. Child Care Facilities in Public Schools**

While [N.C.G.S. §110-86\(2\) \(e\)](#) exempts programs that are operated by the public school from being licensed as child care, the Department of Health and Human Services and the Department of Public Instruction have signed a Memorandum of Understanding (MOU) concerning preschool and after school programs. All preschool programs, and all before/after school programs that serve children receiving subsidy, will work towards licensure. This includes all Pre-K classes that receive "More at 4" funding and other subsidies and all after school programs that are operated by the school system and its employees. As programs receive a license, reports alleging abuse, neglect, or dependency are subject to Investigative Assessments. CPS will not investigate programs that are not yet licensed. The DCD's web site at [www.ncchildcare.net](http://www.ncchildcare.net) can be accessed to determine if a program is licensed.

**III. ROLE OF THE DEPARTMENTS OF SOCIAL SERVICES**

**A. Screening**

It is the statutory responsibility of the Department of Social Services to screen reports and to intervene in situations meeting the definitions of abuse, neglect, or dependency of children. ([N.C.G.S. § 7B-302](#) ) When a county Department of Social Services receives a report alleging abuse, neglect, or dependency involving children in any child care facility, the Department of Social Services shall determine:

- 1.) Whether the allegations meet the definitions of abuse, neglect, or dependency as provided in the statutes ([N.C.G.S. § 7B-101](#)).
- 2.) Whether the arrangement meets the definition of a child care facility as set forth in [N.C.G.S. §110-86\(3\)](#).
- 3.) Whether the parents or guardians of the alleged victim(s) have been responsible in protecting their child or children or whether there is any complicity on their part in the situation.

These issues are important in screening and determining whether or not the facility meets the definition of child care. If the screening process reveals that the parents' or guardians' actions or lack of appropriate actions may have contributed to the maltreatment of their child, a CPS assessment is needed, including them as alleged perpetrators.

In all cases where a child care facility is licensed by the DCD, it is subject to Investigative Assessment regardless of the number of children served.

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As in any report of alleged abuse, neglect, or dependency the screening process must include diligent efforts to obtain the following information from the person making the report: ([N.C.A.C. § 7B-301](#) and [N.C.A.C. 10A 70A.0105\(b\)](#))

- The name, address, and actual or approximate age of the juvenile(s);
- The names and ages of other juveniles residing in the home;
- The names and addresses of the juvenile's parents, guardians, or caretakers;
- The name and address of the alleged perpetrator;
- The present whereabouts of the juvenile(s) if not at the home;
- The nature and extent of the injury or condition resulting from abuse, neglect or dependency;
- Other information that the reporter has which might be helpful in establishing the need for protective services, including the name, address and telephone number of other individuals who may have information about the condition of the juvenile; and
- The name, address and telephone number of the person making the report.

If at screening, there is insufficient information to determine that a child care arrangement meets the required definitions of a child care facility, the DSS should **not** initiate an Investigative Assessment on the child care facility. If the alleged perpetrator's caretaker status cannot be determined, then the report should be screened for inappropriate supervision on the parents/caretakers/guardians regarding the appropriateness of their supervision plan. The term "baby sitter" is generic, and the intake social worker should not rely on this term to determine whether or not to accept a report for Investigative Assessment.

Anyone who has the approval of the child care administrator to assume responsibility for the children is subject to Investigative Assessment. Approval can be as informal as not intervening or stopping persons from assuming or providing caretaker functions. When screening identifies that the child care facility does meet the required definitions, the intake social worker needs to clearly determine whether the alleged perpetrator did or did not have delegated responsibility for the care of the child or children. If it is clear that the alleged perpetrator did not have delegated child care responsibilities, an Investigative Assessment is not appropriate and should not be initiated. The DSS should treat these situations as any other non-caretaker report. If there is any question about lack of supervision by the child care provider when a report involves a non-caretaker, DSS should conduct an Investigative Assessment to determine whether or not there is evidence of neglect on the part of the child care provider.

If the role of the alleged perpetrator is unclear, the DSS should initiate an Investigative Assessment in order to clarify whether the alleged perpetrator had delegated child care responsibility. When children are in a child care facility, anyone in that facility can be a potential caretaker, even a minor. A minor being a potential caretaker **only** applies in child care facilities. Any person in the child care facility that helps feed and play with the children, changes clothes or diapers, or takes

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children to the bathroom is a caretaker. When children stay in a child care facility, a caretaker is anyone on the premises who has the approval of the child care provider to assume responsibility for the children at any time.

**B. Reports Received for Investigative Assessment**

1.) Reports Not Constituting Abuse and Neglect

Although some reports may not meet the statutory definitions of abuse or neglect, there may be legitimate concerns about child care and practices in the child care setting. ([N.C.G.S. § 7B-101](#)) The DSS should refer reports about the general quality of care and issues concerning the program's compliance with licensing standards to the Intake Consultant in the Child Abuse/Neglect Unit of the DCD. In these situations, the regular consultant assigned to the facility within the DCD will follow up with the facility regarding the report. Refer to [Attachment A](#) for contact information.

2.) Two-Level Review of Decision

All CPS reports require a two-level review of the intake decision. This review requires that one of the parties be in a management position or a supervisor's designee and all persons participating in the intake decision must sign the intake form. With reports involving a child care facility; this two-level review also serves to determine whether the facility meets the appropriate definitions for DSS intervention.

3.) Notice to Reporter

The county DSS receiving a report must give written notice to the person making the report, unless waived or anonymous, within five (5) business days of receipt of the report. The notice shall include a statement about whether the report was or was not accepted for CPS assessment. ([N.C.G.S. § 7B-302](#)) The same requirement is true for any report received on a child care facility. The county DSS shall inform the reporter whether the report was referred to the appropriate State or local law enforcement agency. ([N.C.G.S. § 7B-302](#)) When licensing issues are the subject of the report, the DSS should tell the reporter of any referral to the DCD.

4.) Reports to the District Attorney and Law Enforcement

If the county DSS receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the county DSS shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate law enforcement agency within forty-eight (48) hours after receiving the information. ([N.C.G.S. § 7B-307](#)) The local law enforcement shall immediately, but no later than forty-eight (48) hours after receipt of the information, initiate a criminal

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investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate. ([N.C.G.S. § 7B-307](#))

**C. Reports Accepted for Investigative Assessment**

When the intake process results in a decision to accept a report of abuse, neglect, or dependency in a child care arrangement, the county DSS where the **child care facility is located is responsible for the Investigative Assessment**. For information regarding Investigative Assessments when the child does not live in the same county as the child care facility see Section I. The required procedures in the initiation protocol phase of Investigative Assessments in child care facilities are as follows:

- 1.) The county DSS where the child is found at the time of the report must initiate an Investigative Assessment of any report alleging abuse within twenty-four (24) hours after receiving the report. For reports alleging neglect, the maximum time for initiation is within seventy-two (72) hours. ([N.C.G.S. § 7B-302](#)) [N.C.A.C. 10A 70A.0105\(c\)](#) defines initiation as having a face-to-face contact with the alleged victim child or children. If there is no face-to-face contact with the alleged victim within the statutory time frame, there must be documentation to reflect diligent efforts to see the child in the timeframes and documentation that the child was seen as soon as possible.
- 2.) For reports accepted for Sexual Abuse, please refer to Children's Services Manual, Volume I, Chapter VIII, [Section 1420](#) to activate the protocol for investigating child sexual abuse in a child care facility.
- 3.) Because of the seriousness of any allegation of abuse, neglect, or dependency in child care, it is appropriate for the agency to initiate the Investigative Assessments as quickly as possible for all reports, whether the allegations are abuse, neglect, or dependency. As with Investigative Assessments in other settings, it is important to see the alleged victim child as soon as possible to assess the child's condition, to assess the levels of immediate and continuing risk of harm, and to assure the child's safety during the Investigative Assessment period.
- 4.) DSS must notify the Division of Child Development the day the report is screened by calling the Division's abuse/neglect intake consultant. See [Attachment A](#) for contact information.
- 5.) DSS must contact the individual who is administratively responsible for the on-site operation of the child care facility. The purpose of contacting the administrator is to solicit cooperation in the Investigative Assessment. However, the administrator should not be given prior notice of the Investigative Assessment and the required notice should be made at the time of DSS's first contact with the child care facility.

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When initiating an Investigative Assessment in a child care facility, there are additional issues that require special attention. The following guidance is suggested:

- The DSS should decide whether other persons with broader responsibility than onsite administration need to be contacted or involved, such as the owner(s), other teachers or individuals in the child care facility.
- If there are no indicators that the parents may also be alleged perpetrators, DSS should notify the parents of alleged victims prior to the victim children being interviewed or observed, if possible. Reports of neglect, abuse, or dependency of large numbers of children or lack of sufficient contact information, may preclude a notice to all parents before initiating the Investigative Assessment. However, all parents of alleged victim children need to know about the Investigative Assessment as soon as possible in order to take measures to protect their children from possible further maltreatment. Parents also need to know whenever their children talk with adults that they do not know and whether the child is an alleged victim or a collateral contact. In cases when law enforcement and/or the SBI are involved, parents need to know that these professionals also may be interviewing their children. Caution is to be taken to coordinate with law enforcement and/or the SBI in interviewing collateral contacts and parents of collateral contacts so that there is no interference with the gathering of criminal evidence. Parents of children who are to be interviewed as collateral contacts must give prior approval for the children to be interviewed. Ultimately, the DSS has a responsibility to make diligent efforts to contact parents the same day as contacts are made with the children. In the interest of time, these initial efforts may need to be telephone contacts.
- When contacting children during an Investigative Assessment, it is critical that the social worker reassures them that they are not "in trouble" for talking with the social worker and that the social worker has talked with their parents or will let their parents know that the social worker talked with them.
- A child care facility involves a sense of known routine and security for most children and families. Therefore, it is important that the DSS conduct a thorough Investigative Assessment while creating the least necessary disruption for the ongoing operation of the child care facility. Whenever possible, the Investigative Assessment social worker should attempt to work with the administrator in setting times for subsequent on-site visits. However, advance notice of the Investigative Assessment to the administrator should never occur.

**D. Required Reports and Notices on Reports Accepted for Investigative Assessment**

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1.) Notice to the Individual Making the Report:

Within five (5) business days after the completion of any CPS assessment, the county DSS that initially received the CPS report shall give subsequent written notice to the person making the report, unless waived or anonymous, as to whether there is a finding of abuse, neglect, or dependency, whether the county DSS is taking action to protect the juvenile, and what action it is taking. The second notification shall include the process for requesting a review by the district attorney of the agency's decision not to file a petition within five (5) business days of receipt. ([N.C.G.S. § 7B-302](#) )

2.) Reports to the Division of Child Development

DSS must notify the DCD the same day a report is accepted for an Investigative Assessment involving a child care facility. ([N.C.G.S. § 7B-307](#)) **At no time should the DSS reveal the identity of the reporter.** Refer to [Attachment A](#) for contact information. Information shared on the form, [DSS-5282](#) should include:

- Name and address of the child care facility;
- Nature of the report and name(s) of alleged victim child or children;
- Date that DSS received the report and date of the alleged incident;
- The nature of any help needed in conducting the Investigative Assessment; and
- The name and address of the alleged perpetrator.

If any DSS Investigative Assessment reveals evidence of abuse, neglect, or dependency in a child care facility, the agency must immediately report these findings to the DCD. ([N.C.G.S. § 7B-307](#)) The report, [DSS-5282](#), should include the same information as listed above.

The social worker will have a discussion with the DCD Abuse/Neglect consultant, prior to the staffing with the supervisor or team for case decision, concerning information obtained during the Investigative Assessment and to ensure that possible recommendations are not in conflict with licensing regulations. If reasonable efforts by the social worker to contact the consultant have been unsuccessful, the social worker will contact the supervisor with the DCD Abuse/Neglect Unit. See [Attachment A](#) for contact information.

At the conclusion of the Investigative Assessment, the director of the county DSS must provide the following information in writing to the DCD with the [DSS-5282](#). ([N.C.G.S. § 7B-307](#))

- Name of child care facility;
- Name(s) of the victim child or children;

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- Whether or not the DSS found abuse or neglect, including the basis for this decision;
- The type of abuse or neglect found, if either;
- The name(s) of the person(s) accountable for any neglect or abuse found, Note: All reports need to specify individuals and not the facility;
- Whether or not criminal charges were filed or pending;
- Any recommendations for the child care facility/home; and
- Any further action planned by the DSS.

The Case Decision Summary, [DSS-5228](#) also will be completed in all child care facility Investigative Assessments and provided to DCD at the conclusion of the CPS Investigative Assessment. The DSS **must** submit this report rapidly because administrative action by the DCD is often dependent on this information. Also, while child care facilities are under an Investigative Assessment, Child Care Resource and other referral agencies stop referring parents to these child care facilities. An Investigative Assessment of a child care facility is **not complete** until all reports and notices are submitted to the DCD. CPS case decisions as to whether or not to substantiate abuse, neglect, or dependency are to be made and submitted to the DCD **within seven (7) business days of the decision**. In order to protect confidentiality, **do not reveal the identity of the reporter in this or any written report.** ([N.C.G.S. § 7B-302](#) ) Copies of this report should be sent to the district attorney and the SBI when they are involved in the Investigative Assessment.

3.) Reports to the District Attorney and Law Enforcement:

The county DSS in which the child care facility is located shall make an immediate oral and subsequent written report of all findings of abuse to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within forty-eight (48) hours after receipt of the report. ([N.C.G.S. § 7B-307](#)) This report shall include:

- The name and address of the child, of the parents, the child care facility, and the alleged perpetrator(s)
- Whether the abuse was physical, emotional or sexual;
- The dates the report was received and when evidence that abuse may have occurred was found;
- A description of the evidence that abuse may have occurred; and
- The plan developed by DSS to protect the child and what is being done to carry out the plan.

DSS may share the name, address, and/or phone number of the reporter if needed by the district attorney and law enforcement in order to carry out their Investigative Assessments. [N.C.A.C. 10A 70A.0105\(c\)](#)

The local law enforcement shall immediately, but no later than forty-eight (48) hours after receipt of the information, initiate and coordinate a criminal

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investigation with the Investigative Assessment being conducted by the appropriate DSS.

The immediacy of the above reports to the district attorney and law enforcement is critical. Although DSS has the mandate to protect children, the appropriate law enforcement agency and the district attorney have the mandate to collect criminal evidence for potential prosecution. Any failure or delay in reporting suspected abuse or neglect to the proper authorities can have a detrimental effect on the criminal investigative process and on the safety of the child or children.

4.) Cases Involving Sexual Abuse in a Child Care Facility:

"Upon receipt of any report of child sexual abuse in a child care facility or family child care home, the Director shall notify the State Bureau of Investigation within twenty-four (24) hours or on the next working day. If child sexual abuse in a child care facility is not alleged in the initial report, but during the course of the Investigative Assessment there is reason to suspect that child sexual abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon notification that child sexual abuse may have occurred in a child care facility, the State Bureau of Investigation may form a task force to investigate the report." ([N.C.G.S. § 7B-301](#)) This required report is in addition to the report to the district attorney. In order to ensure promptness of sharing of evidence with the SBI, the DSS should begin with an oral report within the twenty-four (24) hour time frame followed by a written notice within three (3) business days.

Sexual abuse does not always involve a physical activity or touching. Taking obscene pictures or videos of children or showing that type of material to children is also a form of sexual abuse. The perpetrator is not necessarily limited to the person who commits the act, but is also anyone who permits or encourages the sexual abuse or anyone who knows about the activity and does nothing to stop it.

The reporting requirements to the SBI and the district attorney are relevant in all of these situations. The information shared with the SBI includes:

- Name and address of child care facility;
- Operator's name;
- Alleged victim(s)'s name(s) and address(es);
- Nature of the report;
- Date report was received;
- Date and place of reported incident; and
- Any alleged perpetrator's names.

**Note: The reporter's name should not be revealed in any written report or notice.** This caution does not preclude DSS from revealing the reporter's name to the SBI verbally, if necessary, for conducting their investigation. [N.C.A.C. 10A 70A.0105 \(d\)](#)

If the SBI forms a task force, they will investigate the alleged sexual abuse and gather evidence that may be presented at criminal proceedings. In order to conduct the Investigative Assessment to ensure that children are protected and evidence is not destroyed, DSS will coordinate with the SBI Special Agent, as well as with the district attorney, law enforcement, and the DCD,

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regarding interviews, collateral contacts, home and site visits, and any additional information including the identity of the reporter.

The investigating county DSS is to provide a written report to the SBI at the conclusion of the Investigative Assessment. The Case Decision Summary, [DSS-5228](#) will meet the requirements of the written notification. The written report is to include the following:

- Name of the child care facility,
- The name(s) of the victim child or children,
- Whether or not abuse or neglect was found, including the basis for this decision,
- If found, the type of abuse or neglect,
- If found, name(s) of the alleged perpetrator(s),
- Whether or not criminal charges have been filed or are pending and
- Any further action by the DSS.

When the DSS and the SBI participate in a joint Investigative Assessment, this required report will merely confirm what both agencies found in that Investigative Assessment. A copy of the Case Decision Summary, [DSS-5228](#) from DSS to the Division of Child Development will suffice to meet the required notification to the SBI.

#### **E. Tasks in Conducting a Thorough Investigative Assessment**

- 1.) The DSS must conduct a thorough Investigative Assessment of any report of abuse, neglect, or dependency in a child care facility. ([N.C.G.S. § 7B-302](#)) A thorough Investigative Assessment will assess:
  - (a.) Whether the specific environment in which the child or children are found meets the child or children's need for care and protection;
  - (b.) Facts regarding the existence of abuse, neglect or dependency;
  - (c.) The nature and extent of abuse, neglect, or dependency; and
  - (d.) Risk of harm to and need for protection of the child or children. ([N.C.A.C. 10A 70A.0106.](#))
  
- 2.) Elements included in a thorough CPS assessment are outlined in [N.C.A.C. 10A 70A.0106](#). The requirements and a discussion of them as they pertain to a child care Investigative Assessment are as follows:
  - (a.) The investigating county DSS must check the county agency's Children's Services records and the CPS Report to the Central Registry to ascertain if any previous reports of abuse, neglect, or dependency have been made concerning the alleged victim child or children unless the agency has conducted such a check in the 60 days prior to the new report or the agency is providing continuous CPS to the family.

- (b.) DSS also should check with the agency child care coordinator for information about previous reports involving the particular child care facility to be investigated.
- (c.) Face-to-face interviews with all victim children shall be conducted within the statutory time frames, unless there is documentation in the case record to explain why such contact was not made. Although for Investigative Assessments in a child care facility this requirement does not include siblings that live in the alleged victim's home, however, please use the following guidance:
  - (i.) If more than one child in a family attends the child care facility, those children shall be interviewed the same day as the alleged victim child.
  - (ii.) Any children in the child care facility involved in the alleged incident or who might have knowledge of the incident are collateral contacts or possibly additional victims. It is good practice to interview these children whenever possible, once parental approval has been obtained.
- (d.) The requirement for a face-to-face interview with any parent or primary caretaker on the same day as the interview with the victim child or children, unless there is documentation in the case record to explain why such interviews were not conducted, applies.
- (e.) [N.C.G.S §7B-302\(a\)](#) states "The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not required."
- (f.) DSS must interview the perpetrator or perpetrators face-to-face, as in all CPS assessments.
- (g.) The requirement for interviews with any available persons identified at the time the report was made applies. These are persons who may have information concerning the condition of the child or children, as well as other relevant information.
- (h.) If during the course of a child care facility Investigative Assessment, the social worker receives information alleging abuse, neglect or dependency of the child by the parent, guardian or other caretaker, then a separate report must be taken and screened.

**DSS must thoroughly document why any of the requirements were not met.**

- 3.) Special requirements for Investigative Assessments involving child care facilities include:
- (a.) A discussion of the allegations with the individual who has on-site administrative responsibility for the child care facility;
  - (b.) A discussion of the procedures to be followed during the Investigative Assessment;
  - (c.) Utilization of resources within and without the child care facility as needed and appropriate;
  - (d.) A discussion of the findings with the administrator of the child care facility. The county DSS shall follow this discussion with a written report. All information shall be held confidential by all parties.
- 4.) Additional sources of information in completing a thorough Investigative Assessment in a child care facility include:
- (a.) The individual making the report;
  - (b.) Child care staff who may be involved in or who have knowledge of the alleged incident;
  - (c.) Children and parents of children who may be involved in or who have knowledge of the alleged incident;
  - (d.) Files, charts, and records of the alleged victim(s);
  - (e.) Policies and procedures of the facility/home relating to care and supervision of children.

**Note:** Although the parents may remove the alleged victim from the child care facility, the Investigative Assessment should continue to determine whether the allegations of abuse, neglect, or dependency are true and whether other children in the child care facility are at risk. If there is suspected abuse, neglect, or dependency of other children, the DSS should notify those parents to enable them to take action to protect their children. If DSS identifies subsequent alleged victim children, the agency must complete all aspects of an Investigative Assessment for each of them. All aspects include meeting the requirements for a separate screening process and for a separate Investigative Assessment. DSS may apply the interview with the administrator to all related Investigative Assessments, rather than having to interview the administrator each time a new report arises during the Investigative Assessment, unless there are new allegations. Interviews with other individuals and staff may not be necessary unless there is reason to believe that they have additional information pertinent to the newly identified alleged victims.

In all Investigative Assessments, the DSS should make the case decision and complete required documentation within thirty (30) days of receipt of the report. When it is not possible to meet the thirty (30) day time frame, documentation in the case record should reflect the rationale to extend the Investigative Assessment beyond 30 days.

#### **F. Non-Cooperation**

When the administrator of a child care facility refuses to cooperate with the Investigative Assessment, the DSS should take one or more of the following actions:

- 1.) Remind the administrator of the legal mandate for the DSS to assess all reports of abuse, neglect, or dependency. Also advise the administrator of his legal responsibility to cooperate with the Investigative Assessment.
- 2.) Notify the DCD regarding the lack of cooperation.
- 3.) File an Order to Cease Obstruction of or Interference with Juvenile Investigation Petition with the court. ([N.C.G.S. § 7B-303](#))
- 4.) It is important to continue the Investigative Assessment by obtaining information from other resources such as neighbors, other parents, agencies, etc.

#### **G. Confidentiality**

##### 1.) Confidentiality of Case Records

In all cases of child abuse, neglect, or dependency, there is a professional and legal responsibility to maintain confidentiality. [N.C.G.S. §7B-2901](#) mandates confidentiality of case records and provides only for examination by the juvenile or by order of the judge. In order to protect confidentiality in CPS cases, it is recommended that DSS maintain a case record in the child's name, separate from any record in the family's name. DSS should also have separate files for child care facilities where Investigative Assessments have occurred.

Under the following circumstances, persons outside the county DSS allowed to **examine** the case record include:

- (a.) Federal and State personnel who carry lawful responsibility for program audit, review and evaluation;
- (b.) The child or child's attorney, including a court appointed guardian ad litem;
- (c.) The agency attorney when advising on the case or preparing for court;
- (d.) The prosecutor when carrying out mandated responsibilities; and
- (e.) Law enforcement when assessing a case of abuse, neglect or dependency on behalf of the prosecutor.

## 2.) Confidentiality of Information.

Although the identity of the reporter is confidential, DSS may reveal the name and address of the reporter to law enforcement, if necessary, when they are assisting in an Investigative Assessment. ([N.C.A.C. 10A 70A.0105\(c\)](#))

[N.C.G.S. §7B-302\(a\)](#) does not preclude the "necessary sharing of information among authorized agencies." DSS may share necessary information with public or private agencies or individuals to facilitate provision of services for the child. Other agencies or individuals who should receive pertinent information to facilitate the provision of child protective services may include:

- Mental health centers,
- Health departments,
- Private health providers,
- Hospitals,
- Multi-disciplinary or interagency groups doing case consultation on child abuse or neglect,
- Private therapists,
- Institutional staff assisting in an Investigative Assessment or treatment plans with the institution, and/or
- Division of Child Development.

The assessing county DSS may consult with public or private agencies or individuals. The Director or the Director's representative may make a written demand for any information or reports, whether or not confidential, that may in the Director's opinion be relevant to the protective services case. Upon the Director's or the Director's representative's request and unless protected by attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of such information will jeopardize the right of the State to prosecute a defendant or the right of the defendant to receive a fair trial or will undermine an ongoing or future Investigative Assessment, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. ([N.C.G.S. §7B-302\(e\)](#))

3.) Sharing Information with Parents

Parents of alleged victim children have the right to know the nature of any report of abuse, neglect, or dependency involving their children in a child care facility. DSS should share this information with the parents in a timely manner. DSS should explain to parents the process of an Investigative Assessment and how they and their children will be involved in that process. At the conclusion of a thorough Investigative Assessment, DSS must inform the parents of the case decision either verbally or in writing. If verbal notice is given, the case record should include documentation of this notice to the parents.

At times, DSS also may want to share information with parents of non-victim children. The following guidance applies in these situations: "DSS must exercise discretion in selection of collateral contacts in order to protect the family's or out-of-home care facility's right to privacy and the confidentiality of the report." ([N.C.A.C. 10A 70A.0106 \(j\)](#)) This caveat applies to information shared with parents of non-victim children enrolled in the child care facility under Investigative Assessment. It seems reasonable to share information with parents when their child may have been victimized and may experience future problems as a result of such victimization. An attorney general's opinion states: ". . . while records relating to the abused child would be confidential . . . , the statutes do not prohibit the county department from revealing that abuse has occurred at the family child care home, particularly to parents of other children enrolled."

The fact that the statutes do not prohibit such disclosure does not mean, of course, that the county department should not exercise judgment and discretion in determining whether and when disclosure is to be made.

DSS should tell parents about a report of alleged abuse, neglect, or dependency when children of those parents are collateral contacts in the Investigative Assessment or when there is reason to suggest that their child also may be a victim. Examples of situations where DSS should think carefully about releasing information about a report include:

- (a.) Investigative Assessments where there was no finding of abuse or neglect after case decision, or
- (b.) Investigative Assessments where the perpetrator is no longer in the child care facility and there is no further risk to children.

**Note: At no time should the DSS reveal the identity of the reporter or the identity of other victim children to parents.** DSS should discuss the decision to disclose any information with the agency's attorney in order to explore potential liability.

## H. In-House Team Work

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The DSS staff responsible for child care coordination can be a good resource person to the CPS social worker in this type of Investigative Assessment. There are cases where the report of abuse, neglect, or dependency as defined in [N.C.G.S. §7B-101](#) is not accepted for Investigative Assessment or substantiated. However, in an Investigative Assessment of a child care facility there may be some question regarding the practices or policies of the facility. When the child care coordinator is involved in the process, this individual is able to provide needed assistance to the child care program regarding appropriate standards and practices.

It is critical that each county DSS develop a system of communication between the CPS staff and the child care coordinator. Failure to inform the child care coordinator about reports of abuse, neglect, or dependency in child care facilities could result in further risk for children and liability for the agency. The child care coordinator can avoid enrolling children in facilities when they have access to pertinent information from the CPS social worker.

There must be prompt communication to the child care coordinator concerning the case decision and any recommendations once the CPS Investigative Assessment on the facility is completed. Information regarding the reporter or specific to the child **must not** be released to the child care coordinator.

### **I. Dual County Investigative Assessments**

- 1.) In most instances, the decision about which agency is responsible for an Investigative Assessment in child care is straightforward. When the child resides in the same county as the child care facility that county DSS is responsible for the Investigative Assessment.

There are several situations in the Investigative Assessment of child care facilities that call for the involvement of two or more county Departments of Social Services. Some of these situations are as follows:

- (a.) When a report alleges abuse, neglect, or dependency in a DSS operated facility, that county DSS shall request another county DSS to conduct the Investigative Assessment. ([N.C.A.C. 10A 70A.0103 \(a\)](#))
- (b.) If the report involves a child care facility where the agency has a child who is in the legal custody of DSS, the agency may request the assistance of another county in conducting the Investigative Assessment. In this situation, the resident county DSS could have a conflict of interest between the function of CPS social worker and the function of legal custodian for a child in the facility under Investigative Assessment.
- (c.) If the child's residence is in one county and the child care facility is in another county, the two county departments of social services should

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collaborate in the Investigative Assessment. The county where the child care facility is located takes the lead responsibility for the Investigative Assessment. The reason is that the child protection issues revolve around the child care facility.

As the lead county, that DSS performs all the required tasks of the Investigative Assessment and reporting, including the written report to the DCD. The county where the child resides may assist with the Investigative Assessment by initiating the report, making the required home visit, interviewing the child and parents, and arranging for any needed support services.

**Example:** A parent calls after hours to the county in which she and her family reside. The parent reports that she picked her child up from child care in an adjoining county. She discovered evidence of abuse of her child after they arrived home. The child identifies one of the caretakers at the child care facility as the perpetrator. Although the county where the child care facility is located is responsible for the Investigative Assessment, the social worker receiving the report in the county where the child resides may need to initiate the Investigative Assessment by seeing the child and parent.

In all situations, **the county where the child is located at the time of the report** has ultimate responsibility for making an **initial** assessment of risk and ensuring the safety of the child or children. Collaborative and cooperative efforts are vital whenever more than one agency is involved. These efforts are even more critical in a dual county Investigative Assessment involving child care. Two or more county departments, the DCD, and sometimes the district attorney and/or SBI are involved simultaneously. It is extremely important that all agencies involved coordinate their efforts without inhibiting any other agency from their responsibilities in the matter. Close communication throughout the Investigative Assessment is imperative. For further information on Jurisdiction in Child Welfare, see Children's Services Manual, Volume I, [Chapter V](#).

## J. Post-Investigative Assessment Procedures

- 1.) When a thorough Investigative Assessment is complete, the DSS **must** conduct a verbal review of the findings with the administrator of the child care setting. When the case decision is to substantiate abuse, neglect, or dependency, the DSS will provide recommendations for prevention of further abuse, neglect, or dependency in the child care facility to the administrator. The DSS shall subsequently confirm the findings and recommendations in writing. ([N.C.A.C. 10A 70A.0106 \(k\)](#))
- 2.) When a thorough Investigative Assessment is complete, the county must inform any parent or legal custodian of the victim child or children of the case decision. ([N.C.A.C. 10A 70A.0106 \(k\)](#)) The county shall also communicate that DSS shall no longer be involved with the child or children on a non-voluntary basis.
- 3.) At the conclusion of the Investigative Assessment, county DSS must provide a written report to the DCD. (See Section II.D. above for details.) The DSS must submit this report within seven (7) business days because administrative action is often dependent on this information. See [Attachment A](#) for contact information.
- 4.) Notify the alleged perpetrator, verbally whenever possible, of the case decision.
- 5.) Submit a completed DSS-5104 to the Central Registry/Responsible Individuals List. The Department of Health and Human Services is required to establish a list of individuals responsible for the abuse or serious neglect of a juvenile, and to establish a process for expunction from that list. See Children's Services Manual, Volume I, [Section 1427](#) for further information.
- 6.) Document actions taken and the basis for decision-making in the case record and file all required reports. DSS should maintain a separate case record or a separate section in a family record on children reportedly abused or neglected. ([N.C.A.C. 10A 70A.0112 \(a\)](#)) It is not appropriate to file any child specific material in the case record for the child care facility. The case record in the child's or family's name should contain all of the following:
  - (a.) A copy of the DSS-5104 (Central Registry/Responsible Individuals List form);
  - (b.) Case dictation;
  - (c.) A copy of the Case Decision Summary to the DCD;
  - (d.) A copy of the Case Decision Summary to the SBI in cases involving allegations of child sexual abuse;
  - (e.) A copy of written reports to the District Attorney if there is evidence of abuse; and
  - (f.) A copy of written notices to parents, custodians, administrators, perpetrators or documentation if verbal notices were given.

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**Note: CPS involvement is complete with closure of the case. The DSS does not have an ongoing role in services to child care facilities beyond completion of the Investigative Assessment. Responsibility for continued assistance to a child care facility rests with the Division of Child Development. If children or their families request other services as a result of the maltreatment they experienced in a child care facility, the DSS may provide services on a voluntary basis.**

#### **IV. THE ROLE OF THE CHILD ABUSE/NEGLECT UNIT, DIVISION OF CHILD DEVELOPMENT**

In 1985 the North Carolina General Assembly authorized the establishment of the Child Abuse and Neglect Unit within the Child Care Section, Division of Facility Services. The purpose of this special unit was to investigate reports of abuse and neglect in child care facilities. In 1993 the Child Care Section became the Division of Child Development. An Investigative Assessment conducted by the Child Abuse and Neglect Unit focuses on the functioning of the child care facility. An Investigative Assessment conducted by the DSS focuses on the victim child. Investigative Assessments conducted by the two agencies are concurrent and cooperative. It is not appropriate to request the DCD staff to delay their legally mandated visit because the DSS or law enforcement Investigative Assessments are incomplete.

The Investigative Assessment conducted by the DCD will determine:

- If abuse, neglect, or dependency occurred in the child care facility;
- Whether the administrator caused, had knowledge of, or after exercising reasonable care and diligence, should have had knowledge of the abuse, neglect, or dependency;
- The identity of the perpetrator(s) involved in the abuse, neglect, or dependency incident;
- The extent of violations of child care regulations and whether these violations contributed to the abuse, neglect, or dependency; and
- The type of administrative action needed and corrective action plan in the child care facility.

The law mandates that the DCD conduct an unannounced site visit to investigate allegations of abuse, neglect, or dependency in a child care facility within seven (7) calendar days after the Division receives the report. When circumstances warrant additional unannounced visits, the second visit must be conducted within one month of the first visit. ([N.C.G.S. § 110-105](#)) Certain types of administrative action taken against child care administrators require additional unannounced monitoring visits after the Investigative Assessment is completed.

The DCD is solely responsible for investigating reports of abuse and neglect in homes that meet the definition of non-licensed child care facilities. They will submit a report of

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their findings to the county DSS. The DSS will maintain these findings in a report file maintained by the agency's child care coordinator.

**V. CONCLUSION**

The requirement that the Departments of Social Services complete Investigative Assessments in child care facilities is unique. Under current North Carolina law, these are the only part-time non-relative caretaker relationships subject to Investigative Assessment. These Investigative Assessments are complex due to the number of different agencies and individuals involved. This section has outlined the activities and responsibilities involved in such an Investigative Assessment in an effort to clarify policy and provide guidance.

There are an ever-growing number of children in child care facilities. Parents usually place their children in child care in order to work or to go to school. They trust that their children are safe and will receive proper care in the child care facility when they, themselves, cannot be at home with them. It is a formidable responsibility for Departments of Social Services to step in when there is reason to believe that a child or children have been abused, neglected, or dependent in a child care facility. Care and concern should be offered to parents and children during an Investigative Assessment. The DSS should make every effort possible to protect children and to conduct an Investigative Assessment in such a way as to cause the least amount of disruption to families and child care facilities.