

Investigating Child Abuse & Neglect



FEBRUARY 2014
DCF FAMILY SERVICES

Relevant Documents



- 33 VSA Chapter 49
- Promulgated Rules:
 - [B09-01 - Child Protection Registry](#)
 - [B09-02 - Administrative Review Process](#)
 - [B09-03 - Maintenance and Access to DCF Family Services Investigation, Assessment and Administrative Review Records](#)
 - [B09-04 - Response to Child Abuse and Neglect](#)
- 2012 Child Protection Report
 - http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/2012_Child_Protection_Report.pdf

Family Services Policy



50	<u>Child Abuse and Neglect: Definitions</u>	4/11/2011
51	<u>Screening Reports of Child Abuse and Neglect</u>	8/22/2011
52	<u>Child Safety Interventions: Investigations & Assessments</u>	7/29/13
53	<u>Investigating Reports of Inadequate Health Care of Infants with Disabilities</u>	12/01/06
54	<u>Investigating Reports of Child Abuse or Neglect in Regulated Facilities</u>	1/08/99
56	<u>Substantiating Child Abuse and Neglect</u>	7/1/09

Definitions: 33 VSA Chapter 49



- An "abused or neglected child" means a child whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare. An "abused or neglected child" also means a child who is sexually abused or at substantial risk of sexual abuse by any person.

Definitions: 33 VSA Chapter 49



“Harm” can occur by:

- (A) Physical injury or emotional maltreatment;
- (B) Failure to supply the child with adequate food, clothing, shelter, or health care. For the purposes of this subchapter, "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law. Notwithstanding that a child might be found to be without proper parental care under chapter 55 of Title 33, a parent or other person responsible for a child's care legitimately practicing his or her religious beliefs who thereby does not provide specified medical treatment for a child shall not be considered neglectful for that reason alone; or
- (C) Abandonment of the child.

Definitions: 33 VSA Chapter 49



- "Risk of harm" means a significant danger that a child will suffer serious harm other than by accidental means, which harm would be likely to cause physical injury, neglect, emotional maltreatment or sexual abuse.

Definitions: 33 VSA Chapter 49



- "A person responsible for a child's welfare" includes the child's parent; guardian; foster parent; any other adult residing in the child's home who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person.

Definitions: 33 VSA Chapter 49



- "Physical injury" means death, or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means.
- "Emotional maltreatment" means a pattern of malicious behavior which results in impaired psychological growth and development.

Definitions: 33 VSA Chapter 49



- Sexual abuse" consists of any act or acts by any person involving sexual molestation or exploitation of a child including but not limited to incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts a sexual conduct, sexual excitement or sadomasochistic abuse involving a child.

Child Abuse and Neglect Intake – Central Function



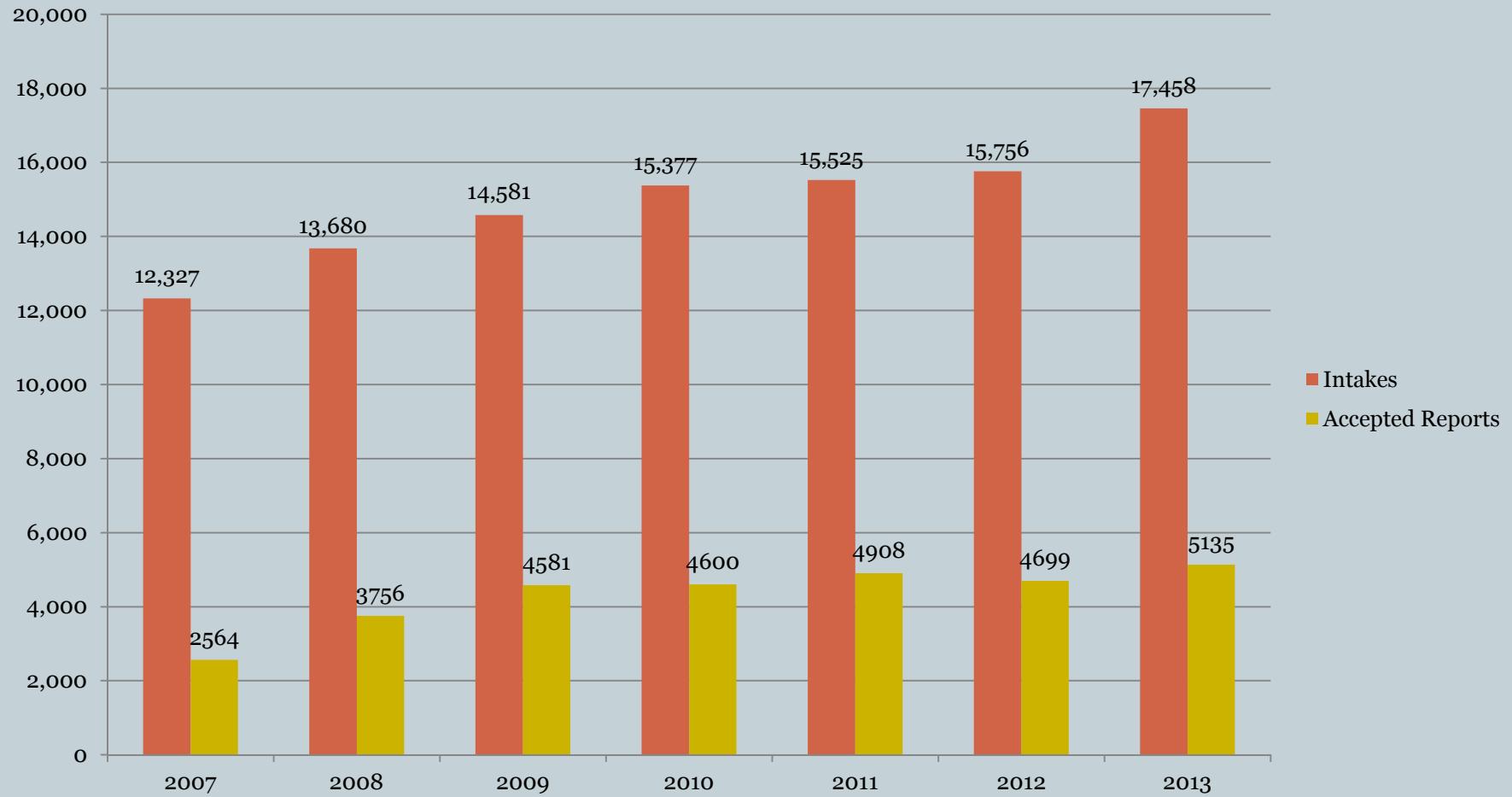
- Single toll-free number used 24/7.
- Social workers interact with callers and document intakes in an automated form
- CIU supervisors make report acceptance and track assignment decisions.
- All unaccepted reports get 2nd review at the district.

Decision Point: Is this a valid allegation?



- Decision made by Centralized Intake Supervisor.
- A report is considered valid when the division suspects that:
 1. the person responsible for the child's welfare has harmed or is harming the child by :
 - a. physical injury;
 - b. neglect;
 - c. medical neglect;
 - d. emotional maltreatment; and/or.
 - e. abandonment of the child.
 2. The person responsible for the child's welfare has, by acts or omissions, placed the child at significant risk of serious physical harm.
 3. Any person who, by acts or omissions, placed the child at significant risk of sexual abuse.
 4. Any person has sexually abused a child.

In 2013, 29% of Intakes Were Judged to be Valid Allegations



Decision Point: What Type of Intervention?



- Chapter 49 Investigation - Required for “substantial child maltreatment, defined as:
 - ✦ Sexual abuse by an adult;
 - ✦ Abandonment;
 - ✦ Child fatality;
 - ✦ Malicious punishment; or
 - ✦ Serious physical injury
- Chapter 49 Assessment – All other valid allegations. The decision to conduct an assessment shall include consideration of the following factors:
 - (1) the nature of the conduct and the extent of the child's injury, if any;
 - (2) the accused person's prior history of child abuse or neglect, or lack thereof; and
 - (3) the accused person's willingness or lack thereof to accept responsibility for the conduct and cooperate in remediation.
- CHINS(B) assessment – Focuses on whether the child is a child in need of care and supervision (CHINS) in that he or she is without proper parental care.

Accepted Reports Detail



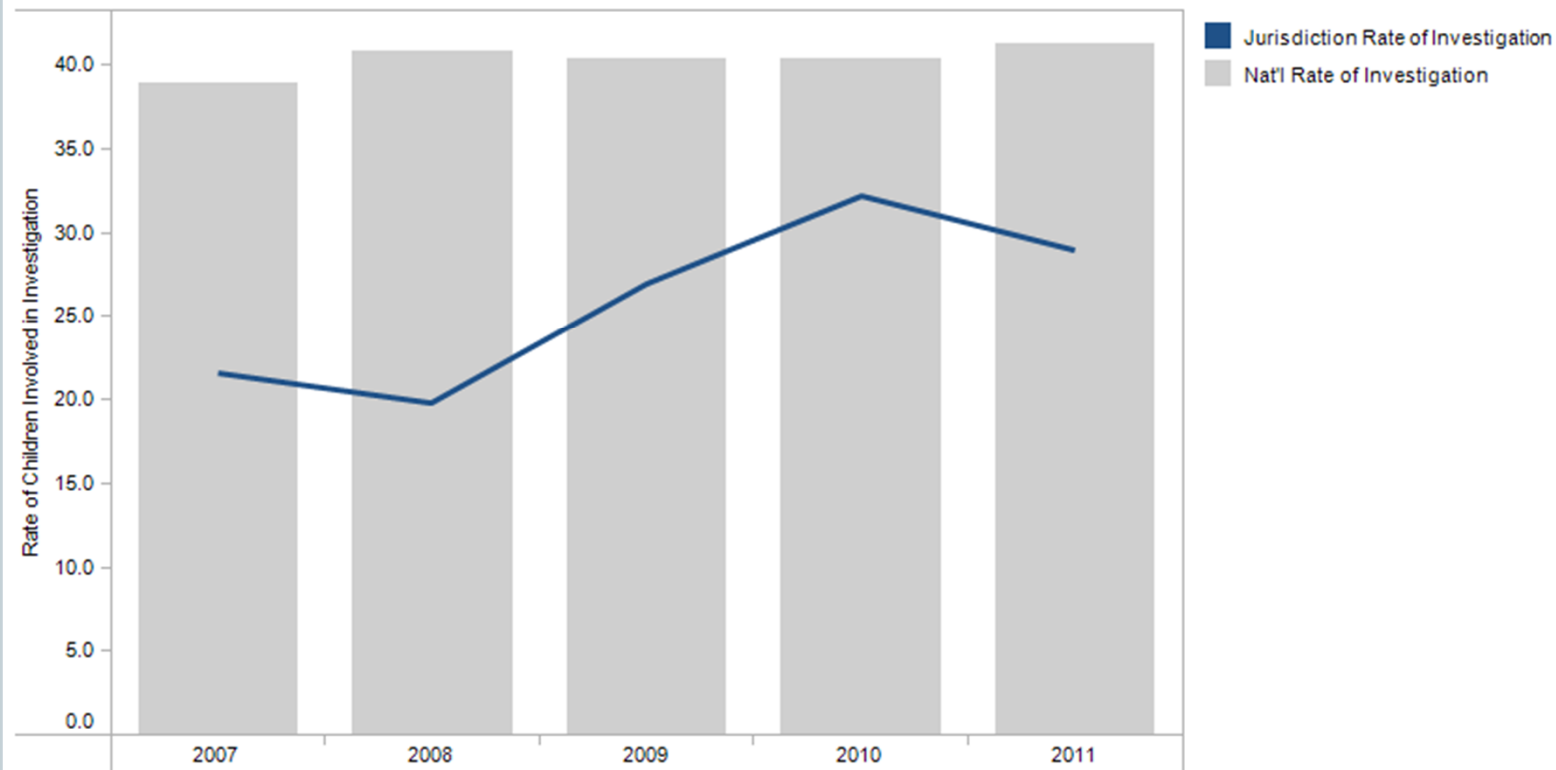
How Does Vermont Compare to the Nation? (Chapter 49 Assessments/Investigations only)



Vermont:

Rate of Children Involved in an Investigation

(unique count of children investigated per 1,000 children in child population)



Data source: NCANDS

Safety is the First Priority in Both Tracks



- The same safety assessment tool is used to inform decisions about immediate safety concerns.
 - The same options, including seeking a CHINS petition, are available.
- The same risk assessment tool is used to inform the decision about the need for ongoing services to the family.
 - Families are referred to needed services in either track.
- A family may received ongoing services after either intervention. No substantiation is required.

Statutorily Required Steps for Investigation



- Child must be interviewed/observed within 72 hours.
- May be w/o parental permission, but parent must be informed soon after.
- Other requirements:
 - Caretaker interview
 - Alleged Perpetrator interview
 - Visit the home
 - Visit the site of the alleged abuse.

Statute requires that division shall, to the extent reasonable, determine:



- The nature, extent and cause of the abuse or neglect.
- The identity of the person responsible for the abuse or neglect.
- The names and conditions of any other children living in the same home environment.
- The immediate and long term risk to each child if that child remains in the existing home environment.
- The environment and the relationship of any children in the home to the person responsible for the reported abuse or neglect.

Decision Point: Is the Child Safe?



- The first priority of the social worker is to assess child safety:
 - Is the child safe now?
 - If not, what needs to be done to promote safety?
 - Is out of home placement necessary?
 - If the child must leave home, is a familiar person available to provide short-term care?
 - Is DCF custody a necessary element to promote safety?
- The **Assessment of Danger and Safety** is a tool for the documentation of the safety assessment and the safety plan.

Decision point: Substantiation



- "Substantiated report" means that the commissioner or the commissioner's designee has determined after investigation that a report is based upon accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected.

According to Rule: Substantiation Decision



- Shall be based on accurate and reliable information.
- Shall be based on pertinent information gathered.
- Hearsay information from a reliable source may be considered.
- All information shall be weighed with other supporting or conflicting data.
- A statement or disclosure from the child that he or she was abused or neglected is not required.



- In order to substantiate an allegation of child abuse or neglect, the division must determine that a reasonable person would conclude that:
 - The child is an abused or neglected child as defined in 33 V. S. A. 4912(2); and,
 - unless the substantiated maltreatment is sexual abuse, a person responsible the child's welfare is the perpetrator.

2012 Substantiations



	#	% of total substantiations
Physical Abuse	119	17.5%
Sexual Abuse	304	44.7%
Risk of Sexual Abuse	74	10.9%
Risk of Harm	153	22.5%
Emotion Maltx/Neglect	30	4.4%



The following content on substantiation
decisions is from Rule.

Substantiating Abandonment



- The person responsible for the child's welfare has ceased to provide for the needs of the child and has not made arrangements for the child's care.
- The situation must exist beyond a reasonable time, based on the child's developmental level.

Substantiating Emotional Maltreatment



- A pattern of behavior is present. The pattern does not have to be of the same behavior for the purpose of substantiating the report;
- The behavior is malicious, that is, cruel behavior intended to induce suffering, including torturing which does not result in physical harm; and,
- The behavior resulted in impaired psychological growth and development. In making this last decision, the worker may seek the advice of a medical, mental health or other professional.

Substantiating Neglect



- **a pattern of failing to provide or maintain :**
 - Adequate nutritious food needed to maintain age-appropriate physical and social activities and prevent nutritional deficiencies, illness, or impairment of physical and mental functioning. A medical and/or nutritional practitioner must support this finding.
 - Clothing and footwear appropriate to the environmental conditions;
 - Adequate shelter and protection from weather and hazards in the dwelling or on the property; and/or
 - Adequate medical, dental, or mental health care for a health problem which, in the opinion of a medical or mental health professional, has or may result in risk of physical or mental limitation or incapacity if untreated.



- Steps taken to reduce or eliminate the neglect shall be taken into consideration.
- If solely the result of caretaker's lack of financial means, neglect is not substantiated.
- Substantiation is not be based solely on an individual's disability.
- If a caretaker is legitimately practicing his or her religious beliefs by not providing specific medical treatment, neglect is not substantiated for that reason alone.

Substantiating Physical Abuse (119 in 2012)



- Physical injury of the child, by other than accidental means, causing:
 - death; or,
 - permanent or temporary disfigurement or impairment of any bodily organ or function.
- Visible bruises are not required in order to substantiate.
- Physical injury is abuse when the injury occurred non-accidentally, or there was intent to cause harm, or a reasonable person could have predicted the harm.

Substantiating Sexual Abuse (304 in 2012)



- Any person can be substantiated when a reasonable person would believe that one of the following has occurred: sexual molestation or exploitation of a child including, but not limited to, incest, prostitution, rape, sodomy, any lewd and lascivious conduct involving a child or the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement or sadomasochistic abuse involving a child.



- **Sexual abuse by a person age 18 or older can be substantiated if:**
 - The contact was incestuous;
 - the perpetrator was entrusted to care for the child by the authority of the law or the child is the perpetrator's child, grandchild, foster child, adopted child or stepchild ;
 - the child is being exploited, or prostitution is involved;
 - a significant difference in age, size or developmental level is used to victimize the child; and/or
 - force, threat, or coercion is involved; or the victim did not have the ability or opportunity to consent.



- **Sexual abuse by one child on another child is substantiated when:**
 - The victim is being exploited, or prostitution is involved;
 - force, coercion or threat is used to sexually victimize the child, or the victim did not have the ability or opportunity to consent; and/or,
 - a significant difference in age, size or developmental level is used to sexually victimize the child.

Substantiating Risk of Harm (153 in 2012)



- A single, egregious act that resulted in significant risk that the child could have been seriously physically injured.
- Caregiver:
 - ✦ Was absent and did not arrange for the child to be supervised in a manner appropriate to the child's age and circumstances.
 - ✦ Due to drug or alcohol use, did not provide age appropriate supervision for the child.
 - ✦ Did not appropriately supervise the child in a situation in which drugs, alcohol or drug paraphernalia are accessible to the child.
 - ✦ Is incapable, due to a mental or physical illness/condition or developmental disability, of providing age-appropriate supervision, and no other person is available to assist. The department recognizes that persons with a disability can be successful parents.

Substantiating Risk of Sexual Abuse (74 in 2012)



- The alleged perpetrator's history of sexual abuse or offenses, the nature of the abuse or offense and the history of treatment indicate that he or she is still a substantial risk to the alleged victim; and/or,
- The person responsible for the child's welfare is unable or unwilling to protect the child from harm.
 - The perpetrator is considered to be the person whose behavior or history poses a risk to the child.
 - However, the person responsible for the child's welfare may also be substantiated as a perpetrator of risk of sexual abuse if through his or her acts or omissions he or she knowingly places the child at substantial risk of sexual abuse.

Articulating Rationale for Division's Determination



- The Division's determination is made *jointly* by the investigating worker and his or her supervisor.
 - When the worker and the supervisor disagree, the supervisor will make the decision.
 - Upon review, the district director or other person in the supervisor's chain of command may change the supervisor's case determination.
- The rationale for the case determination will be outlined in the case determination tool.

Decision Point: Child Protection Levels



- **The supervisor makes the level determination.**
 - The Child Protection Registry Level Determination Form (FSD-503) guides and documents the decision.
 - The levels reflect on an identification of risk of future harm to children and apply to substantiated perpetrators of all ages.
- **Level 1**
 - involves substantial child endangerment (see definition);
 - there are court adjudications for related conduct; or
 - there is a high risk of future harm based on the assessment of risk.

Notifying the Person to be Substantiated



- In all cases, the perpetrator must be notified of the outcome and of appeal rights, when applicable.
 - The person alleged to have abused or neglected the child is informed verbally, whenever possible, and by letters.
 - When the alleged perpetrator is under age 18, notification is made in care of the parents or in care of the social worker if the perpetrator is in custody.
- Also informs when eligible for expungement review:
 - Level 1, Adult Perpetrator – 7 years
 - Level 2, Adult Perpetrator – 3 years
 - Perpetrator under Age 18, Level 1 or 2 – 3 years

Decision Point: Offering Ongoing Services



- The ***Family Risk Assessment Tool*** estimates the probability of future maltreatment in the household.
 - The higher the risk, the more important it is to engage the family in identifying supports and services to prevent harm.
- A case is opened for ongoing services if:
 - The family is at high or very high risk as indicated by the final risk level on the Family Risk Assessment; or
 - The family has a danger issue that could not be resolved during the child safety intervention, **regardless of risk level**; or
 - The family requires FSD involvement to ensure engagement with services or other support or monitoring.

Opportunity for Independent Review



- Persons whose name the department intends to place on the child protection registry are entitled to seek an administrative review by an independent reviewer before their name is placed on the registry.
- The person must notify the department within 14 days of the date the department mailed notice of the right to review.
- If no administrative review is requested, the department's decision in the case is final.

Independent Review - 2



- At least ten days prior to the administrative review conference, the department shall provide to the grievant:
 - a copy of the redacted investigation file
 - information about conference procedures, including how the grievant may submit documents and other information to the reviewer.
- The administrative review conference is held in person, unless the grievant requests that it be held by teleconference.

Independent Review - 3



- **After the conference, the independent reviewer may:**
 - Reject or overturn the department's substantiation determination;
 - Accept the department's substantiation; or
 - Place the substantiation determination on hold and direct the department to further investigate the case based upon recommendations of the reviewer.
- **The reviewer, not the dept., makes the decision.**
 - In exceptional circumstances, the Commissioner, in his or her sole and non-delegable discretion, may reconsider any decision made by a reviewer.

Appeals to Human Services Board



- If the reviewer upholds the substantiation, the person's name is entered into the Child Protection Registry.
- The person may appeal the decision to the Human Services Board.

How Does Substantiation Impact the Individual?



- **Where it does not make a difference:**
 - Decisions to remove a child from the home;
 - Decisions to refer to needed services;
 - Decisions about opening a case for ongoing family support services;
- **Where it does make a difference:**
 - The registry is checked in the process of licensing foster parents and residential care; licensing/approving child care providers, and for employment purposes when the employee will provide “care, custody, treatment, transportation of children or vulnerable adults. Includes volunteers.

Standards of Proof in for Substantiation (2003)



Standard	Number of States
Preponderance of Evidence	21
Credible Evidence	9
Reasonable Person*	8
Probably Cause	1
Material Evidence	1
Clear and Convincing Evidence	1

* Used by both child protection and adult protection in Vermont

Supplementary Materials



National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy

U.S. Department of Health and Human Services
Office of the Assistant Secretary for Planning and Evaluation
and

Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau (April 2003)

<http://aspe.hhs.gov/hsp/cps-status03/state-policy03/index.htm>

Chapter 4: Investigation



- [Abuse and Neglect Definitions](#)
- [Disposition Categories and Definitions](#)
- [Purpose of Investigation](#)
- [Joint Investigations](#)
- [Priority Standards for Beginning an Investigation](#)
- [Requirements Regarding Who is Investigated](#)
- [Assessments](#)
- [Contacts and Timeframe Requirements](#)
- [Results of the Investigation](#)
- [Decisionmaking](#)
- [Notification Requirements](#)
- [Central Registry and Due Process](#)
- [Service Provision During Investigation](#)