

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

February 22, 2024

Mr. Brandon Metzler
Clerk of the Legislature
P.O. Box 94604
Lincoln, NE 68509

Subject: DHHS Critical Incidences Report

Dear Mr. Metzler:

Neb. Rev. Stat. § 43-4318 requires the Department to report specified critical incidences to the Office of Inspector General for Child Welfare. This report contains information for the second quarter of the 2023 State Fiscal Year (October – December).

Sincerely,

A handwritten signature in blue ink, appearing to read "Bo Botelho".

Bo Botelho
Chief Legal Officer

Attachment



Department of Health and Human Services

DHHS Critical Incidences Report

January 2024

Neb. Rev. Stat. § 43-4318

Report De-identification Standard

The Health Insurance Portability and Protection Act of 1996 (HIPAA) governs the use and disclosure of protected health information (PHI) by certain parties known as “covered entities.” A covered entity is defined as (1) a health care provider, (2) a health plan, or (3) a health care clearinghouse.


The Nebraska Department of Health and Human Services (DHHS) is considered a covered entity since it acts as both a health care provider (the long-term treatment facilities) and as a health plan (government program that pays for health care). Due to its size and the complexity of the information it holds, DHHS operates as a “covered entity in full” for purposes of HIPAA. The fully covered entity status makes all personally identifiable information maintained, owned, or created by DHHS subject to the protection of HIPAA.

Under HIPAA, covered entities are prohibited from releasing PHI unless the information has been sufficiently de-identified pursuant to the HIPAA Privacy Rule (42 C.F.R. § 164.514). The HIPAA Privacy Rule allows for two methods of de-identification, safe harbor (42 C.F.R. § 164.514(b)(2)) or expert statistical analysis (42 C.F.R. § 164.514(b)(1)). DHHS will attempt to de-identify information under safe harbor, which requires the removal of 18 identifiers (see 42 C.F.R. § 164.514(b)(2)(i) for the identifiers). If DHHS cannot de-identify information using safe harbor, then the information will be reviewed by a statistical expert to determine if it has been sufficiently de-identified prior to release.

Currently, DHHS has two roles that serve as statistical experts. The Chief Data Strategist and the Deputy Data Strategist. When assessing a report to determine if the information has been sufficiently de-identified, DHHS uses a probability calculation that considers the following factors:

- Data source and the associated nuances.
- Demographic characteristics, which includes age, gender, race, ethnicity, and language spoken.
- Geographic location for both the service received and residence of the person receiving services.
- Time period of the report, if the time period of the report is shorter than a year such as quarterly this increases the probability of identification.

In addition to an overarching HIPAA requirement, DHHS is subject to numerous statutory requirements which protect the identity and personal information of the youth served by DHHS. For example, Neb. Rev. Stat. § 28-725 and 28-726 require records related to child abuse and neglect reports and investigations to be confidential. Neb. Rev. Stat. § 43-2,108 governs the confidentiality of juvenile court and probation records. This statute specifically identifies records provided to the juvenile court by agencies and institutions as confidential record information. The same de-identification standards apply to meet the confidentiality requirement of the above referenced statutes and the HIPAA de-identification statutes.



For this particular report, the information being released (1) relates to the last quarter of the calendar year, and (2) relates to a population that is between the ages of 0-19 years. Given the narrowed time period (3 months) and the age group of the report population, the probability of identifying the individuals involved in the reported incidences is high when using other publicly available information in combination with the information released. Therefore, releasing information when incidences experienced by this population occurred between one and five times, would allow for possible re-identification of the individuals. However, knowing that there were more than zero is still meaningful when interpreting this information. Masking those counts between one and five offer privacy protection of those children who were involved, while still releasing a level of meaning about those specific occurrences in the report population.

Death or Serious Injury of a Child

Neb. Rev. Stat. § 43-4318(2)(a) requires the Department to report all cases of death or serious injury of a child in a foster home, private agency, childcare facility or program, or other program or facility licensed by the department or inspected through the commission to the Inspector General. This report contains information for the second quarter of the 2023 State Fiscal Year (October – December).

Division of Children and Family Services

Foster Home or Private Agency

There were between one and five incidents of serious injury reported last quarter. Each service area’s incident count was under five thus needing to be masked to protect privacy. There were zero incidents of death reported. Additional statistics are provided below.

Incident of Death or Serious Injury of a Child	
Death	0
Serious Injury	*
Total	1-5

** All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.*

Youth Rehabilitation and Treatment Centers

The YRTC’s report zero death incidents and zero serious injury incidents across all three facilities during the quarter.

Incident of Death or Serious Injury of a Child	
YRTC Hastings	0
YRTC Kearney	0
YRTC Lincoln	0

** All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.*

Division of Public Health: Licensed Child-Care Facility

There were between one and five reports of serious injury and no reports of death in a licensed childcare facility last quarter.

Incident of Death or Serious Injury of a Child	
Death	0
Serious Injury	*
Total	1-5

* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

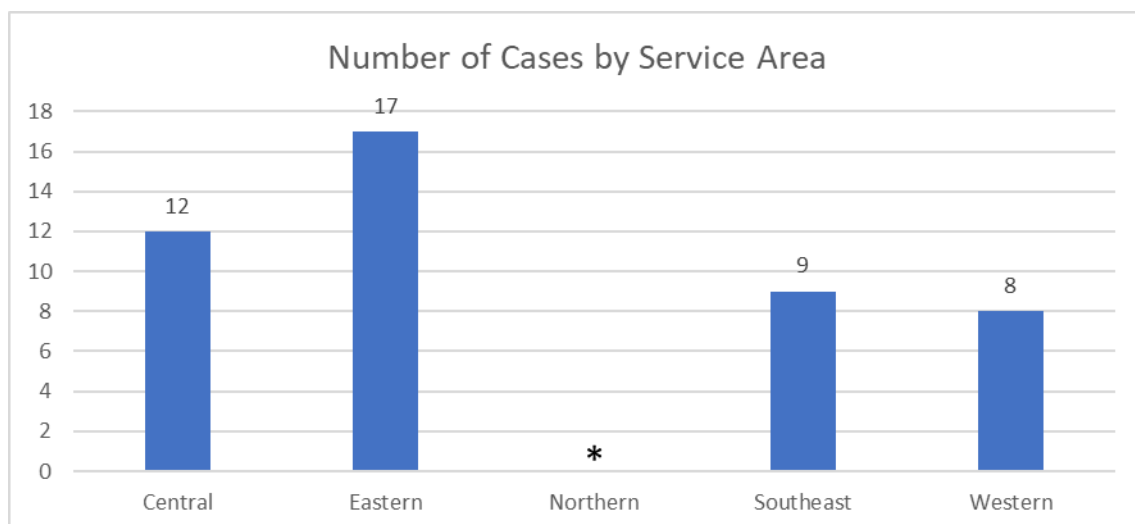
Allegations of Sexual Abuse

Neb. Rev. Stat. § 43-4318(2)(b) requires the reporting of all allegations of sexual abuse of a state ward, juvenile on probation, juvenile in a detention facility, and juvenile in a residential child-caring agency.

Division of Children and Family Services

State Ward or Residential Child-Caring Agency

A total of 47-51 cases were reported to the Hotline across October, November, and December of 2023. Statistics about the Hotline reports are categorized below based on service area, placement types, and facility types.



* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

Facility Type for Out of Home Placements	
Agency Supported	15
Relative Foster Home (Approved)	9
DD Family Home (Approved)	7
Kinship Foster Home (Approved)	*
Youth Rehabilitation Treatment Center	*
Emergency Shelter Center	*
Detention Facilities	*
Group Home	*
PRTF	*
Kinship Foster Home (Licensed)	*
Grand Total	47-51

* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

Youth Rehabilitation and Treatment Centers (YRTC)

All three facilities, YRTC Hastings, YRTC Kearney, and YRTC Lincoln follow the Federal Prison Rape Elimination Act (PREA), 34 U.S.C. 30301 et seq., requirements meeting all 43 standards of compliance. The most recent quarter had a total of 24-28 PREA investigations across all facilities. Of additional note, YRTC Lincoln did not have any investigations triggered in December. Outlined below are the investigation results.

Location	Total Investigations	Substantiated Investigations	Unsubstantiated Investigations
YRTC Hastings	8	*	*
YRTC Kearney	11-15	*	10
YRTC Lincoln	*	*	*

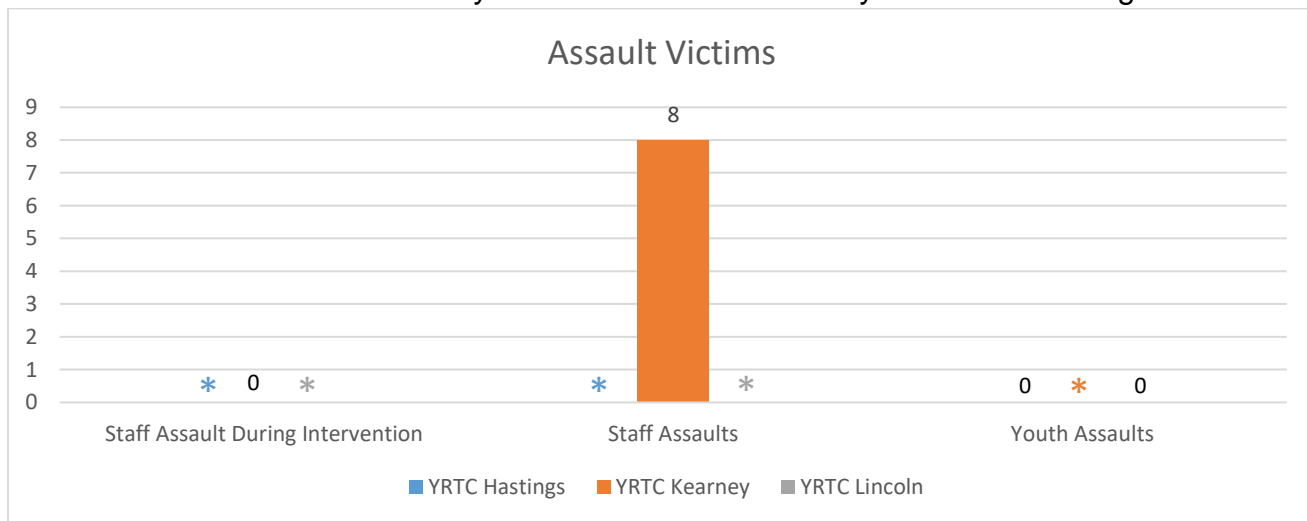
* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

Critical Incident Information from YRTC's

Neb. Rev. Stat. § 43-4318(3)(a) requires the Office of Juvenile Services to report instances of assault, escape or elopement, attempted suicide, self-harm by a juvenile, property damage not caused by normal wear and tear, use of mechanical restraints on a juvenile, a significant medical event suffered by a juvenile, and internally substantiated violations of 34 U.S.C. 30301, et seq. The categories are each reflected below.

Assault

During the recent quarter, there were 16 assault occurrences at the YRTC's. The categories staff assaults and youth assaults may overlap, as a staff and youth may be involved in the same occurrence. Additionally, the category staff assault during intervention may also include both youth and staff and are not mutually exclusive of the staff and youth assault categories.



* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

Escape or Elopement

The facilities had between one and five incidents of escape or elopement over the course of the quarter.

Total Incidents	
YRTC Hastings	0
YRTC Kearney	*
YRTC Lincoln	0

* All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.

Attempted Suicide

None of the three facilities had any attempted suicides during the quarter.

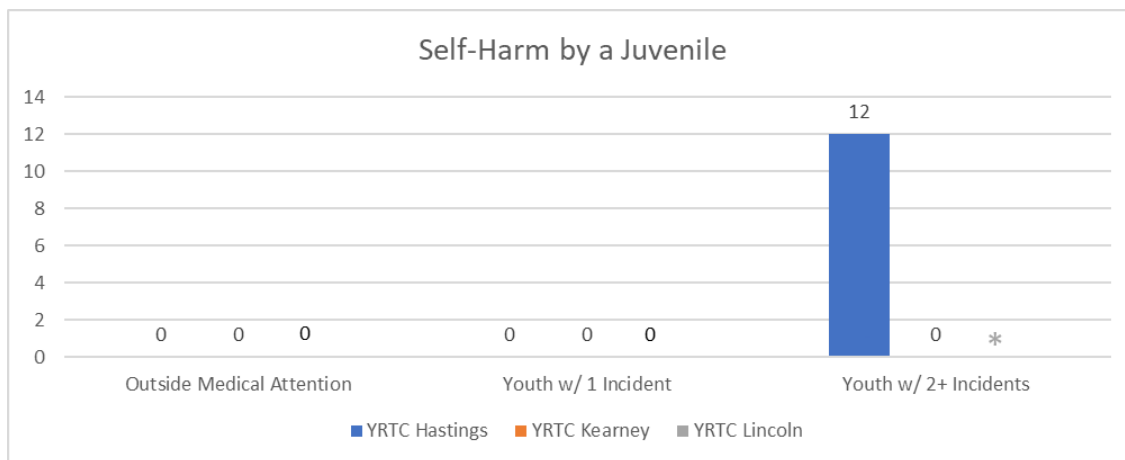
Total Incidents	
YRTC Hastings	0
YRTC Kearney	0
YRTC Lincoln	0

** All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.*

Self-harm by a Juvenile

There were 36 total self-harm incidents during the quarter across the three facilities. Details about the incidents follow.

Total Incidents	
YRTC Hastings	18
YRTC Kearney	6
YRTC Lincoln	12



** All values between 1-5 are masked to protect privacy. See Report De-Identification Standard.*

Property Damage Not Caused by Normal Wear and Tear

There were between one and five incidents of property damage above normal wear and tear in the last quarter. YRTC facilities consider instances of property damage that exceed \$500 to be above normal wear and tear.

Total Incidents	
YRTC Hastings	0
YRTC Kearney	*
YRTC Lincoln	0

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The Use of Mechanical Restraints on a Juvenile

There were 79 incidents of the use of mechanical restraint on a juvenile in the quarter. Mechanical restraints means handcuffs or leg and waist restraints. A month-by-month analysis illustrates the utilization of mechanical restraints at the facilities.

Facility	October	November	December
YRTC Hastings	0	*	*
YRTC Kearney	0	6	7
YRTC Lincoln	25	18	16

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A Significant Medical Event Suffered by a Juvenile

The facilities had between one and five incidents of a significant medical event suffered by a juvenile last quarter. A significant medical event is classified as a youth being taken to the emergency room.

Significant Medical Events	
YRTC Hastings	0
YRTC Kearney	*
YRTC Lincoln	0

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Internally Substantiated Violations of 34 U.S.C. 30301 et seq.

There was a total of 11 internally substantiated violations pursuant to PREA, 34 U.S.C. 30301, during the quarter.

Total Incidents	
YRTC Hastings	*
YRTC Kearney	*
YRTC Lincoln	*

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