

To: NYS Children's Children and Family Treatment and Support Services (CFTSS)
Providers Designated to Serve the General Mental Health Population

Re: **REISSUED** Incident Reporting Manual for Unlicensed Children and Family Treatment
and Support Services (CFTSS) Incident Reporting Manual

Date: August 1, 2019

New York State (NYS) Office of Mental Health (OMH) last issued the *Children and Family Treatment and Support Services (CFTSS) Incident Reporting Manual* on April 3, 2019 with update on May 28, 2019. With the promulgation of the 511-2 Children's Mental Health Rehabilitation Services (CMHRS) Program regulation, OMH has made the determination to align and streamline reporting requirements for the unlicensed CFTS services (Psychosocial Rehabilitation, Family Peer Support Services, Youth Peer Support and Training and Crisis Intervention) with services that will become licensed under the CMHRS (Other Licensed Practitioner and Community Psychiatric Support and Treatment) program. All required incident reporting requirements and definitions for all CFTSS will now comply with 14 NYCRR 524.

To minimize confusion and streamline reporting requirements, edits have been incorporated into the below document. For ease of review, the edits have been outlined below:

- Page 2 – Definition of 'custodian' has been adjusted to remove the inclusion of child's parent or legal guardian.
- Page 3 – Addition of 'Restraint' definition
- Page 3 – Mandated Reporter section: language removed requiring Statewide Central Register of Child Abuse and Maltreatment (SCR) reports to also be reportable to OMH.
- Page 4 – Section IV: Incident type definitions adjusted to align with 14 NYCRR 524, as applicable.
- Page 4 – Section IV: ALL incident types for the exception of Missing Enrollee, Crimes in the Community, Suicide Attempt, Off-Site, and Enrollee Death, are only reportable when in the care of custodian, as defined in July 2019 edition of CFTSS Incident Reporting Manual.
- Page 10 – Excluded incident reporting types have changed to include, Medication Errors and Falls by Patients in an Inpatient or Residential Setting
- Page 11 – Oversight: Addition of subsections, #1 *Care and Safety of an Enrollee Involved in an Incident*, #4 *Documentation*, and #5 *Notifications*.

If you have any questions regarding these changes, please contact OMH at DCFS@omh.ny.gov.

Incident Reporting Manual for Unlicensed Children and Family Treatment and Support Services (CFTSS)

Reissued: August 2019

This document is intended to provide guidance for entities designated through the Children and Family Treatment and Support (CFTSS) Provider Designation by the New York State Office of Mental Health for the mental health population on incident reporting. This document only addresses selected portions the CFTSS Manual and Provider Designation Authorization Attestation Agreement and does not include or reference the full text.

This document does not substitute requirements set forth by 14 NYCRR 511-2.

Note: Although much of this document follows requirements included in 14 NYCRR 524, unlicensed providers must follow this document to ensure all mandates are met.

Unlicensed providers designated to serve the *General Mental Health* population by the Office of Mental Health (OMH) under the State Plan, Children and Family Treatment and Support Services (CFTSS) are required to comply with incident reporting requirements as delineated herein.

In the event the CFTS service(s) are operated by a licensed entity under 14 NYCRR 511-2 Children's Mental Health Rehabilitation Services Program, the entity must adhere to requirements set forth by regulation – this guidance applies to *unlicensed* CFTSS only.

I. PURPOSE

The mission and vision of OMH is based on values that promote resiliency, hope, respect, recovery, positive social and emotional development, and an environment free from fear, pain, injury or danger. OMH has created safeguards for children and youth served by systems under its jurisdiction, to protect individuals against abuse, neglect, and other dangerous conduct. This includes, the ability to review, monitor and address instances of harm that pose a risk to the health, safety and welfare of a child/youth.

This guidance is intended to assist CFTSS unlicensed* providers in understanding and complying with requirements set forth by the *NYS OMH SPA Designated Services Designation Authorization Attestation*. It explains definitions for reportable incidents and describes steps for reporting to OMH through the New York State Incident Management & Reporting System (NIMRS).

***PLEASE NOTE:** "CFTSS" from this point forward solely relates to the following services: Psychosocial Rehabilitation, Family Peer Support Services, Youth Peer Support and Training, and Crisis Intervention. Other Licensed Practitioner and Community Psychiatric Treatment and Support will fall under the 511-2 CMHRS program regulation.

II. DEFINITIONS *for the purpose of this document*

- **Custodian** this term refers to those that have a legal obligation to protect vulnerable persons from harm while they are under their care (or the care of the provider they work for). In the OMH system, the following would be considered a "custodian" – a director, employee, or volunteer of a provider designated by OMH, or a consultant or contractor with an OMH designated provider who has regular and substantial contact with persons served by the provider.
- **Discovery** is a term used to identify when a mandated reporter must report an incident. An incident is "discovered" at the time a mandated reporter witnesses a

reportable incident, or when another person provides a mandated reporter with information that gives him/her reasonable cause to suspect a reportable incident has occurred.

- **Enrollee or Enrolled Child/Youth** refers to individuals admitted to CFTSS. A child/youth is considered ‘admitted’ to CFTSS upon the initial face-to-face session with the service provider.
- **First Aid** refers to one-time treatment, and any follow up, of minor injuries which do not ordinarily require medical care such as, minor scratches, cuts, burns, or other.
- **Likely to result in injury or harm** means that the injury or harm is probable or the expected result of the particular conduct.
- **Mandated Reporter** means someone who is required report suspected abuse or neglect of vulnerable persons, as well as “significant incidents”, to OMH immediately upon discovery. All CFTSS providers are mandated reporters.
- **NIMRS** refers to the New York State Incident Management and Reporting System, developed and maintained by OMH.
- **Physical Injury** means any confirmed harm, hurt, or damage resulting in significant worsening or diminution of a vulnerable person’s physical condition.
- **Reasonable cause to suspect** means that, based on a mandated reporter’s observations of evidence, professional training, and experience, her or she has a rational or sensible suspicion that a vulnerable person has been harmed or placed in danger of being harmed.
- **Reasonably foreseeable potential** means that a reasonable person would be able to predict or anticipate that his or her conduct would result in harm or injury to a vulnerable person. It does not mean that given the circumstances involved, it is reasonable or realistic to expect that, likely or not, that it would.
- **Restraint** means the use of any manual, pharmacological or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body.
- **Serious Injury or Harm** means: (1) physical injury or harm that requires more than first aid; (2) psychological harm evidenced by negative changed in behavior or change in psychotropic medication or intervention; (3) a risk for life threatening physical injury or psychiatric emergency or trauma.
- **Serious or protracted impairment of the physical, mental, or emotional condition** means a state of substantially diminished physical, psychological, or

intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, or ability to think or reason.

- **Vulnerable person** is an individual who is receiving care by a provider agency or program that is designated by OMH.

III. INCIDENT REPORTING

CFTSS covered under this guidance are unlicensed and therefore are not subject to the Justice Center's jurisdiction. CFTSS incidents must be reported to The Office of Mental Health (OMH) only and can be done through the NYS Incident Management Reporting System (NIMRS).

Mandated Reporting

Per the CFTSS Manual, all CFTSS service providers must complete the Mandated Reporter training prior to service provision. If a CFTSS provider suspects abuse or maltreatment, the employee must immediately report the incident to the Statewide Central Register of Child Abuse and Maltreatment (SCR) at 1-800-342-3720. CFTSS agencies must cooperate in, and not interfere with, all Child Protective Services (CPS) and law enforcement investigations. Reporting an incident to OMH does not void an agency's responsibility to report, as required, to an ancillary agency, (i.e., Statewide Central Register of Child Abuse and Maltreatment, local law enforcement, etc.).

IV. INCIDENT CATEGORIES

Reportable Incidents

The following incidents are considered 'reportable' and must be reported to OMH regardless of severity.

1. **Allegations of Abuse and Neglect:** An allegation of abuse or neglect must involve an act (or failure to act) by a custodian that causes or was likely to result in, injury or harm to an enrollee receiving services. All allegations of abuse or neglect must be reported to OMH. This category includes:

Incidents Reportable to OMH



Incident Type	Definition
Physical Abuse	Intentionally or recklessly causing, by physical contact, physical injury or serious or protracted impairment of the physical, mental, or emotional condition of an enrolled child/youth or causing the likelihood of such injury or impairment; such conduct may include, but is not limited to slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting, or the use of corporal punishment, provided, however, that shall not include reasonable emergency interventions necessary to protect the safety of any person.
Psychological Abuse	Intentionally or recklessly causing, by verbal or nonverbal conduct, a substantial diminution of an enrolled child/youth's emotional, social or behavioral development or condition, supported by a clinical assessment preformed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker, or licensed mental health counselor, or causing the likelihood of such diminution. Such conduct may include, but shall not be limited to, intimidation, threats, the display of a weapon or other object that could reasonably be perceived by an enrollee as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury, taunts, derogatory comments, or ridicule.
Sexual Abuse	Conduct that subjects an enrollee to any offense defined in Article 130 (sex offenses) or Section 255.25 (incest, 3 rd degree), 255.26 (incest, 2 nd degree), or 255.27 (incest, 1 st degree) of the Penal Law, or any conduct or communication that allows, permits, uses or encourages an enrollee to engage in any act described in Articles 230 (prostitution offenses) or 263 (sexual performance by a child) of the Penal Law.
Neglect	Any action, inaction or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental, or emotional condition of an enrolled child/youth. Neglect shall include, but is not limited to: (1) failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse if committed by a custodian; (2) failure to provide adequate food, clothing, shelter, medical, dental, optometric or surgical care, provided that the custodian has reasonable access to the provision of such services and that necessary consents to any such medical, dental, optometric or



	surgical treatment have been sought and obtained from appropriate individuals; and (3) failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction.
Restraint or Seclusion	Any use of restraint or seclusion.
Obstruction of Reports of Reportable Incidents	Conduct that impedes the discovery, reporting or investigation of treatment of an enrollee by falsifying records related to safety, treatment or supervision of an enrollee, actively persuading a Mandated Reporter from making a report of a reportable incident to the Statewide Vulnerable Persons' Central Register with the intent to suppress the reporting or the investigation of an incident, intentionally making a false statement or intentionally withholding material information during an investigation into such a report in accordance with OMH policies and procedures; intentional failure of a supervisor or manager to act upon such a report, or failure by a Mandated Reporter to report a reportable incident upon discovery
Unlawful Use or Administration of a Controlled Substance	Any illegal administration, use, or distribution by a custodian of a controlled substance (e.g., codeine, Oxycontin, Ambien, cocaine, etc.)
Aversive Conditioning	The use of unpleasant physical stimulus to modify behavior. ANY use of aversive conditioning is prohibited in facilities/agencies/programs under the jurisdiction of OMH.

2. Significant Incidents: Significant Incidents include, for the exception of abuse and neglect, any incident that because of the severity or the sensitivity of the situation; results in, or has the reasonable foreseeable potential to result in, harm to the health, safety, or welfare of an enrolled youth.

In order for a 'significant incident' to be reportable, the level of harm must meet the level of "serious injury or harm" unless otherwise indicated in the chart below. *To determine reportability, please review the incident type definition.*

Significant Incidents Reportable to OMH

Incident Type	Definition
Sexual Assault	A sexual attack including, but not limited to, those that result in

	vaginal, anal, or oral penetration (i.e., rape or attempted rape and sodomy or attempted sodomy, and/or any sexual conduct between a person who is 18 years old or more and a person who is less than 15 years old, or between a person who is 21 years old or older and a person who is less than 17 years old, or which involves an enrollee who is deemed incapable of consent).
Missing Enrollee*	A CFTSS enrollee who is under the age of 18, and whose whereabouts are not accounted for when expected to be present or under the supervision of a custodian.
Severe Adverse Drug Reaction	An unintended, unexpected or excessive response to a medication given at normal doses, which results in serious harm or injury.
Assault	A violent or forceful physical attack by a person <i>other than a custodian</i> , in which an enrollee is either the victim or aggressor, which results in serious injury or harm.
Crime	An event which is or appears to be a crime under NYS or Federal Law, which occurs on the program premise or when an enrollee is under the actual or intended supervision of a custodian, and which involves an enrollee as a victim or aggressor, or which affects or has the potential to affect the health or safety of one or more enrollees of the program or has the potential to have a significant adverse impact on the property or operation of the program.
Crimes in the Community*	An event which is, or appears to be, a crime under New York State or Federal law, and which is perceived to be a significant danger to the community or which involves an enrollee whose behavior poses an imminent concern to the community.
Fight	A physical altercation between two or more enrollees, in which there is no clear aggressor and no clear victim, resulting in serious injury or harm.
Financial Exploitation	Uses, appropriation, or misappropriation by a custodian of an enrollee's resources (such as, funds, assets, or property) by deception, intimidation, or similar means, with the intent to deprive the enrollee of those resources.
Fire Setting	Action by an enrollee, either deliberate or accidental, that results in a fire on program premises.

Injury of Unknown Origin	An injury to an enrollee for which a cause cannot be immediately determined because (1) the source of the injury could not be explained by the enrollee or other person; AND (2) the injury is suspicious because of the extent or location of the injury, or the number of injuries observed at one point in time, or the frequency of the incidence of injuries over time.
Mistreatment <ul style="list-style-type: none"> Inappropriate use of time out 	Use of time out to remove an enrollee from service provision and isolate him/her in an area for the convenience of a custodian or as a substitute for service provision.
Self-Abuse	Self-inflicted injury not intended to result in death that results in serious injury or harm.
Sexual Contact Between Children	Vaginal, anal, or oral penetration by enrollee under age 18 that occurs on program premises.
Suicide Attempt	An act committed by an enrollee in an effort to cause his or her own death.
Suicide Attempt, Off Site*	An act committed by an enrollee in an effort to cause his or her own death that occurs off program premises, when the enrollee was not under the actual or intended supervision of a custodian.
Verbal Aggression by Enrollees	A sustained, repetitive action or pattern by an enrollee or enrollees of ridiculing, bullying, demeaning, making derogatory remarks, verbally harassing, or threatening to inflict physical or emotional harm on another enrollee or enrollees, which causes serious injury or harm.
Wrongful Conduct	<p>Actions or inactions related to service provision by a custodian that are contrary to sound judgement or training, the safeguard of enrollee health, safety, or welfare, or enrollee rights, but which do not meet the definition of abuse or neglect. This category involves:</p> <ol style="list-style-type: none"> (1) Intentional physical contact with an enrollee which causes or could cause minor injury (if involving restraint, use 'Mistreatment: Restraint or Seclusion category'); (2) Intentional verbal or nonverbal conduct that is meant to cause an enrollee emotional distress, but does not result in harm, or results in minor harm, such as taunting, name calling, issuing threats, using insulting, disrespectful, or coarse language or gestures directed

	<p>towards an enrollee; violating enrollee rights or misusing authority;</p> <p>(3) Sexual activity involving an enrollee and custodian; or activity of a sexual nature involving an enrollee that is encouraged by a custodian; such as inappropriate touching or physical contact, sending sexually explicit materials through electronic means (including mobile phones, electronic mail, etc.), voyeurism, or sexual exploitation; or</p> <p>(4) Conduct that falls below the standards of behavior established in policies or procedures for the protection of enrollees against unreasonable risk of harm (e.g., transporting youth, providing services to youth alone in their home, etc.)</p>
Enrollee Death*	The death of an enrollee receiving CFTS services at the time of death, including any death of a youth within 30 days after discharge from CFTSS.
Other	An event, other than one identified in this section, which has or creates a risk of, a serious adverse effect on the life, health, or safety of an enrollee.

* Incident must be reported to OMH regardless of resulting, perceived or actual, injury or harm OR regardless of setting; whether the event occurs while in the care of a custodian or not.

Please note: Although CFTSS reporting categories follow those outlined by Incident Management Programs Regulation (Title 14 NYCRR Part 524), due to inapplicability of specific categories; the following reportable or significant incident categories have been omitted as required to be reported to OMH:

- Medication Errors
- Falls by patients in an inpatient or residential setting

V. HOW TO REPORT

Reporting an Incident

Incidents are reported into NIMRS immediately upon discovery of the incident (no later than one business day). NIMRS is a web-based application that is available on the browser 24 hours a day, 7 days a week.

Per the NYS OMH SPA Designated Services Designation Authorization

Attestation, the CFTSS Agency is responsible for incident reporting in an effective and timely manner. To ensure proper protocols and procedures are being maintained, the CFTSS Agency must maintain the following responsibilities:

- The CFTSS Agency is responsible for incident reporting after being made aware of an event within one business day.
- Parents/caregivers of waiver participants will need to be made aware of the CFTSS Agency's Incident Reporting Procedures including incidents that constitute as reportable to ensure that they inform the service provider of reportable incidents, as applicable.
- If the incident constitutes an emergency, employees must initiate their agencies' emergency procedures and also report the incident in NIMRS.
- Providers must clearly indicate what actions took place on behalf of the agency in response to the incident including, but not limited to, contacting SCR, law enforcement, coordinating information with other related service providers, immediate resource/ support provided to the child/youth and family, assessment(s) administered and, the review and subsequent updates made to the child/youth's treatment plan, where appropriate.

Incident Reporting Follow-up

The CFTSS Agency is responsible for providing follow-up regarding unresolved incidents. The CFTSS Agency should be in contact with the family/ caregiver to determine if there is any new information regarding the incident(s) and report this new information in NIMRS along with any action that has been taken since the initial reporting or the last follow-up, until the incident is resolved.

When providing follow-ups/updates in NIMRS, providers must clearly indicate their actions in addressing the incident and any continued actions and/ or plans to ensure the safety of child/youth, where applicable.

This information should be updated in the Investigation Conclusions area on the Investigation Findings & IRC (Investigation Review Committee) Sub Tab. For example: if a CFTSS enrollee is reported missing, the CFTSS agency will need to keep in contact with the family and report updates in NIMRS until the child is found. The incident should not just be entered into NIMRS and closed with no follow-up with the family on status of the incident.

VI. OVERSIGHT

Provider Agency

The CFTSS agency must establish a Reportable Incident Review Committee to review all Reportable Incidents to determine if incidents are handled properly and to the satisfaction of the child/youth and family and any regulatory body including, OMH.

1. Care and Safety of an Enrollee Involved in an Incident:

Provider agency administrators of CFTSS must ensure that their incident management policy(ies) requires any staff person who observes or is informed that a Reportable Incident of any type has occurred, is to immediately provide assistance and secure appropriate care for the involved enrollee or enrollees. Such administrators must provide OMH with contact information for administrators (director, supervisor) who can be contacted by OMH, for the purpose of ensuring that such measures have been taken. This information may be included in the incident report narrative.

- (a) If an allegation of abuse or assault has been made, appropriate care must include separating the alleged perpetrator from the alleged victim, in circumstances where it appears the allegation is credible and sufficient staff coverage can otherwise be maintained. In all cases, the welfare of the enrollee is paramount.
- (b) Reasonable actions must be taken to ensure that an enrollee who has been harmed receives necessary treatment or care. If an enrollee has been injured, such actions must include a medical examination commensurate with the acuity of the injury. The name of the examiner, the written findings of the examiner, and a copy of any other medical record associated with such examinations must be retained by the CFTSS provider.
- (c) In addition, CFTSS providers must review their activities in response to reportable incidents to ensure corrective actions will be taken, as necessary, to address system and personnel issues that may pose a continued risk to individuals in care.

2. Organization and Membership of the Incident Review Committee

The committee may be organized on an agency-wide, multi-program or program-specific basis. Agencies may use a current incident review committee if one has been established. It is recommended that the committee contain at least five individuals drawn from a cross-section of staff, including professional, direct care, quality management and administrative.

The committee must meet at least quarterly and within 30 days of a Reportable Incident

report of a CFTSS enrollee.

3. Responsibilities of the Incident Review Committee

This committee is responsible for reviewing the inquiry of every Reportable Incident. The committee evaluates the response of the agency and any involved provider for thoroughness. The committee determines whether the final recommendations and actions taken are sufficient, in line with the best clinical practice and in compliance with the CFTSS standards and guidelines.

In addition, the committee:

- makes certain that the agency's Incident Reporting Policies and Procedures comply with the OMH Incident Reporting Policy,
- determines if its response and that of any involved provider have been thorough and complete,
- ascertains that necessary and appropriate corrective, preventive and/or disciplinary action has been taken in accordance with the committee's recommendations and OMH guidelines. If different or additional actions are taken, the committee must document the original recommendations and explain why the recommendations were revised,
- develops recommendations for changes in provider policies and procedures to prevent or minimize the occurrence of similar situations. These recommendations must be presented to the appropriate staff, and
- identifies trends in Reportable Incidents (by type, child, site, employee, involvement, time, date, circumstance, etc.) and recommends appropriate corrective and preventive policies and procedures.

4. Documentation

Incident management must include procedures for documenting the occurrence of incidents and the results of all related examinations, investigations, and reviews. Incident-related documents are confidential quality assurance documents which must be maintained separately from the enrollee's clinical record. However, a description of any clinical impact which an incident may have on an enrollee must be recorded in the clinical record.

5. Notifications

In addition to reporting requirements, CFTSS providers must have procedures to assure

the following notifications occur:

- (a) Child Abuse (by Family or Caregiver). Suspected abuse or neglect of an enrollee under age 18 by a parent, guardian, or caretaker in a foster family boarding home, must be reported to the Statewide Central Register of Child Abuse and Maltreatment in accordance with provisions of Section 413 of Social Service Law.
- (b) Notifications to Enrollees, Family/ Guardians: Enrollees may be notified of the outcome of incidents involving them, if and as clinically appropriate, and in accordance with applicable federal and state laws. Family/guardians or other individuals, as identified in the enrollee's treatment plan and by consent, must be notified immediately of allegations of abuse or neglect, missing enrollee or incident involving enrollee death or injury.

New York State

OMH tracks and monitors all aspects of Reportable Incidents and uses the data collected and included in reports to determine if there are systemic issues that need to be addressed and plan a strategy for preventing Reportable Incidents from occurring or recurring. OMH reserves the right to review incidents at any time and may request additional information in NIMRS if not updated accordingly.

1. Corrective Action

In the event that any CFTSS service provider is found to be non-compliant with these policies and procedures, the state takes appropriate action. This may include requesting corrective action, and suspending or terminating the *NYS OMH SPA Designated Services Designation Authorization Attestation*. OMH works cooperatively with other state agencies that provide services to individuals with disabilities, informing them when shared providers experience significant or numerous Reportable Incidents.