

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH**  
**OFFICE OF JUVENILE SYSTEM OVERSIGHT**

**Report of a Complaint Investigation**  
**DHS Office of Child Care and DHS Child Welfare Services**

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## **Introduction**

On May 22, 2007, the Office of Juvenile System Oversight (OJSO) began a complaint investigation to review the Department of Human Services' (DHS) involvement with a child care provider (Vicki Chiles), prior to the death of a child in the provider's Large Child Care Home. On May 17, 2007, a two-year-old boy was found by DHS staff members at the child care home nearly dead after being bound with masking tape covering his mouth and hands. He was admitted to a hospital where he later died. The provider was charged with First Degree Murder on May 24, 2007.

Not all of the DHS Family Child Care Home Monitoring Reports were included in this complaint investigation report; however, all noncompliance issues noted on the reports that documented safety and health concerns of the children are included. The focus of this complaint investigation report is the response of the DHS Child Welfare Division and the DHS Child Care Licensing Division as a result of their contacts with the provider. This includes the actions taken after the provider admitted to physical injury of a child in her care by repeatedly hitting an eight-year-old boy with a flyswatter on April 10, 2007. The DHS allowed the Large Child Care Home to remain in operation after documenting serious noncompliance with licensing requirements and six child welfare referrals including the referral documenting physical injury of a child by the provider on April 10, 2007. The children will be referenced numerically for each referral and may not be the same child referred to in a previous report.

## **Interviews Conducted**

- Licensing staff assigned to the home from November 2005 to present
- Licensing supervisor
- Regional Programs Manager
- Assistant Licensing Coordinator

- Licensing Coordinator
- Child Welfare worker assigned to the Licensing unit
- Child Welfare supervisor
- Tulsa County Assistant District Attorney assigned to prosecute Vicki Chiles on charges of Felony Child Abuse and First Degree Murder
- Program Manager, DHS Child Care Subsidy

## **Documents Reviewed**

- Vicki Chiles Child Welfare File
- Entire Noah's Ark Child Care Home Licensing file
- All Child Welfare contacts with Vicki Chiles documented on the KIDS system
- Various email correspondence of Licensing staff and Child Welfare staff

## **Findings**

### **December 3, 2002**

#### **Application**

On December 2, 2003, Vicki Chiles completed a DHS Application For License-Family Child Care Home and Large Child Care Home. She listed one male substitute/assistant caregiver for approval.

### **December 13, 2002**

#### **DHS Family Child Care Home Monitoring Visit and Report**

A DHS Family Child Care Home Licensing staff member conducted an initial family child care home visit.

The DHS Family Child Care Home Monitoring Report documented Vicki Chiles needed to submit the OSBI background checks completed for her and her substitute/assistant caretaker.

### **January 1, 2003**

#### **Six Month Permit**

On January 2, 2003, the DHS Family Child Care Home Licensing Division issued Vicki Chiles a Six Month Permit effective January 1, 2003, to open Noah's Ark Child Care Home with the maximum number of seven children to be served. The DHS Family Child Care Home Licensing records documented that a Sex Offender Registry check had not been completed on Vicki Chiles until after the home was operational. The Sex Offender Registry information was completed on January 22, 2003.

### **May 3, 2003**

#### **License**

Vicki Chiles was issued a License for a Family Child Care Home effective May 1, 2003, with the maximum number of seven children to be served.

**August 29, 2003**

**DHS Family Child Care Home Monitoring Visit and Report**

A DHS Family Child Care Home Licensing staff member conducted a periodic family child care home visit. The Monitoring Report documented Vicki Chiles to be in noncompliance as a result of lacking adequate numbers of caregivers present to provide proper supervision, as well as failure to keep the premises free of hazards. On the date of the visit, Vicki Chiles was observed returning home and walking on the sidewalk with several children.

Upon entering the home with Vicki Chiles, the family child care home licensing staff member observed a child lying on a mat located in the living room and a family member of Ms. Chiles was asleep in a bedroom. The staff member also observed a pair of scissors on the kitchen counter within reach of the children in the home. Vicki Chiles stated the family member was not typically in the home and she supervised all children left in her care, noting this exception. She also stated, "I'll put the scissors in the drawer."

**February 3, 2004**

**DHS Family Child Care Home Monitoring Visit Report**

**DHS Periodic Certification Review – Home Star Certification**

A DHS Family Child Care Home Licensing staff member conducted a periodic family child care home visit and a periodic certification review – home star certification visit. The Monitoring Report documented Vicki Chiles to be in noncompliance for failure to keep the premises free of hazards because she had again left a pair of scissors on the kitchen counter within reach of the children in the home. This incident was discussed at the time of the visit and Vicki Chiles agreed to maintain the scissors in a can on top of the refrigerator.

The DHS Periodic Certification Review – Home Star Certification form documented the child care home's certification level of one star plus with the certification expiration date of August 1, 2004. The form did not clearly document whether there were any "numerous, repeated or serious non-compliance observed at this visit." However, the form documented the discussion with Vicki Chiles regarding the safety hazard of the scissors and her review of the DHS Family Child Care Home policy for repeated noncompliance.

On March 4, 2004, the DHS Child Care Licensing unit contacted Vicki Chiles via mail notifying her this was the second time the scissors had been left accessible to the children and she was at risk of the certification level of her child care home being reduced if documentation of noncompliance of this type happened three times in a twelve-month period.

**April 13, 2004**

**First Referral to DHS Child Welfare**

The DHS Child Welfare received a referral regarding the Noah's Ark Child Care Home on April 13, 2004. The reporter alleged the children at the home were not being

supervised adequately, resulting in two five-year-old children being involved in inappropriate sexual play.

Documentation in the child welfare KIDS system indicated the referral was accepted as a Priority I with an investigation to be initiated within twenty-four hours. KIDS system documented a failed attempt to contact Child 1 on April 14, 2004. A successful attempt was made and

Child 1 was contacted on April 16, 2004; however, Child 1 would not speak to the Child Welfare Investigative Worker. On April 15, 2004, the reporter notified the worker that the name of

Child 2 was not correct provided the correct name. Child 2 was contacted on April 30, 2004, and denied sexual play had occurred. Vicki Chiles was contacted on April 15 and on April 28, 2004. She denied knowledge of the incident, as well as the allegation of lack of supervision of the children in her care. Due to the lack of information obtained from the children involved, the worker ruled the investigation as Services Recommended.

According to DHS policy, OAC 340:75-3-10.2, the, "Services Recommended finding is made when the report is determined to be unfounded or there is insufficient information to fully determine whether child abuse or neglect has occurred, and the child and family may benefit from prevention and intervention related services. Services may be provided either by OKDHS or other community resources or providers."

#### **May 27, 2004**

##### **DHS Family Child Care Home Monitoring Visit and Report DHS Periodic Certification Review – Home Star Certification**

A licensing staff member conducted a periodic family child care home visit and a periodic certification review – home star certification visit.

The monitoring report documented Vicki Chiles to be in noncompliance due to failure to maintain operable smoke detectors in rooms used by children for playing or sleeping as she did not have a smoke detector located in the living room or the first bedroom of her home. She stated she would purchase and install the smoke detectors on the date of the visit.

The DHS Periodic Certification Review – Home Star Certification form documented the child care home's certification level of one star plus with the certification expiration date of August 1, 2004. The worker checked a box on the form that indicated there was no "numerous, repeated or serious noncompliance observed at this visit."

#### **June 9, 2004**

##### **Request to be a Large Family Child Care Home**

Vicki Chiles contacted the DHS Family Child Care Home Licensing Division and requested to be approved as a Large Family Child Care Home.

## **July 19, 2004**

### **License**

Vicki Chiles was issued a License as a Large Family Child Care Home with the effective date of July 19, 2004, and the maximum number of twelve children to be served.

On July 5, 2007, the Assistant Licensing Coordinator verified to the OJSO that Vicki Chiles met the Large Family Child Care Home square footage requirement of thirty-five square feet per child. The rooms utilized for child care by Vicki Chiles totaled seven-hundred and seventeen square feet.

## **September 9, 2004**

### **Second Referral to DHS Child Welfare**

The DHS Child Welfare received a second referral regarding the Noah's Ark Child Care Home on September 9, 2004, alleging a child care provider had physically abused two children, ages six and two (Child 1 and Child 2 respectfully).

Documentation in the KIDS system indicated the referral was accepted as a Priority I with the investigation to be initiated within twenty-four hours. Both children were contacted September 10, 2004. The Child Welfare investigator observed a small scratch approximately two inches in length on the left side of the head of Child 1. The child stated, "Vicki did it."

Child 1 also reported Vicki Chiles had kicked the child in the back in the hallway of Ms. Chiles's home and slapped the child in the head while in the kitchen of the home. During the interview Child 1 described verbal abuse and intimidation by Vicki Chiles. The child further reported being spanked on the leg by an assistant of Vicki Chiles. Child 2 reported pain during diaper changes. Vicki Chiles was contacted September 15, 2004. She admitted Child 2 had complained during diaper changes; however, she denied any intentional injury and stated she may have wiped the child too hard. Vicki Chiles denied any physical or verbal abuse as well as intimidation tactics. She reported the scratch observed on Child 1 was a result of Child 2 throwing a toy that hit Child 1 on the head.

On September 16, 2004, Vicki Chiles was contacted by a licensing staff member who requested, pursuant to the request of the DHS Regional Programs Manager, she voluntary cease care of children until the completion of the child welfare investigation.

Vicki Chiles refused the request stating, "I intend to provide service to my parents and children to the best of my ability." The child care assistant accused of physical abuse by Child II was contacted September 22, 2004. The assistant denied spanking the child, as well as denied witnessing Vicki Chiles spanking children in her care. The investigation was ruled Services Recommended. According to the worker there was not enough evidence to confirm the allegations reported in the referral; however, the worker noted concern due to the specific and detailed information provided by the children. The allegations and results of the investigation were referred to Child Care Licensing for

review. The Division of Child Care Licensing reviewed the allegations and documented the findings as unsubstantiated.

#### **October 18, 2004**

##### **DHS Family Child Care Home Monitoring Visit and Report**

The monitoring report documented Vicki Chiles to be in noncompliance for failure to maintain complete records regarding the children attending her child care home. Several of the records did not contain a current immunization record.

#### **November 22, 2004**

##### **DHS Licensing Complaint**

On November 22, 2004, the DHS Licensing unit received a Licensing Complaint Report that alleged a child was left at the home unsupervised while Vicki Chiles escorted the school-aged children to school. On December 7, 2004, an investigation by a DHS licensing staff member was completed. The Licensing Services Supplemental Information sheet documented Vicki Chiles's denial of the allegation and the Licensing Complaint Summary sheet documented the findings as unsubstantiated.

The complaint should have been referred to DHS Child Welfare for possible investigation. The risk of harm and danger rises above the level of a general lack of supervision when a young child is left in a home alone for a period of time and unsupervised.

DHS policy, OAC 340: 110-1-9.2(3)(A)(B) Instructions to Staff in part states, "Complaints referred to CW include those that allege harm or threatened harm to a child's safety that occur through non-accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm. If licensing staff is unsure whether a complaint meets the criteria for investigation by CPS, the complaint is referred to CW and the decision to accept the referral is made by CW staff."

#### **December 7, 2004**

##### **DHS Family Child Care Home Monitoring Report**

##### **DHS Periodic Certification Review - Home Star Certification**

A licensing staff member conducted a family child care home complaint visit, as well as a DHS Periodic Certification Review – Home Star Certification. The complaint alleged lack of supervision because Vicki Chiles left several children in the van with the ignition on, including a toddler in the front seat. The monitoring report documented Vicki Chiles to be in noncompliance regarding transportation. Ms. Chiles admitted to leaving the children unsupervised in a running van. She loaded the children in the van and then discovered she had left her house key inside the home. She then went into the home to retrieve the key, she stated, "My plan in the future is to get the key first; then load children." She was also found to be in noncompliance again for failure to maintain operable smoke detectors in rooms used by children for playing or sleeping. This issue was corrected during the visit.

The DHS Periodic Certification Review – Home Star Certification sheet did not document a one star plus certification or a certification expiration date; however, it did document Vicki Chiles as having “numerous, repeated, or serious non-compliance” observations during the visit. It also documented that Vicki Chiles reviewed DHS policy regarding transportation and supervision of children. It further documented the discussion with Vicki Chiles regarding the noncompliance issues and how they would affect her home star certification.

### **January 6, 2005**

#### **Cherokee Nation Child Care Licensing Family Child Care Home Monitoring Visit and Report**

##### **Oklahoma District Court Public Records**

A Cherokee Nation Child Care Family Child Care Home Licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles was not in compliance with required fire and tornado drills. The last recorded fire drill was dated July 17, 2004, and the last recorded tornado drill was dated July 19, 2004. According to OAC: 110-3-86, fire and tornado drills are conducted quarterly. A record of the drills is maintained at the home.

### **February 6, 2005**

#### **Third Referral to DHS Child Welfare**

The DHS Child Welfare received a third referral regarding the Noah’s Ark Daycare Home.

The reporter stated Child 1 (six years old) said that “Ms. Vicki” had transported him/her to school. Allegedly, the van had one car seat occupied by an infant, and therefore Child 2 (one year old) remained unsupervised at the home.

Also, Child 1 alleged that on another occasion Child 2 was not buckled in the car seat and fell onto the floor of the van and started to crawl around. Child 1 notified “Ms. Vicki” of the situation and the child reported “Ms. Vicki” said, “Hush” and turned-up the radio in the van.

The reporter also alleged that Child 1 had several human bite marks, thought to be given by another child while being unsupervised at the daycare home.

Documentation in the KIDS system indicated this referral was Screened Out by Child Welfare, the reason given as “Not Child Abuse/Neglect.” The DHS Child Welfare did not conduct an investigation and documented that the information was provided to the DHS Child Care Licensing Unit. This was the second allegation of this nature against Ms. Chiles. Again, Child Welfare should have conducted an investigation. Anytime it is alleged that a one-year-old child is left unsupervised for any length of time requires a Priority I response. This type of allegation indicates the child is in imminent danger and risk of serious harm.

The OJSO conducted a records search of the Oklahoma District Court Public Records and documented Vicki Chiles was issued citations for Failure To Pay Taxes Due the State, Driving Under Suspension (the license was suspended for a previous citation for Failure to Carry Valid Car Insurance) and Failure to Carry Valid Car Insurance Verification on January 21, 2005. When questioned by the OJSO on June 14, 2007, the Assistant Licensing Coordinator stated there is no policy requirement for licensing staff to conduct a driver record check on providers after being licensed to provide child care.

### **February 7, 2005**

#### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a complaint visit and a periodic family child care home visit. The complaint visit was to address the issues identified in the referral to DHS Child Welfare received February 6, 2005. The monitoring report documented Vicki Chiles to be in noncompliance due not maintaining complete records regarding the children attending her child care home. Two of the records reviewed did not document the children were up-to-date on their immunizations. Three of the records reviewed did not contain a child information card. The report also documented she was in noncompliance due to not maintaining an approved heat source by utilizing a portable heater in the back bedroom. Vicki Chiles agreed to have the records complete and in compliance by February 11, 2005. She also agreed to keep the portable heater in the laundry room.

During the visit it was discussed that Vicki Chiles's assistant caregiver was not to be left alone supervising the children in the home, as the OSBI background check had not been completed. Ms. Chiles provided verification that her driver's license expiration date was December 2007 and her auto liability insurance had an expiration date of July 2005.

### **April 13, 2005**

#### **DHS Licensing Services Supplemental Information First Office Conference**

The DHS Licensing Services Supplemental Information sheet dated April 13, 2005, documented an office conference was conducted with Vicki Chiles, a DHS Licensing staff member and a DHS Licensing staff supervisor.

They reviewed the "numerous, repeated, serious incidents" that had occurred at the Family Child Care Home since August 29, 2003, as well as various sections of policy contained in the Requirement Book. The sheet also documented Vicki Chiles's receipt of the completed OSBI background check for the assistant caregiver. No other action was taken as a result of the conference.

### **May 27, 2005**

#### **Notification of Findings**

On May 27, 2005, the DHS Child Care Licensing unit notified Vicki Chiles via mail of the results of the licensing complaint investigation regarding the allegations of February 6, 2005. The findings were as follows:

1. Staff: substantiated (no OSBI background checks);
2. Nutrition: unsubstantiated; uncertain;
3. Transportation: unsubstantiated; uncertain;
4. Supervision: unsubstantiated; uncertain; and
5. Infant/toddler: unsubstantiated; uncertain.

She was also requested to complete a Notice to Comply regarding all staff members completing OSBI background checks prior to caring for children.

Vicki Chiles completed the Notice to Comply on June 5, 2005, and documented she would personally see that all staff members have a current OSBI on file. It was also documented, "all transportation will take place in properly insured vehicles and child booster seats. All supervision will be provided by staff only. All infants/toddlers will be within DHS ratios."

### **November 5, 2005**

#### **Fourth Referral to DHS Child Welfare**

#### **Licensing Complaint Summary**

#### **Licensing Services Supplemental Information**

On November 5, 2005, the DHS Child Welfare received a fourth referral regarding the Noah's Ark Daycare Home. The allegation was a four-year-old male child sustained injuries from being spanked by a wooden object while in the provider's care. The referral was assigned a Priority II with three days for the investigation to be initiated. On November 7, 2005, the child welfare investigator made an unsuccessful attempt to contact the alleged victim.

On November 7, 2005, the Licensing Complaint Summary sheet was completed by a child care licensing staff member. On the same date a Child Welfare investigator and a Child Care Home Licensing staff member made contact with Ms. Vicki Chiles and the substitute caretaker. Upon arrival at the home, an unidentified male was supervising the children in the home. The male was later identified as a relative of Vicki Chiles's (different from the previously reported relative). The relative contacted Ms. Chiles by telephone and she arrived at the home a short time later. Ms. Chiles reported she had submitted the required paperwork for an OSBI background check to be completed for this relative; however, the child care home licensing staff member denied receiving the paperwork. The licensing staff member received an OSBI background check on a later date. She also documented the misdemeanor convictions of this individual, who was then approved as an assistant caregiver.

During the interview, both Vicki Chiles and the assistant caregiver denied all allegations. Ms. Chiles stated she did not have a wooden object used to discipline the children in her care. According to the licensing staff supervisor, on this date Ms. Chiles stated that she was lying down because of a sinus headache and the assistant caregiver stated that Ms. Chiles was at the library. These conflicting reports were never reconciled and it continues to be unknown if Ms. Chiles was present during the incident. This issue should have been pursued by Child Welfare and the Licensing Unit. Child Welfare may

have made a finding of failure to protect or enabling child abuse against Ms. Chiles if the conflicting reports had been reconciled.

On November 8, 2005, the Licensing Services Supplemental Information sheet documented the licensing staff member's request for Vicki Chiles to voluntarily cease providing child care pending the outcome of the child welfare investigation of November 5, 2005. Vicki Chiles refused the request.

On November 8, 2005, the DHS Child Welfare investigator made contact with the alleged four-year-old victim (Child 1) identified in the referral. Child 1 reported being slapped by Vicki Chiles. The child also reported a second child (Child 2) had also been slapped by Vicki Chiles.

During the interview, the Child 1 further reported being hit with a blue stick on the hand and on the exposed bottom by an assistant caregiver. The child denied knowing where the caregiver kept the stick, but stated there was a yellow stick and blue stick in the home. The child was seen at the Justice Center on November 9, 2005, and disclosed to the medical staff the abuse of being hit with an object by the assistant caregiver. The medical staff documented four linear bruises that measured seven inches by eight inches on the child's buttocks.

Child 1 recalled being hit by Vicki Chiles on two occasions and being hit by the assistant caregiver on one occasion. Child 2 recalled being hit with the stick on multiple occasions.

It was further alleged that another child (Child 3), an infant, had been left alone in a dark room located in the back of the home, crying for an extended period of time.

On November 8, 2005, the child welfare investigator returned to the Noah's Ark Child Care Home and confronted Vicki Chiles and the assistant caregiver regarding the Child 1's disclosures. The assistant caregiver admitted to spanking the child and stated the victim's pants had fallen down while being spanked on the buttocks by the hand of the assistant caregiver. The assistant caregiver apologized for lying and stated she had never done anything like that before. Vicki Chiles and the assistant caregiver again denied slapping or hitting Child 2 or leaving Child 3 alone in a room to cry.

On November 28, 2005, Child 2 was contacted by the child welfare investigator. According to the child's mother, the child is somewhat delayed and would not respond to the investigator's questions.

A finding of Confirmed Abuse – Beating w/an Instrument was substantiated against the assistant caregiver of Vicki Chiles. Services were recommended for Vicki Chiles. This matter was referred to Child Care Licensing to address the policy violations.

## **December 5, 2005**

### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance for failure to maintain complete records regarding the children attending her child care home. Two of the records reviewed were incomplete and six of the records reviewed did not contain a current immunization record. Noncompliance was also documented with regard to equipment. A broken swimming pool and two broken walkers were observed. Noncompliance was noted regarding individual, appropriately-sized places to rest, with clean bedding for each child because one child, under the age of two, was observed sleeping on the floor and another was in a child carrier.

According to the Plan of Correction dated December 5, 2005, Vicki Chiles documented that she would have all records up-to-date and in compliance by December 9, 2005. She agreed to put the walkers and swimming pool in the trash to be picked-up on the date of visit at 3:00 p.m., and all sleeping children would be placed in a bed or cot.

## **January 19, 2006**

### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance regarding the following: one child did not have an immunization record on file; the house was not in good repair as an outlet in the taupe room had no plate cover; outside hazards were noted due to a broken wading pool with pieces scattered around the yard with some edges being sharp, an infant walker was in the yard and a playpen contained multiple tree limbs and debris; emergency procedures, because tornado drills were not current; diaper-changing, as the diaper pad had at least two rips; food storage, because the freezer thermometer read 10 degrees Fahrenheit; and electrical service, as seven uncovered outlets were observed in two rooms.

Vicki Chiles stated she would have all records up-to-date and in compliance by January 31, 2006. She would have the diaper pad covered with new material by January 26, 2006, and all other noncompliance issues would be corrected on the date of the visit.

## **January 20, 2006**

### **Notification of Findings**

#### **Second Office Conference**

On January 20, 2006, Vicki Chiles was notified via mail of the DHS Child Care Licensing findings of the complaint of November 7, 2005.

The findings were as follows:

1. Physical abuse by provider investigated by Child Welfare – is ruled: Unsubstantiated/uncertain;
2. Inappropriate behavior and guidance: spanking used by assistant caregiver – is ruled: Substantiated; and

3. Lack of Supervision: infant left in room unsupervised to cry – is ruled: Unsubstantiated/uncertain.

Also, on this date, an office conference was held with Vicki Chiles and included the DHS Regional Programs Manager, Child Care Home Licensing Supervisor and Child Care Licensing staff member. As a result of the conference, a Notice to Comply was completed. The plan of correction required Vicki Chiles to attend a class on behavior and guidance.

She agreed to enroll in a ten hour class which was scheduled to begin February 2006. The plan of correction also included a decrease in child care hours, a decrease in number of children served, the use of positive behavior and discipline and that she would provide a positive and stimulating environment for the children. She stated that she and her staff would treat the children in her care “gently and show them respect.” She also signed a statement of understanding that the assistant caregiver, who was found to have spanked a child must never be in the home during child care hours. Furthermore, she agreed to conduct a tornado drill upon returning home from the conference, as this was a noncompliance issue that was not corrected after the January 19, 2006 visit.

During the conference, Vicki Chiles was notified of numerous concerns regarding her child care home and the quality of service being provided. The concerns included inappropriate discipline and the assistant caregiver having access to the children in the home. It was discussed that DHS Child Care Home Licensing would recommend to revoke Vicki Chiles’s license if another allegation of abuse was made. It was also suggested Vicki Chiles might not be suited for child care.

The OJSO conducted interviews on June 13 and 14, 2007, with the licensing staff who attended the office conference. It was reported that the area of noncompliance that Vicki Chiles was required to correct and maintain was that the assistant caregiver, who spanked a child, was not to be on the premises during child care hours. All other items noted in the plan of correction, including reducing the child care hours and reducing the number of children served, were items where compliance would be voluntary. According to the Regional Programs Manager, at the time Vicki Chiles submitted the Notice to Comply, she was “bluffed” into believing she had to comply with all items noted on the corrective action plan..

### **January 23, 2006**

#### **Fifth Referral to DHS Child Welfare**

On January 23, 2006, the DHS Child Welfare received a fifth referral regarding the Noah’s Ark Daycare Home. A four-year-old female child alleged that a woman at the day care stuck a yellow object into her vagina. Documentation in the KIDS system indicated the referral was assigned a Priority I with the investigation to be initiated within twenty-four hours. The OJSO documented that contact with the alleged victim did not occur until January 25, 2006. DHS policy, OAC 340: 75-3-7.1 (d) states, “A Priority I report indicates the child is in imminent danger of serious physical injury. Allegations of abuse and neglect may be severe and conditions extreme. The situation is responded

to immediately, but no later than 24 hour after receipt of the report.” It was reported, while taking a bath the child stated her “pee pee hurt.” She then disclosed, “The lady with the braids” put the “yellow thingy up here” and pointed to her vagina. She also said, “Ms. Vicki” told her “it was a secret.” It was further reported the alleged victim was transported to the hospital for an examination on January 23, 2006.

The results of the forensic examination were normal and the alleged victim did not disclose any abuse. It was noted the child was said to be a special needs child and was mentally delayed at a two-year-old level of functioning. According to the investigation documentation, the child appeared to be very disturbed when asked what happened to her at the day care.

The OJSO documented contact with the alleged perpetrator, Vicki Chiles, did not occur until January 26, 2006, when an unannounced visit was made to the day care home. DHS policy, OAC 340: 110-1-9.2(e) (1) states, “Risk level I complaints indicate a child is in imminent danger of serious physical injury.

The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by the licensing staff unless awaiting investigation by CW or law enforcement. This does not include weekends and holidays if the facility is closed.”

When the child care licensing staff member and the child welfare investigator arrived at the home, an unidentified male was found to be supervising three of the children in the home.

According to child welfare documentation, once contact was made with Vicki Chiles, she was dishonest about the male’s identity and she did not have a completed OSBI background check on file for the male or the substitute caretaker assisting her the day of the visit. The male was later identified as the substitute caretaker’s husband and he was waiting outside with the children for the assistant to finish her work day.

Vicki Chiles denied the allegation of sexual abuse and denied that any staff member had. During the investigation the staff/child ratio was reviewed for compliance on January 23, 2006. The child care home attendance records documented noncompliance because the child care home was over capacity on four occasions and understaffed on one occasion throughout the day. Based upon the lack of physical evidence and the lack of the child’s disclosure to either the child welfare investigator or the medical staff during the forensic interview, the Findings were Services Not Needed for the allegation of sexual abuse by instrumentation and Services Recommended for Failure to Protect. The investigation was then referred to DHS Child Care Licensing to address the policy violations.

Vicki Chiles was notified on December 5, 2005, and January 20, 2006, that the assistant caregiver, who was previously found to have spanked a child in her care at the home, was not to be in the home during the hours of operation. During the course of the

investigation regarding the Child Welfare referral dated January 23, 2006, the licensing staff member documented the car registered to the assistant caregiver was at the child care home during hours of operation on at least two occasions; however, the staff member did not go into the home to verify that the former assistant caregiver was present while children were also in the home. Recently, the staff member reported to the OJSO that they “did not go in to the home due to safety concerns.” The situation regarding the car being at her home was discussed with Ms. Chiles at the office conference on 1/20/06. She stated that she had kept the car for 2 weeks while the banned assistant caregiver was on vacation from 12/23 to 1/6. If the assistant caregiver was present with children in the home, this would have been a clear violation of the Notice to Comply and a clear danger to the children in the home. The DHS Licensing unit should have entered the home to determine if the former assistant caregiver was present. Licensing staff reported they had safety concerns and therefore did not enter the home. What about the safety of the children in the care of Ms. Chiles?

### **February 2, 2006**

#### **Licensing Services Supplemental Information**

On February 2, 2006, a licensing staff member conducted a field visit to the child care home.

The Licensing Services Supplemental Information sheet documented the staff member’s observations of noncompliance because a portable space heater was in use in the back room on the floor next to an infant who was in a port-a-crib. Vicki Chiles was given a Notice to Comply regarding the space heater. She stated she would only use the space heater when she was home alone. The sheet also documented a discussion with Vicki Chiles regarding her need to maintain complete child care home staff records.

### **February 22, 2006**

#### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance in the following areas: child immunization records, as two children did not have immunization records; premises free of hazards, as a can of comet household cleaner was located in the bathroom on the bathtub ledge accessible to children; equipment and activities, as a riding toy fire truck had a broken edge that could injure a child. Vicki Chiles stated she would have the child records complete and in compliance by February 27, 2006. She also stated she would keep the comet cleaner in the closet and throw the toy fire truck in the trash on the date of the visit.

### **March 8, 2006**

#### **Notification of Findings**

On March 8, 2006, Vicki Chiles was notified via mail of the DHS Child Care Licensing findings of the complaint of January 23, 2006.

The findings were as follows:

1. Sexual abuse by instrumentation – is ruled: Services Not Needed, investigated by Child Welfare;
2. Neglect-failure to protect – is ruled: Services Recommended, investigated by Child Welfare;
3. Staff: unknown staff without approved criminal background investigations left alone with children-is ruled: Substantiated, investigated by Child Care Licensing; and
4. Staffing/capacity: too many children at facility-is ruled: Substantiated.

Vicki Chiles was requested to complete a Notice to Comply; the plan of correction was to include how she corrected the violations and how she would maintain compliance in the future. The Notice to Comply that Vicki Chiles submitted to Child Care Licensing documented her plan to remain at capacity by requiring parents who utilized the child care home for drop-in services, as well as the parents who had varying work schedules, to call prior to transporting their children to the home.

### **March 9, 2006**

#### **DHS Family Child Care Home Monitoring Visit and Report Licensing Services Supplemental Information**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in compliance in the licensing requirements reviewed. The licensing services supplemental information sheet completed on this same date, however, documented Vicki Chiles was not able to attend the behavior and guidance class in February. She had signed a statement on the notice to comply form she submitted to the licensing staff on January 20, 2006, that she agreed to attend the class. On this date, she stated that she was looking into a class that was to be held April 4, 2006.

Ms. Chiles had also agreed that she would decrease the child care hours of operation and decrease the number of children served. The licensing services supplemental information sheet also documented that Vicki Chiles had not made these changes and also included her statement, "Licensing could not tell her when to be open."

During this visit the licensing staff member documented that Ms. Chiles picked-up a child out of a playpen by one arm. The staff member discussed the proper way to pick-up children.

### **April 26, 2006**

#### **DHS Family Child Care Home Monitoring Visit and Report**

#### **Summary of email correspondence between Licensing staff member, the staff supervisor and the Regional Programs Manager**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance due to not maintaining the premises free of hazards as a container of bleach/water, a can of room deodorizer and other household cleaners were located in the bathroom under the sink

accessible to children. Vicki Chiles stated she would keep a lock on the bathroom cabinet.

The report also documented discussion with Vicki Chiles advising her to dump the standing water in sandbox and chair in the yard immediately, as well as advising her that it is "not a good practice to have awake infants unsupervised and watching T.V." The sheet further documented the request that Vicki Chiles ensure the children in her care were not kept in car seats while in the home.

The OJSO reviewed a summary of email correspondence among the licensing staff member, the staff supervisor and the Regional Programs Manager dated April 19, 2006, and May 16, 2006, documenting the Regional Programs Manager's denial of the staff member's request to submit Vicki Chiles's case for review for Revocation stating, "Not enough at this time." The correspondence also documented Vicki Chiles's refusal to implement the plan of correction. The correspondence further documented the frustration of the staff supervisor by Vicki Chiles's refusal to comply with the plan of correction she submitted January 20, 2006.

#### **June 19, 2006**

##### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance due to not maintaining the premises free of hazards as bush clippers, wood glue and batteries located in the backyard were accessible to children, as well as standing water in the sandbox. The report also documented noncompliance due to the lack of individual, appropriately-sized places to rest with clean bedding for each child, as the crib located in the living room contained a dirty bottom sheet.

Vicki Chiles stated she would ensure the hedge clippers and batteries would be inaccessible to children on the date of the visit. She would dump the standing water out of the sandbox prior to the children going outside to play and she changed the crib sheet prior to the end of the family child care home visit.

#### **August 10, 2006**

##### **DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance regarding the caregiver qualifications. Vicki Chiles's CPR certification had expired and two child records did not contain current immunization records and two records did not contain child information cards.

Vicki Chiles stated she would have up-to-date child records and would be in compliance by August 18, 2006. She also stated she was enrolled in a CPR class scheduled for August 18, 2006.

**November 16, 2006**

**DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance due to not maintaining the premises free of hazards as three electrical outlets were uncovered, two in the hallway and one in the north room. Also a large plastic sack of broken bricks, standing water in a riding toy and approximately six inches of water in a blue container were outside and all were accessible to children. The report further documented noncompliance regarding individual, appropriately-sized places to rest, with clean bedding for each child.

Two children were observed sleeping on the same side of the couch with no separate sheet. Vicki Chiles stated she would ensure all outdoor hazards would be removed prior to the children going outside to play.

She would ensure all children would have separate sleeping arrangements and she covered all electrical outlets prior to the end of the family child care home visit.

Vicki Chiles also provided documentation she received First Aid and CPR training on September 16, 2006, and Behavior and Guidance training on April 4, 2006.

**February 15, 2007**

**DHS Family Child Care Home Monitoring Visit and Report**

A licensing staff member conducted a periodic family child care home visit. The monitoring report documented Vicki Chiles to be in noncompliance regarding child records, as one record did not contain a current child immunization record. The report also documented noncompliance regarding room temperature. The blue room temperature was sixty-three degrees Fahrenheit (F.) and contained a non-approved heat source (portable heater). This was the third time Vicki Chiles was documented to be in noncompliance due to utilizing a portable space heater. During this visit a portable heater was in use in the blue room and another was in use in Vicki Chiles's bedroom. The report further noted the freezer temperature as five degrees F. Vicki Chiles stated she would remove the heater from access to the children in her room and she would only utilize the blue room when the temperature was at least sixty-five degrees F. She adjusted the thermometer in the freezer and stated she would conduct periodic checks to ensure the freezer was in good working order. She stated she would contact parents at work and remind them to provide immunization records.

**April 10 and 11, 2007**

**Sixth Referral to DHS Child Welfare**

**DHS Family Child Care Home Monitoring Visit and Report**

**Licensing Services Supplemental Information**

**Summary of email correspondences between DHS Child Welfare and DHS Licensing staff members**

**Tulsa Police Department Incident Report**

**Report to the Tulsa County District Attorney**

**Interview with the Tulsa County Assistant District Attorney**

**Summary of Interviews Conducted with the licensing staff member assigned to Noah's Ark Daycare Home, the staff supervisor, the Regional Programs Manager and the Assistant Licensing Coordinator assigned to supervise and review the actions taken by subordinate personnel and the DHS Licensing Coordinator. Also interviewed was the Child Welfare worker assigned to the Licensing Unit and the child welfare worker's supervisor**

On April 10, 2007, the DHS Child Welfare received a sixth referral regarding the Noah's Ark Daycare Home. The allegation was an eight-year-old child with special needs was hit on the head with a wooden bat, "jacked-up" by the shirt and was thrown on the sofa by the child care provider, Vickie Chiles.

Allegedly, the provider then got over the child and threatened to hit the child with her fist if the child didn't go to sleep. The reporter stated the child care provider cussed at the children, hits them with fly swatters and other objects, along with her hands. The referral was assigned a Priority II with an investigation to be initiated within three days.

On April 11, 2007, the Tulsa Police Department was assigned to investigate child abuse at an Elementary School. Statements were taken from Reporter 1 and Reporter 2, Alleged Victim (same as in the April 10, 2007, DHS Child Welfare referral) and Alleged Perpetrator (same as in the April 10, 2007 DHS Child Welfare referral, Vicki Chiles).

Reporter 1 noticed a red mark on the back of the child's neck and arms. When asked about the marks, the child became very upset. When Reporter 2 inquired about the marks, the child stated, "Ms. Vicki is mean" and that she hit the child yesterday with a "fly-thing." The child also reported hating the daycare and was unsure what caused the marks on the back.

Vicki Chiles admitted to the Tulsa police officer she used a fly swatter, striking the child on the back.

On April 13, 2007, the child welfare investigator made contact with the alleged victim and parent. The alleged victim stated that Vicki Chiles spansks the children with a fly swatter and a yellow wooden bat when they get into trouble at the family child care home. The child also reported that there had been days that the assistant caregiver, who had previously spanked a child, was at the home while children were there. The investigator observed approximately eight one-half inch slash marks on the child's upper back and fading marks on both upper arm's. The child had an approximate total of sixteen marks.

Also on April 13, 2007, the investigator, along with a licensing staff member, made contact with Vicki Chiles. Vicki Chiles admitted to hitting the victim with a fly swatter and agreed she had lost control. She denied hitting any of the other children in her care. The child welfare investigator made a Finding of Confirmed-Court Intervention regarding the allegations of Abuse-Beating w/an Instrument and Neglect-Threat of Harm. The investigation was then referred to the Child Care Licensing unit to address the policy violations.

The monitoring report completed on April 13, 2007, documented Vicki Chiles's plan to no longer use threats towards children in her care by redirecting and give the children other options for activities. She also wrote, "I WILL NOT HIT!"

The Licensing Services Supplemental Information sheet completed on April 13, 2007, documented that the licensing staff member requested Vicki Chiles voluntarily cease providing home child care services.

Vicki Chiles denied the request due to her need for the income and the needs of the families she served. She also stated she would enroll in anger management and behavior management classes.

The OJSO interviewed the licensing staff member assigned to the Noah's Ark Family Child Care Home and the staff supervisor on May 12, 2007. The OJSO interviewed the Regional Programs Manager and the Assistant Licensing Coordinator on May 14, 2007. All reported that after Vicki Chiles admitted to hitting the child, the staff member contacted her supervisor via cell phone. The supervisor was a passenger in a car being driven by the Assistant Licensing Coordinator at the time of receipt of the call. The Assistant Licensing Coordinator, through the staff supervisor, directed the staff member to prepare Vicki Chiles's case to be reviewed by the Licensing Coordinator for revocation.

On April 13, 2007, Vicki Chiles was notified via mail that her Large Family Child Care Home case had been submitted to the DHS State Office for review along with the recommendation to revoke her license.

Email correspondence of the licensing staff member, the staff supervisor, the Regional Programs Manager and the Assistant Licensing Coordinator dated April 16, 2007, documented the staff member's sense of urgency to complete the investigation with Child Welfare in an expeditious manner. The staff member reported Vicki Chiles admitted to implying violence at quiet time by sitting on the couch with the flyswatter and stating to the children, "Its quiet time." The correspondence also documented the Programs Manager's concern with the decision to submit the case to review for revocation prior to the investigation being completed. The Programs Manager had not been included in the decision and stated the case was not following the routine revocation process. The correspondence also documented the Assistant Licensing Coordinator's rationale for requesting the review for revocation and cited that Vicki Chiles admitted hitting the child. Child Welfare had previously confirmed that Vicki Chiles's assistant caregiver had physically abused a child in the Child Care Home as well as citing previous complaints of inappropriate discipline.

The OJSO interviewed the DHS Licensing Coordinator on June 19, 2007. When questioned about the Noah's Ark Daycare file, she denied receiving the case for review of revocation.

On April 19, 2007, the child welfare investigator was notified by a Tulsa Police Department Detective of the agreement by the Tulsa County District Attorney's Office to accept the charges of Child Abuse against Vicki Chiles and a warrant was to be issued for Vicki Chiles's arrest.

On April 20, 2007, Vicki Chiles was notified via mail of the finding made by Child Care Home Licensing regarding the April 10, 2007, Child Welfare referral. The allegation that Vicki Chiles struck a child was substantiated.

Email correspondence among the licensing staff member, the staff supervisor, the Regional Program Manager, the Assistant Licensing Coordinator, the child welfare worker assigned to the investigation and the child welfare worker's supervisor dated April 20, 2007 through April 23, 2007, documented the licensing supervisor's concern regarding Vicki Chiles's continued operation of her Child Care Home and the Licensing unit's concern for the safety of the children currently in Vicki Chiles's care. It also documented the staff member's receipt of color pictures of the child victim's injuries.

An email dated April 20, 2007, from the licensing supervisor to the child welfare investigator and the investigator's supervisor (the licensing staff member, Regional Programs Manager and Assistant Licensing Coordinator were copied this email) documented the anticipation of charges being filed and the possibility of the DHS Child Care Licensing Division issuing an Emergency Order to close the Child Care Home once the charges were filed and Child Welfare had completed its investigation. It also documented the Emergency Order would have to be issued by April 24, 2007, as DHS State Office licensing personnel and Licensing supervisors would not be available April 25-27, 2007, due to their attendance at a mandatory meeting. (Emergency Orders are issued only by the DHS State Office Licensing Coordinator)

The Regional Program Manager confirmed that Vicki Chiles admitted she hit the child and confirmed that the Licensing Division did not have to wait for Child Welfare to complete their investigation prior to issuing an Emergency Order. The email also documented the staff supervisor's concern regarding the children currently in Vicki Chiles's care. The Assistant Licensing Coordinator forwarded these concerns to the Licensing Coordinator and the attorney assigned to the Licensing Unit. The Assistant Licensing Coordinator asked the question that "if Ms. Chiles refuses to cease care of children once the charges were filed, can the Licensing Division issue an Emergency Order?" The attorney responded, "I would certainly think so." The Licensing Coordinator responded, "I say E.O. with charges."

Vicki Chiles completed a Notice to Comply on April 27, 2007, documenting a plan of correction stating she would never allow a child's actions to get her so upset that she would respond by physically striking a child. She would contact the child's parent and let them remove the child from the child care home. She also stated she would no longer utilize objects to intimidate the children or to get their attention. She further stated she had attended one anger management class in a series of twelve classes.

The Licensing Services Supplemental Information sheet completed on April 20, 2007, documented a Child Welfare staff member contacted the Tulsa Police Department Detective who stated an arrest warrant would be issued in approximately one week. The Detective was informed of the Child Care Home Process of Revocation and Emergency Orders.

Interviews documented in the DHS Report to District Attorney dated April 23, 2007, noted the DHS State Office's decision not to issue an Emergency Order to close the child care home until after the Tulsa County District Attorney's Office filed charges against Vicki Chiles.

During the OJSO interview with the Assistant District Attorney (ADA) assigned to Vicki Chiles's criminal case on May 13, 2007, it was reported the ADA did not receive the DHS Report to the District Attorney regarding the findings of the April 10, 2007, referral until June 13, 2007. It was also reported by the ADA that he was not in receipt of Vicki Chiles's previous Child Welfare history, which documented the referrals dated April 13, 2004, September 9, 2004, and January 23, 2006, until May 4, 2007.

On June 18, 2007, the OJSO conducted interviews with the child welfare investigator assigned to this investigation. The investigator explained that after the Report to the District Attorney is completed, the report is given to the investigator's supervisor and the investigator has no knowledge of the further distribution of the report. OAC 340: 75-3-8.2(15) Instructions to Staff states, "Form CWS\_KIDS\_3, Report to District Attorney, regardless of the finding, is written by the CPS worker and forwarded to the district attorney as soon as it is prepared."

The report also documented the receipt of the victim's Physical Abuse Exam on April 27, 2007. The exam concluded "the location of the bruises were unusual for bruises that would be experienced during normal childhood play. When coupled with the disclosure of abuse by the victim, they do appear to be remnants of abusive injuries. "

#### **May 16 and 17, 2007**

#### **Seventh Referral to DHS Child Welfare**

#### **DHS Family Child Care Home Monitoring Visit and Report**

#### **Licensing Services Supplemental Information**

#### **Tulsa Police Department Narrative**

#### **Tulsa Police Department Arrest and Booking Data**

#### **Report to the Tulsa County District Attorney**

**Summary of Interviews Conducted with the licensing staff member assigned to Noah's Ark Daycare Home, the staff member's supervisor, the Regional Program Manager and the Assistant Licensing Coordinator assigned to supervise and review the actions taken by subordinate personnel and the DHS Licensing Coordinator. Also interviewed, was the Child Welfare worker assigned to the Licensing Unit and the child welfare worker's supervisor**

On May 16, 2007, a felony count of abuse of a minor child was filed by the Tulsa District Attorney's office regarding Vicki Chiles. An arrest warrant was also issued on this date.

The review of interviews the OJSO conducted with the licensing staff member, the staff supervisor, the Regional Program Manager and the Assistant Licensing Coordinator documented that on May 17, 2007, an unannounced visit to the Child Care Home was to be conducted by the staff member and the staff supervisor. They were instructed to hand-carry copies of the criminal charges and notify Vicki Chiles that the Licensing Unit was in receipt of the charges and the charges of Felony Child Abuse had been filed by the Tulsa County District Attorney. The monitoring report dated May 17, 2007, documented the visit was not completed on this date due to the activity in the home upon the staff member and supervisor's arrival. The report documented Vicki Chiles was performing CPR on a two-year-old child who was not breathing. Paramedics were en route. Once they arrived, the child was transported to St. John's Hospital Emergency Room. Vicki Chiles stated she had put the child down for a nap. When she checked on him, he was lying face-down and not breathing. It appeared that he had vomited.

Vicki Chiles was requested to contact all of the parents of the children still in the home at the time of the incident to come to the home and pick-up their children.

On May 17, 2007, the DHS Child Welfare received a seventh referral regarding the Noah's Ark Daycare Home. The allegation was a two-year-old male child was currently being life-flighted to St. Francis Hospital. The provider, Vicki Chiles admitted to tying up the child and blood-stained tape was found in the home. KIDS system documentation indicated the referral was assigned a Priority I with an investigation to be initiated within twenty-four hours.

The Tulsa Police Department narrative dated May 17, 2007, documented the officer's response to his assignment to the child care home in reference to a two-year-old in cardiac arrest. Upon arrival he observed CPR being performed on the child by EMSA and the Tulsa Fire Department. He was informed by a licensing staff member that the child care provider, Vicki Chiles, had a felony warrant for her arrest charging her with Injury To A Minor Child.

The Licensing Services Supplemental Information sheet dated May 17, 2007, documented a licensing staff member's request for Vicki Chiles to close her child care home and not reopen. Vicki Chiles refused the request. She was then informed that the Child Care Licensing unit would request her case be reviewed by the DHS State Office, along with the recommendation that her license be revoked because she had admitted to hitting a child repeatedly. Vicki Chiles stated she would provide care until DHS revoked her license. She later decided on May 17, 2007, to close and would reopen upon completion of all pending investigations.

The Tulsa Police Department Arrest and Booking Data sheet documented Vicki Chiles's arrest on May 17, 2007, at 5:00 p.m. It also documented her statement that the victim

would not be quiet for nap time and she used masking tape to bind his hands and cover his mouth. She left the room and when she returned, he was found lying on the floor and unresponsive. She then removed the tape, called EMSA and started performing CPR. The sheet also documented the current condition of the child as critical with no brain activity and on life support. The sheet further documented blood and vomit were found on the bedroom floor and on the tape located in the bedroom.

The Licensing Services Supplemental Information sheet dated May 18, 2007; documented Vicki Chiles was served an Emergency Order to close her Family Child Care Home.

It also documented Vicki Chiles's agreement to stop providing child care in her home, and her agreement to never work at a child care center, church, school or any child care home.

On May 24, 2007, Vicki Chiles was charged with First Degree Murder.

### **Summary**

On April 13, 2007, Ms. Chiles admitted to the child welfare investigator and the licensing staff member that she had lost control and hit a child in her care with a flyswatter. The child had visible injuries observed by the child welfare investigator and the licensing staff member. The child welfare worker deferred immediate action to the licensing worker. The licensing worker contacted her supervisor and it was determined that the child care home should be processed for revocation. It was later determined by the Licensing Coordinator that an emergency order would be issued when the District Attorney filed criminal child abuse charges on Ms. Chiles. The charges were filed on May 17, 2007. On May 18, 2007, Ms. Chiles was issued an emergency order in the Tulsa County Jail where she was placed after being arrested for the death of a child in her care on May 17, 2007.

The days between April 13, 2007, and May 17, 2007, Ms. Chiles continued to provide child care services in her home. During these same days, the licensing staff member and the supervisor continued to document their concerns regarding the care and protection of children away from their home and in the care of Ms. Chiles.

The Oklahoma Child Care Facilities Licensing Act (Title 10 §401-430) has the declared purpose and policy to ensure maintenance of minimum standards for the care and protection of children away from their own homes. A provider obtains a license from the DHS, which is issued on the basis of meeting minimum standards that are essential to the health and welfare of the children placed for care with such agencies and individuals.

If the DHS determines there has been a violation by the provider and efforts to correct the violation have failed, the DHS may initiate proceedings to revoke the license, request an injunction and/or issue an emergency order if immediate action is required due to the care and protection of the children who are away from their home (Title 10 § 407 (c)).

Based on the OJSO's review of this case, it appears the current Child Care Licensing philosophy, procedures and practices did not ensure the maintenance of minimum standards for the care and protection of the children in the Chiles child care home. The licensing staff member documented repeated areas of noncompliance and concerns regarding the quality of care provided to the children in the home. The staff member was not able to obtain a timely or an effective response to these documented concerns. This case demonstrated a lack of support of the efforts of the child care licensing staff member and the staff supervisor when Ms. Chiles was consistently uncooperative with DHS. It was reported to the OJSO by the licensing staff that Ms. Chiles was not the worst provider with whom they had dealt and other providers in their area displayed the same uncooperative attitude.

According to emails reviewed by the OJSO, the staff member and supervisor submitted the case to be reviewed by the DHS licensing Regional Programs Manager for possible revocation on or about March 16, 2006. Even though the licensing staff member documented a history of serious noncompliance, the case was returned to the staff supervisor on April 19, 2006, and documented the Regional Programs Manager's response that there was "not enough at this time" to submit the case for revocation to the Assistant Licensing Coordinator.

### **Areas of Concern**

Based on interviews conducted and documentation reviewed, the OJSO has identified the following systemic areas of concern:

- 1. The DHS was waiting for the District Attorney to file criminal child abuse charges against Ms. Chiles when arguably the criteria for an emergency order had already been met. The DHS staff reported to the OJSO that the practice of the Licensing Division has been to wait for other investigative agencies to complete an investigation prior to issuing an emergency order or submitting the case for revocation.**

There is no policy requirement for licensing staff members to wait on other investigations to be completed before they issue their own findings and take action. This practice adds support to DHS in taking action against a provider. It may, however, defeat the purpose of having the authority to obtain an emergency order, if DHS does not act promptly when a provider poses a danger to children.

The current DHS licensing philosophy guiding the decision to issue an emergency order or revoke a license should be reviewed. The philosophy and practice must reflect the principal concern of ensuring a safe and beneficial environment for children.

- 2. Based on the prior history of the child care home, the OJSO believes an emergency existed once Vicki Chiles admitted to hitting a child in her care on April 13, 2007.**

It appears that the requirements for an emergency order had been met and child welfare was providing additional validation of the need for an emergency order when child welfare confirmed the abuse on Ms. Chiles. DHS Licensing had knowledge of the danger that Ms. Chiles posed to children in her care and did not respond accordingly.

**3. Critical components of the Plan of Compliance in this case were not mandatory and could not be enforced.**

Vicki Chiles submitted a corrective action plan in response to a Notice to Comply on January 20, 2006. She said she would decrease the number of hours she was open, decrease the number of children served, use positive behavior and discipline, and she would provide a positive and stimulating environment for the children. She also agreed to enroll and attend ten hours of behavioral guidance classes in February 2006. She understood the assistant caregiver who was found to have spanked a child was not to be on the premises during child care hours. She stated she and her staff would treat the children in her care “gently and show them respect.” Furthermore, she agreed to conduct a tornado drill upon returning home from the conference, as this was a noncompliance issue that she had not corrected during the January 19, 2006, visit.

The Regional Programs Manager told the OJSO that the plan of correction could not be enforced. According to the Regional Programs Manager, the Notice to Comply dated January 20, 2006, documented the requirement that Vicki Chiles was to prohibit the assistant caregiver access to the premises during child care hours. All other items noted in the plan of correction were items where compliance would be voluntary. According to licensing staff, she was “bluffed” by licensing supervisory staff into believing she had to comply with all items noted on the corrective action plan.

Rather than deciding to bluff Ms. Chiles into reducing the child care hours and number of children served, DHS Licensing should have moved to either revoke or modify Ms. Chiles’s license. The areas addressed in the plan of correction went directly to the safety of children placed in her care.

**4. The provider’s driving record was only reviewed at the time of application for a child care license.**

Licensing staff was unaware that Vicki Chiles was transporting children without a valid driver’s license. There is no requirement for subsequent driving record checks after the initial check at the time of application for a child care license, unless the provider reports transportation services will be provided. The Oklahoma District Court Public Records documented Vicki Chiles was issued citations for Driving Under Suspension and Failure to Carry Valid Car Insurance Verification on January 21, 2005.

On February 6, 2005, the DHS Child Welfare received a second referral regarding the manner in which Ms. Chiles was transporting children to school. This referral was screened out by Child Welfare and referred to the Licensing Unit for possible policy violations. During the investigation, the licensing staff verified that Ms. Chiles had a valid driver’s license and current insurance verification on the date of the reported incident.

Based on the inconsistent reporting of Ms. Chiles regarding her transportation services, the OJSO recommends that DHS conduct annual checks of driving records, license and insurance verification of all providers even if they deny transportation services will be provided. The annual check should also document any previous deficiencies with the provider's driving license.

## Violations

1. The OKDHS Family Child Care Home Licensing Division issued Vicki Chiles a Six Month Permit on January 2, 2003, effective January 1, 2003, to open Noah's Ark Child Care Home prior to the receipt of verification that a Sex Offender Registry check had been completed on Vicki Chiles and her assistant/substitute caregiver. OKDHS Division of Child Care Licensing policy 340: 110-1-8.1(a)(1)(2)(d)(1)(e) in part states, "Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility arrange for, prior to employment, a criminal investigation for: any person making application to establish or operate a child care facility and any person to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers.
2. The OKDHS did not revoke the Large Home Child Care License when serious non-compliance with requirements had been documented on the Family Child Care Home Monitoring Reports dated, 05/27/04-Inoperable smoke detectors, 12/07/04-Lack of Supervision, 02/07/05-Portable Heater and No OSBI background check on file for staff member providing supervision of children, 11/07/05-Confirmed abuse (Beating with an Instrument) against assistant caregiver, 01/19/06-Multiple hazards, 01/23/06-Overcapacity and No OSBI background check on file for staff member providing supervision on children, 02/02/06-Portable heater, 03/09/06-Non-compliance with plan of correction submitted on 01/20/06, 04/26/06-Multiple hazards, 06/19/06-Multiple hazards and 02/15/07-Room temperature below sixty-five degrees F. and Portable heaters. OAC 340: 110-1-10. (a) States, "When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented or the facility fails to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny the application for license or revoke the license."
3. The OKDHS did not issue an Emergency Order on April 13, 2007, after Vicki Chiles admitted to hitting a child with a fly swatter and DHS observed approximately eight one-half inch slash marks on the child's back and fading marks on both upper arms. The child had an approximate total of sixteen marks on his body. OAC 340: 110-1-9.4. (a) States, "An emergency order may be issued by the Oklahoma Department of Human Services (OKDHS) when immediate action is needed to protect the health, safety, or well-being of children in a licensed child care facility."

4. OKDHS KIDS documented a total of six Child Welfare referrals prior to the child death on May 17, 2007. The referrals were dated 04/13/04, 09/09/04, 02/06/05, 11/05/05, 01/23/06 and 04/10/07. The OKDHS KIDS system did not document a staffing or discussion between the CW worker and supervisor after the fourth referral dated 11/05/05. The allegation of Abuse-Beating with an Instrument by an assistant caretaker was Confirmed by Child Welfare. OAC 340: 75-3-6.5.(b)(2)(A)(B) Instructions to Staff in part, states, "When records indicate that there have been more than three previous reports on a family, the CW worker and supervisor: discuss all previous reports along with information gained from the entire case record and whether there is a pattern of behavior in the family or if more information is needed to determine whether there are significant problems in the family; and document the date of the staffing and the results of the staffing in the referral, investigation, or assessment KIDS Contacts screen."
5. On November 22, 2004, the DHS Licensing unit received a Licensing Complaint Report that alleged a child was left at the home unsupervised while Vicki Chiles escorted the school-aged children to school. On February 6, 2005, the DHS Child Welfare received a third referral regarding the Noah's Ark Daycare Home alleging a one-year-old remained unsupervised at the home while the other children were being transported to school. Current Child Protective Services policy OAC 340: 75-3-8.2 (b)(c)(d) states, "CPS staff notifies and coordinates with Division of Child Care staff when a child abuse or neglect report is received and, when possible, the Division of Child Care licensing specialist accompanies the CPS worker and assists in conducting the investigation. Allegations of general neglect and violations of licensing laws and regulations, such as dirty facility, children unsupervised, or other similar situations, are referred to and addressed by the Division of Child Care. Children and Family Services Division CPS Section programs staff is available for consultation as needed. As with other reports of child abuse, CPS staff coordinates with the district attorney and law enforcement officials when appropriate." The November 22, 2004, licensing complaint should have been referred to DHS Child Welfare for possible investigation and the February 6, 2005, child welfare referral should have been referred to Child Welfare for possible investigation because when a young child is left in a home alone, the risk of harm and danger rises above the level of a general lack of supervision. These policies appear to be somewhat overlapping. While conducting this investigation, the OJSO found some confusion regarding these policies among the DHS staff.
6. On January 23, 2006, the DHS Child Welfare received a fifth referral regarding the Noah's Ark Daycare Home. The allegation was a four-year-old female child disclosed that a woman at the day care stuck a yellow object into her vagina. Documentation in the KIDS system indicated the referral was assigned a Priority I with the investigation to be initiated within twenty-four

hours. Contact with the alleged victim did not occur until January 25, 2006. OAC 340: 75-3-7.1 (d) states, "A Priority I report indicates the child is in imminent danger of serious physical injury. Allegations of abuse and neglect may be severe and conditions extreme. The situation is responded to immediately, but no later than 24 hours after receipt of the report."

7. The Assistant District Attorney assigned to Vicki Chiles's criminal case reported he did not receive the DHS Report to the District Attorney regarding the findings of the April 10, 2007, referral until June 13, 2007. He also reported that he was not in receipt of Vicki Chiles's previous child welfare history that documented the referrals dated April 13, 2004, September 9, 2004, and January 23, 2006, until May 4, 2007. The child welfare investigator assigned to this investigation reported that, once a Report to the District Attorney was completed, it was sent to the investigator's supervisor. The investigator also reported that she was unaware of the further distribution of the report. The supervisor reported to the OJSO that the report is placed in the "court box", which is designated to the child welfare court liaison. The liaison reviews the report for distribution to the District Attorney's Office. OAC 340: 75-3-8.2(15) Instructions to Staff states, "Form CWS\_KIDS\_3, Report to District Attorney, regardless of the finding, is written by the CPS worker and forwarded to the district attorney as soon as it is prepared."