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CHILD PROTECTION HANDBOOK

PROTECTING AMERICAN INDIAN / ALASKA NATIVE CHILDREN



U.S. Department of the Interior * Bureau of Indian Affairs



TO: All Employees
FROM: Assistant Secretary - Indian Affairs
SUBJECT: Child Abuse in Indian Country

The Bureau of Indian Affairs has an ongoing, fundamental responsibility for protecting children from child abuse and neglect in Indian Country. The Indian Child Protection and Family Violence Prevention Act of 1990 details child protection requirements with which the Bureau must comply. Since its enactment, Congress has passed other legislation, including the Crime Control Act of 1990, which also affects child protection in Indian country.

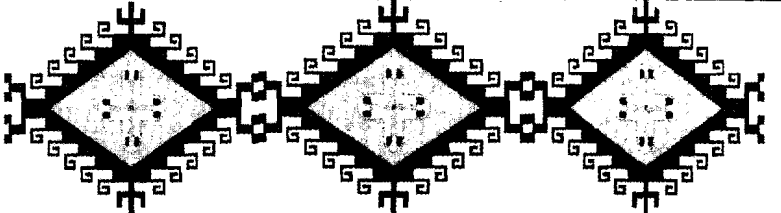
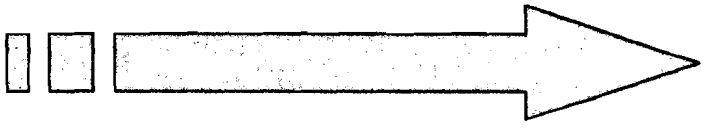

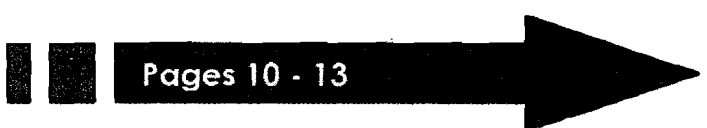



Reporting all alleged cases of child abuse and neglect involving Indian children is mandatory by law. Further, it is the policy of the Bureau that we will not tolerate child abuse or neglect. All employees of the BIA and all non-Federal employees of BIA-administered grant, contract or compact programs have a mandated responsibility for prompt reporting of alleged incidents of child abuse and neglect.

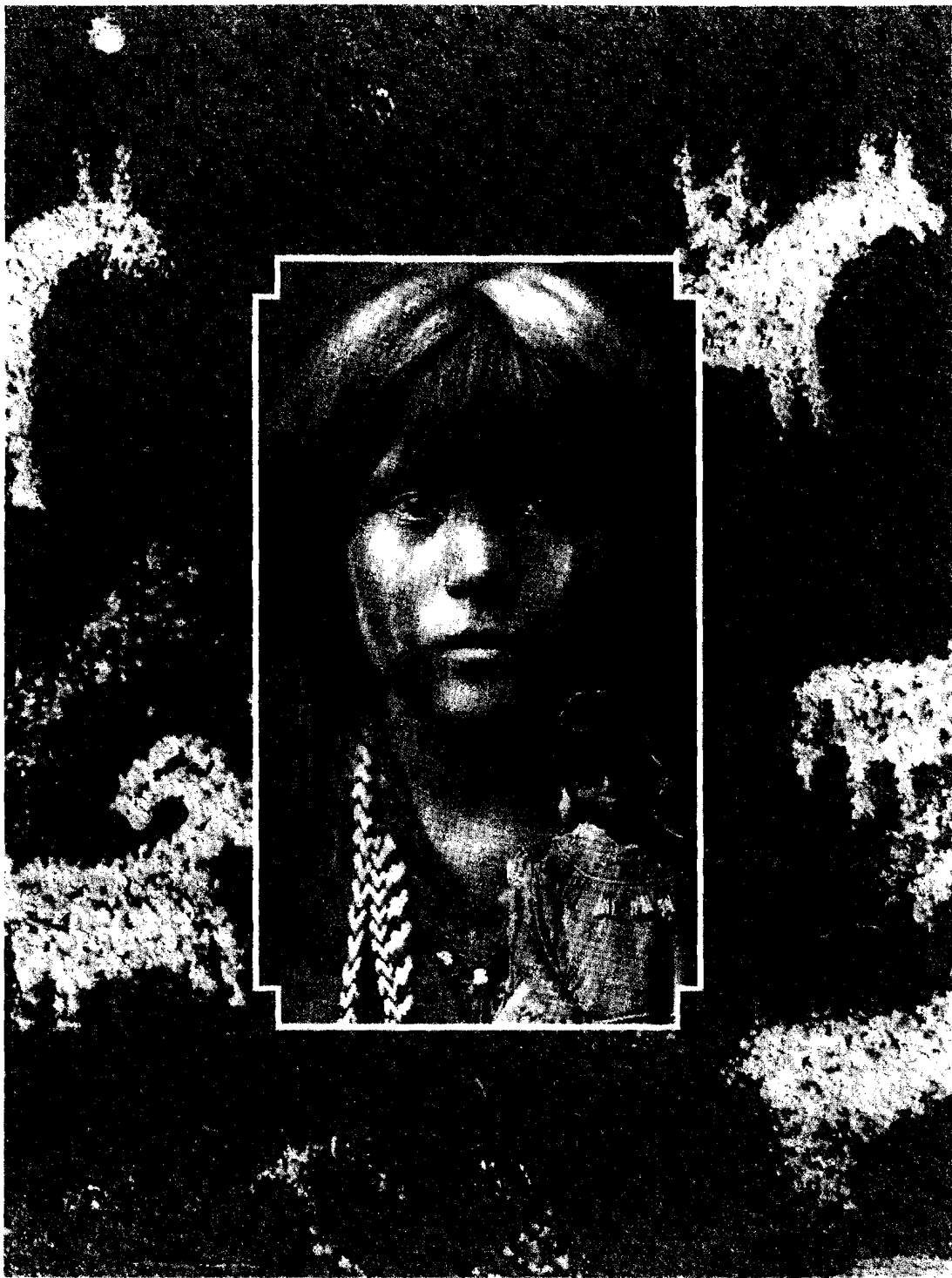
The Child Protection Handbook is designed as a reference tool for Bureau, tribal, and other non-Bureau employees who are in positions that have contact and/or control over Indian children. The Handbook provides employees with an overview of applicable laws, definitions, identification indicators, training, child protection teams, and reporting procedures associated with child protection. Additionally, the Handbook outlines established methods for conducting character/background checks on employees (and volunteers) who are working or applying for work in either a Federal or tribal programs.

Again, we expect all employees and volunteers, Federal and non-Federal, to comply with Federal laws that are meant to protect the safety of our Indian children.

Kevin Jones

MAY 15 1994

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The safety of children is a most fundamental responsibility of any family, any community, any government. Tribal governments and the BIA must join together and work vigorously to protect the children of our communities, who are both the most vulnerable and our most precious gifts of Creation. Kevin Gover, Assistant Secretary-Indian Affairs, 1998

CHILD PROTECTION: AN OVERVIEW

The tribes and the BIA realize that American Indian/Alaska Native families and children are at-risk as incidents of child abuse and neglect, along with incidents of family violence, continue to be reported in high numbers. This handbook is designed to provide Federal and tribal employees with essential knowledge to identify and report incidents of child abuse and neglect. Each employee must be an active participant in helping to address the problem of child abuse and neglect in Indian Country.

This Handbook outlines, immediately below, the key administrative and program elements of Public Law 99-570, 101-630, and 101-647 – statutory elements related to Federally- and tribally-operated child protection services.

Public Law 99 - 570: "Indian Alcohol and Substance Abuse Prevention and Treatment Act" of 1986. This law states:

- ♦ **The Secretary of the Interior, with respect to BIA-administrated family or social services programs or to tribally-contracted programs under the Indian Self-Determination and Education Assistance Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.**
- ♦ **The Secretary of the Interior shall ensure that the data compiled and reported under the Act will preserve the confidentiality of the families and individuals.**

Public Law 101-630: "Indian Child Protection and Family Violence Prevention Act" of 1990. The purpose of this law is to:

- ♦ **Require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;**
- ♦ **Authorize such other actions as are necessary to ensure effective child protection in Indian country;**
- ♦ **Provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;**
- ♦ **Provide for the treatment and prevention of incidents of family violence; and**
- ♦ **Establish tribally operated programs to protect Indian children and reduce the incidences of family violence in Indian country.**

Public Law 101-647: "Crime Control Act, Child Care Worker - Employee Background Checks" of 1990. This law requires:

- ♦ Each Federal agency that hires, or contracts for, individuals involved with providing child care services to children under age 18, to assure that all existing and newly-hired employees undergo a criminal history background check.

Under the law,

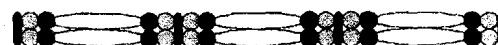
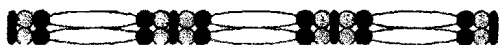
- ♦ "Child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved with teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.
- ♦ The criminal history background check must be based on a set of fingerprints and processed through the FBI Identification Division, and checks of State criminal history repositories of States where the individual has resided.
- ♦ New employees cannot be hired unless the required checks have been completed.
- ♦ Any conviction for a sex crime, an offense involving a child victim, or a drug felony may be grounds for denying employment, or for dismissal of an employee in a child care service position.

ACCOUNTABILITY. All BIA, tribal, grant, contract, and self-governance programs are required to comply with existing federal laws. This includes the following requirements: background investigations, mandatory reporting, failure to report penalties, cross reporting between law enforcement and child protection services, confidentiality, and child abuse investigation requirements or waivers.

DEFINITIONS. For the purposes of this Handbook, we are using the following definitions as provided in Public Law 101-630, Public Law 101-647, and 25 CFR Part 63.

Child. An individual who is not married, and who has not attained 18 years of age.

Child Abuse. Includes, but is not limited to, any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution; a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, soft tissue swelling, and where such a condition is not justifiably explained or may not be the product of any accidental occurrence.



Child Care Services. Includes child protective services (for example, the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correction, or treatment services.

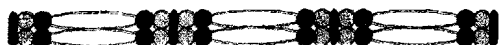
Child Neglect. Includes, but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened. Some general circumstances of child neglect might include a person who exhibits a chronic pattern of not providing a child under 18 with adequate supervision, protection, food, clothing, medical care and/or emotional nurturance.

Juvenile Services. The BIA's Division of Law Enforcement provides juvenile services including juvenile delinquency prevention programs and services designed to reduce incidents of neglected/abandoned children, physically/sexually abused children, juvenile gang activity, and participation in area and local child protection teams.

Local Child Protection Services. Services provided by an agency of a Federal, state, or tribal government that has the primary responsibility for child protection on an Indian reservation or within a community in Indian country.

Local Law Enforcement Agency. A Federal, state, or tribal law enforcement agency that has the primary responsibility for the investigation of alleged child abuse within the portion of Indian country involved.

Person Responsible for a Child's Welfare. Any person who has legal or other recognized duty for the care and safety of a child, and may include any employee or volunteer of a children's residential facility, and any person providing out-of-home care, education, or services to children.



RECOGNIZING CHILD ABUSE AND NEGLECT: COMMON INDICATORS

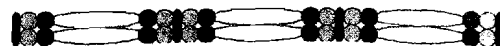
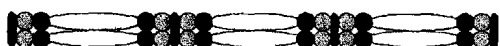
For each of the defined sub-categories under child abuse and neglect, a **PARTIAL** listing of visual or behavioral indicators are listed that will enable Federal and tribal employees to identify a possible occurrence of child abuse or neglect.

Sexual Abuse. Sexual abuse is when a child is being used for the sexual exploitation and/or gratification of the abuser. Categories of sexual abuse include: fondling, unwanted touching, sexually provocative language, exhibitionism, pornography, and oral/vaginal/anal penetration.

Physical Indicators:	Behavioral Indicators:
<ul style="list-style-type: none">◆ Difficulty in walking or sitting◆ Torn, stained, or bloody underclothing◆ Pain, bruising, or itching in the genital and/or anal area◆ Sexually transmitted diseases◆ Engages in delinquent acts◆ Bruises or bleeding in the genital or anal area◆ Loss of appetite◆ Pregnancy◆ Unexplained sore throats, urinary or yeast infections	<ul style="list-style-type: none">◆ Appears withdrawn, engages in fantasy or unusual infantile behavior◆ Poor peer relationships◆ Displays bizarre, sophisticated, or unusual sexual knowledge or behavior◆ Chronic running away◆ School performance in steady decline◆ Drug, inhalant, or alcohol abuse◆ Sudden avoidance of certain familiar adults◆ High levels of anxiety◆ Regression; low self-esteem

Physical Abuse. Any non-accidental, intentional physical injury caused by an abuser.

Physical Indicators:	Behavioral Indicators:
<ul style="list-style-type: none">◆ Skin abrasions, fractures, etc. that show possible evidence of repeated injuries◆ Sign of injury that is not consistent with the type of injury (visible burns on the arm, for example)◆ Refuses to explain an injury◆ Injuries appear clustered or are arranged symmetrically◆ Complains of constant stomach pain or other possible internal injury◆ Unexplained injuries◆ Aggressive, self-destructive behavior	<ul style="list-style-type: none">◆ Repeatedly absent or truant from school◆ Exhibits extreme fright at being touched◆ Displays loss in language and/or gross motor skills◆ Extremely moody; susceptible to personality swings◆ Afraid to take on new tasks◆ Exceedingly careful not to antagonize adults◆ Asks permission from a caretaker for virtually every physical action or need



Emotional Abuse. Recurring verbal and/or non-verbal behavior of a person characterized by intimidating, ignoring, belittling and/or otherwise damaging a child's sense of self-worth and emotional development.

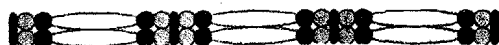
Physical Indicators:	Behavioral Indicators:
<ul style="list-style-type: none"> ◆ Eating disorders ◆ Excessive nightmares ◆ Bed-wetting problems ◆ Failure to thrive: a condition found in children, typically under two years old, who exhibit signs of mental/emotional and physical developmental retardation, as compared to the norm of same-age children. 	<ul style="list-style-type: none"> ◆ Chronic underachiever; poor self-concept; feels unworthy ◆ Exhibits self-destructive behavior, seemingly unaware of obvious hazards and risks ◆ Poor peer relationships ◆ Excessive rocking, biting, head-banging, and thumb sucking

Physical Neglect. The failure of the person(s) responsible for child's care to provide necessary food, shelter, medical care, supervision, or education to a child under age 18.

Physical Indicators:	Behavioral Indicators:
<ul style="list-style-type: none"> ◆ Clothing inappropriate for current weather conditions or insufficient for school/play ◆ Height and/or weight significantly below minimum standard established for age level ◆ Lack of needed medical and/or dental care ◆ Child left without adequate supervision for extended periods during the day or night ◆ Exhibits chronic fatigue ◆ Dirt and grime on clothes or skin; offensive body odor 	<ul style="list-style-type: none"> ◆ Chronic hunger; begs or steals food ◆ Runs away from home ◆ Refuses to eat ◆ Falls asleep in school ◆ Mentions no caretaker in the home ◆ Inability to concentrate ◆ Repeated acts of vandalism ◆ Depressed or apathetic ◆ Constant fatigue or listlessness

Emotional Neglect. The failure of a person to provide a child with a nurturing environment – an environment characterized by the qualities of appropriate attention, support, and affection, as provided by the caretaker to the child. Failure to provide a child with a nurturing environment may result in slowing the child's psychological growth and development.

<ul style="list-style-type: none"> ◆ Distrusts adults ◆ Reluctant to go home ◆ Consistently truant or tardy ◆ Possessive of toys and games ◆ May show "academic retardation" 	<ul style="list-style-type: none"> ◆ Difficulty in forming relationships ◆ Assumes adult or parent role ◆ Often seeks adults attention ◆ Feels abandoned, unwanted ◆ Engages in delinquent behaviors
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Family Violence. Family violence is any act, or threatened act, of violence, including any forceful detention of an individual, which results, or threatens to result, in physical or mental injury, and is committed by an individual against another individual to whom such person is, or was, related by blood or marriage or otherwise legally related, or with whom such person is, or was, residing, or with whom such person has, or had, intimate or continuous social contact and household access.

VIOLENCE AND THE INDIAN CHILD

The Bureau of Indian Affairs recognizes that violence directed toward children is a serious and growing problem. Social resource programs are examining ways to prevent and reduce the impact of family, school, and community violence on young children. Representatives from social services, education, and law enforcement are implementing better coordination methods designed to improve the access, delivery, and quality of educational, social, and family support services for young children at risk for violence.


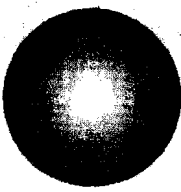
Increased awareness in Indian communities and professional services will help address the impact of violence on children and improve coordination of necessary services and support systems – thus improving the programmatic response to the problem. Education and training for parents, school personnel, childcare workers, child protective services providers, law enforcement, and tribal court officials can continue to assist tribes in reducing the risk and impact of this serious issue.

The Bureau will continue to develop violence prevention strategies such as proven mentoring and conflict resolution methods that have a record of improving the quality of life of American Indian and Alaska Native children and families. The Bureau and Indian communities will work together in cooperative partnership to reduce domestic violence in Indian country.

REPORTING

REPORTING SUSPECTED INCIDENTS OF CHILD ABUSE

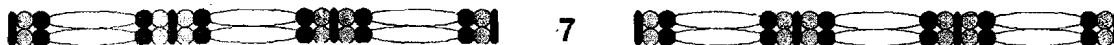
Who must report? The Indian Child Protection and Family Violence Prevention Act, codified as Title 18, United States Code § 1167, requires the following people to immediately report incidents or suspected incidents of child abuse occurring or which may occur:

<u>Medical Field</u>	<u>Educational Field</u>	<u>Other Reporters</u>
<ul style="list-style-type: none"> • Physician • Surgeon • Dentist • Nurse • Dental Hygienist • Optometrist • Medical Examiner • Emergency Medical Technician • Paramedic • Health Care Provider 	<ul style="list-style-type: none"> • Teacher • School Counselor • Instructional Aide • Teacher's Aide • Teacher's Assistant  <ul style="list-style-type: none"> • Bus Driver • Administrative Officer • Supervisor of Child Welfare and Attendance • <u>Truancy Officer</u> <p>Above applies to anyone employed by any tribal, Federal, public or private school.</p>	<ul style="list-style-type: none"> • Child Day Care Worker • Head Start Teacher • Public Assist. Worker • Group home, Day Care, or Residential Facility Worker • Social Worker • Psychiatrist • Psychologist • Psychological Assistant • Marriage, Family or Child Counselor • Mental Health Professionals • Law Enforcement Officer • Probation Officer • Juvenile Rehab or Retention Workers • Public agency staff who are responsible for enforcing statutes and judicial orders

How is abuse reported? Any person aware of child abuse should make an oral report to their local law enforcement or child protective services agency. Calls can also be made to the BIA National Child Abuse Prevention Hotline at 1-800-633-5155.

CHILD ABUSE HOTLINE

1 - 800 - 633-5155



What information is needed for a report? Obviously, the more information provided by the caller the better. However, the information provided should include the name, address, directions to the child's home, sex of the child that is the victim of abuse, the grade and school name of the child (if known), the name and address of the child's parents or other person responsible for the child's care, the name and address of the alleged offender, name and address of the reporting party, a brief description as to the nature and extent of the abuse and injuries to the child. The caller should also provide, if known, any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse.

Must the reporter of an incident maintain confidentiality? The law provides that the identity of any person making a report shall not be disclosed without the consent of the person making the report. However, the law does permit the sharing of the reporter's name with a court of competent jurisdiction, as well as a tribal, State, or Federal employee who needs to know the information in the performance of their duties. Additionally, tribal, State and Federal agencies which investigate incidents of child abuse may share information with like agencies on a "need to know" basis.

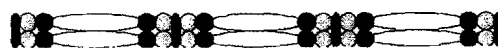
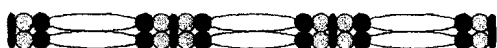
What are the civil and criminal liabilities the person making the report? To protect the person making a report and to encourage the reporting of suspected child abuse, the law permits that any person making a child abuse report which is based upon their *reasonable belief* and which is *made in good faith* shall be immune from civil or criminal liability for making the report.

What are the consequences of failing to report an incident? Any of the above who fails to immediately report incidents of child abuse shall be fined \$5,000 and/or imprisoned not more than 6 months. The person reporting the abuse does not need to prove the abuse.

What is the responsibility of supervisors regarding reporting? The law further provides that any person who supervises or has authority over any of the above and inhibits or prevents that person from making the report shall be fined \$5,000 and/or imprisoned for 6 months.

What happens to the report? The law requires that when a local law enforcement or child protective services agency receives an initial report of child abuse, the receiving agency is required to immediately notify appropriate officials of the other agency and shall submit within 36 hours a written report to the other agency.

The law further requires that any local law enforcement or child protective services agency which receives a report of child abuse shall immediately initiate an investigation of the alleged abuse and take immediate and appropriate steps to secure the safety and well-being of the child or children involved.



If the local law enforcement agency determines the incident occurred in Indian country, the law enforcement agency shall, in addition to notifying the child protection agency, also notify the Federal Bureau of Investigation (FBI). The local law enforcement agency and the FBI shall determine which agency is to be the lead investigation agency. If the suspected abuse is substantiated, the case shall be submitted for prosecution in the appropriate court.

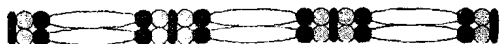
ASSESSMENT CONCERNING PROTECTION OF CHILD VICTIMS

The investigative agency or agencies working with the child protective services and or a Child Protection Team/Multi-Disciplinary Team (CPT/MDT) shall make an initial assessment to determine the following:

- ◆ The probable facts
- ◆ The need for protection of the child
- ◆ The need for removal or continued protective placement
- ◆ What other actions are required to ensure the protection and well-being of the victim

This information is to be conveyed to the responsible CPT/MDT members, the U.S. Attorney's Office, and/or the appropriate prosecutorial agency responsible for emergency removal.

Waiver of Parental Consent/Medical Examination. On a case-by-case basis, medical examinations and interviews with a child suspected of having been abused may be conducted without the consent of the parent, guardian, or legal custodian if it is in the best interests of the child. Immediate medical examinations will be arranged if there is an acute need, such as an injury to the child that requires medical attention; or if there is the need to preserve evidence, such as the preparation of a rape kit, or other existing conditions make it advisable. If no acute need for evidence preservation exists, a medical examination will be arranged in the normal course of business.



CHILD ABUSE AND NEGLECT

FACTS:

Reported cases of child abuse and neglect. Nationally, over 3 million children were reported victims of child abuse and neglect in 1995. For the same year in Indian country, tribes reported over 8,000 incidents of child abuse, 19,000 incidents of child neglect, and 4,000 incidents of sexual abuse.

Neglect is the most common form of child maltreatment. In 1995, 52 percent of the nation's children who were maltreated were victims of neglect. For the same year, 58 percent of the maltreated American Indian and Alaska Native children were determined to have been victims of neglect.

Other related national statistics.

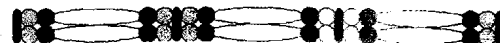
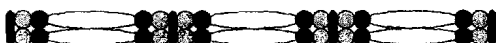
- **Gender.** In 1995, 53 percent of the child abuse/neglect victims were female and 47 percent were male.
- **Age.** About half of substantiated victims were of age 7 or younger, with 26 percent younger than 4 years old in 1995. About 26 percent of the victims were children between the ages of 8 and 12; another 21 percent were between the ages of 13 and 18. Victims of neglect tended to be younger than 8 years old, while the majority of child victims of physical, emotional, and sexual abuse were age 8 or older.
- **Death.** Nationally, child protection services (CPS) linked the deaths of 996 children to either abuse or neglect. Most of the children were 3 years old or younger. The 996 total, however, does not accurately reflect the total number of abuse/neglect-linked fatalities. Many such fatalities involving children are reported as homicides, and, therefore, are not reported to the local CPS.

FREQUENTLY ASKED QUESTIONS:

Where are children most frequently abused or neglected? In Indian country, nearly 80 percent of the reported child abuse/neglect incidents occur in the child's home. Only about 4 percent take place in or near a school environment. The remainder occurs elsewhere.

What can communities do to help prevent child abuse/neglect? Child abuse and neglect is a community problem. It is also a community challenge – a challenge to find solutions to reduce incidents of child maltreatment. Communities can implement programs designed to strengthen families, for example, by improving communication among families and sharing resources with less fortunate families. Prevention and intervention programs must be sensitive to the child's and the family's culture and values in the context of the larger community.

Sources: U.S. Department of Health and Human Services, Bureau of Indian Affairs, and National Clearinghouse on Child Abuse and Neglect



CHILD PROTECTION TEAMS (CPTs)

Child Protection Teams: A Mechanism for Cooperation. Child protection teams (CPTs) use a multi-disciplinary approach to coordinate interagency service delivery and maximize the existing services available to victims of child abuse. CPTs hold regular meetings and emphasize child abuse and neglect prevention.

CPT Composition. It is recommended that:

- ◆ membership is limited to eight or less and
- ◆ may be composed of representatives from tribal courts, education, local law enforcement, judicial services, mental health services, medical clinic (a physician), community health clinic (a nurse), and social services (tribal, BIA, IHS or state/county). Other agency representatives may serve as resources.
- ◆ All formal members of the CPT shall be required to have undergone or submit to a background investigation.

Confidentiality. Confidentiality shall be maintained. Each member shall be required to sign a confidentiality agreement. A violation of confidentiality will be subject to prosecution under federal law.

CPT Duties include:

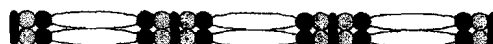
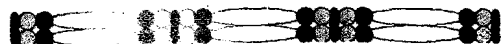
- ◆ providing oversight regarding reported child abuse/neglect incidents,
- ◆ facilitating the provision of service, and
- ◆ providing technical assistance.

CPTs will be trained to more effectively use community resources in the treatment and prevention of child abuse.

Types of Teams:

Core Team – Core teams are composed of members who have professional expertise necessary to identify and plan for treatment of child abuse and neglect cases.

Program Development Team – Program development teams include community members with skills and knowledge to assess community problems, identify gaps in service, and develop tribal policies and programs that strengthen family life.

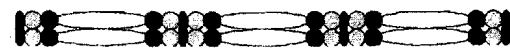
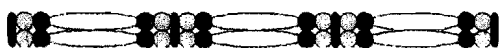




Interagency Agreements. The CPT should encourage interagency agreements or written agreements of cooperation between the agencies and organizations within the community's service delivery system. Inter-agency agreements should be reviewed annually and revised as necessary. These agreements may address:

- ◆ methods for communication among staff,
- ◆ referral procedures, criteria for cases to be reviewed,
- ◆ agency roles in identifying and reporting cases,
- ◆ providing treatment and case management,
- ◆ procedures for interagency information sharing, and
- ◆ a conflict resolution mechanism.

The team should ensure that the local child protection agencies' authority and responsibility are observed.



Confidentiality Agreement

All regular Child Protection Team (CPT) members should complete this agreement at least annually. Individuals who attend a CPT meeting on a one time only or infrequent basis should complete it each time they attend. This information should be maintained in the CPT file.

By signing this agreement, I agree to and understand that:

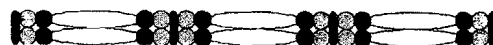
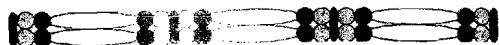
1. The Chairperson of the CPT has discussed with me the tribal and federal requirements for keeping information confidential.
2. Confidentiality means that I cannot discuss any matter pertaining to any child abuse/neglect case that I review as part of the Child Protection Team, except as allowed by law.
3. The legal requirements of confidentiality mean that I cannot discuss any matter pertaining to the CPT referrals with any member of my family, including parents, children, spouse, aunts, uncles, cousins, or with any other person unless they are allowed access to such information by law.
4. I understand that if I do not keep Child Protection Team referrals confidential, I am subject to termination of my job or other disciplinary action as allowed by tribal, federal or state law.

Signature of CPT Representative or Attendee

Date

Signature of Witness

Date



TRAINING

The following outline is a suggested format containing categories necessary for child protection training. This format can be utilized by all service providers who come into contact with or who are directly responsible for children, for example, the BIA Area/Agency Administrative Offices, all education offices, BIA schools (contract and grant schools), law enforcement, social services, and judicial services. Area, Agency and tribal staff may be identified as potential trainers. Training must be provided at a minimum of once a year, preferably near the beginning of the school year. It is the responsibility of the administrative leaders of each program area to implement training for all staff.

DEFINITIONS

General Definition: overall description of abuse

Sexual Abuse

Physical Abuse

Emotional Abuse

Neglect

Physical neglect

Emotional neglect

Child Violence

SIGNS AND SYMPTOMS OF CHILD ABUSE & NEGLECT CHARACTERISTICS

Victims

Behavioral signs

Physical indicators

Emotional/psychological indicators

Violent crime impact

Caretaker's Behavior

Characteristics of abusive caretakers

Risk Factors

Families at risk

The impact of family, school and community violence on children

General at risk factors for children

Increased risk for children with disabilities

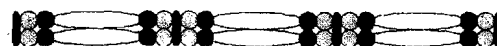
Specific American Indian risk factors (cultural, economic, social, etc.)

REPORTING ABUSE

Laws

Reporting guidelines

Responsibilities of all BIA employees/BIA policy



REPORTING ABUSE (continued)

- Good faith reporting
- Penalties for not reporting
- The role of the Child Protection Team

CONFIDENTIALITY

All cases of child abuse allegations shall be treated within the guidelines of Federal laws protecting children, employees and all parties involved. Confidentiality must be a priority throughout the process.

- Confidentiality of informant, alleged victim and information
- Disclosure protocol
- Maintenance of files
- Review of Federal laws pertaining to confidentiality of personnel information, for example:

- The Privacy Act
- The Family Education and Privacy Act
- The Crimes Control Act

ADMINISTRATIVE PROCEDURES FOR EMPLOYEES/VOLUNTEERS ACCUSED OF CHILD ABUSE

- General procedures
- Process for removing employee/volunteer from contact with or control over children

EMPLOYEE RIGHTS, ISSUES AND CONCERNS

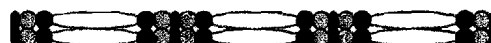
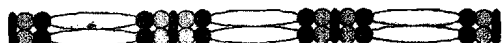
- Orientation of administrative procedures for new and current employees

THE IMPACT OF SERIOUS SEXUAL ABUSE

- Short-term impact
- Long-term impact
- Psychological impact
- Family dynamics in incestuous families
- Special considerations in multiple victim molestation

NORMAL SEXUAL DEVELOPMENT

- Age appropriate sexual behavior
- Disruptions in sexual development due to abuse



DISCUSSING ABUSE WITH THE CHILD

Communicating about abuse, referral, follow-up, and support
Identify professional resources

PERPETRATORS

Myths and facts
Characteristics of perpetrators
Profiles of a pedophile
Juvenile perpetrators
Offender treatment

SCHOOL-BASED INTERVENTIONS

Primary prevention programs
Post-abuse prevention
School personnel's attitudes/roles

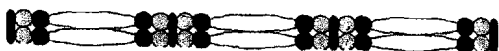
COMMUNITY RESOURCES

Professional Resources:

BIA
US Attorneys
IHS
Tribal Social Services
Tribal Law Enforcement
Schools
Tribal Initiatives

Other Community Resources:

Schools
Tribal Initiatives
Other Community Resources



INVESTIGATION (25 USC 3203)

When local law enforcement or child protective services staff receives a report of suspected child abuse or neglect, the receiving agency is required to:

- ◆ notify the other agency of such report and
- ◆ submit a written report to the other agency within 36 hours.

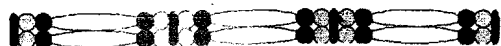
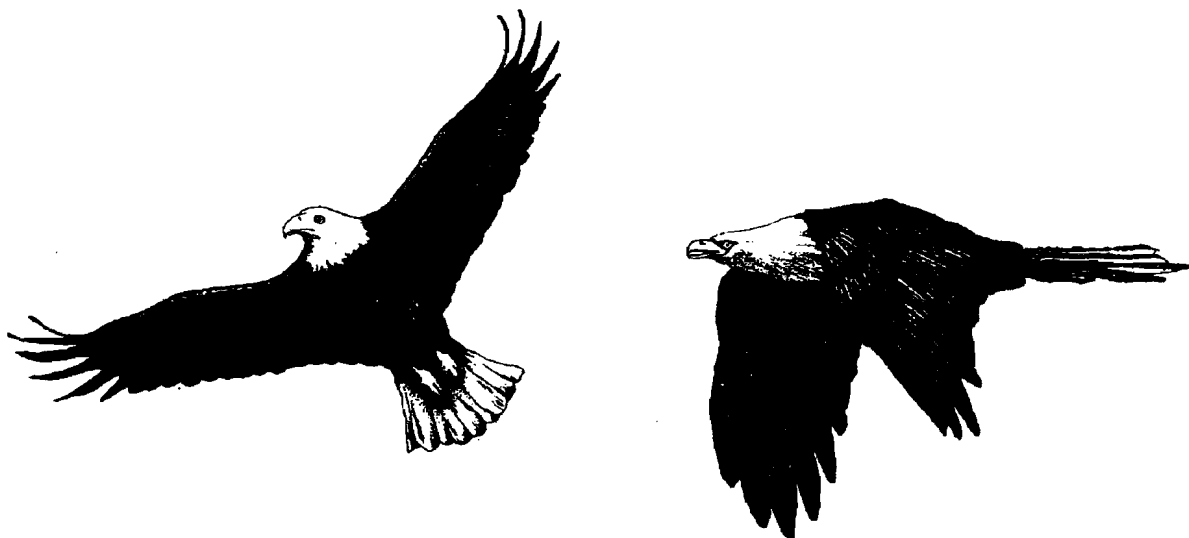
The local law enforcement or child protection service agency that receives a report shall immediately

- ◆ initiate an investigation of such an allegation and
- ◆ take immediate and appropriate steps to secure the safety and well being of the child(ren) involved.

The investigative agency or agencies working together with the child protection worker and/or the child protection team (CPT) shall make an initial evaluation to determine:

- ◆ the probable facts,
- ◆ the need for protection of the child, including the need for placement, and
- ◆ what other actions need to be taken for the safety of the child.

If emergency removal is necessary, the local child protection agency will follow the appropriate local procedures.



ADMINISTRATIVE PROCEDURE

REQUIRED CHARACTER AND BACKGROUND INVESTIGATION

This section establishes guidelines for conducting character/background investigations and processing criminal history checks (fingerprint checks) for employees and volunteers, whose responsibilities include the contact, care and control of Indian children.

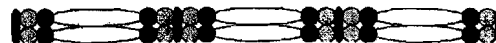
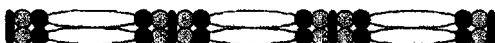
Federal Employees

Character Investigations for Bureau of Indian Affairs Employees

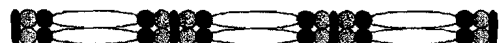
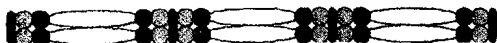
This section establishes guidelines for processing the required background investigations covered by Executive Order (E.O.) 10450, Security Requirements for Government Employment. E.O. 10450 requires that each civilian employed in any department or agency of the Government shall be made subject to investigation. The scope of the investigation will be consistent with the degree of risk the employee would have on the position occupied. However, in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation.

Procedures - requesting background investigations, determining suitability for employment and meeting minimum standards of character and efficiency of service, as mandated by E.O. 10450, and Public Laws 101-630 and 101-647:

- ◆ All vacancy announcements will clearly state the investigative requirements.
- ◆ Prospective employees will be informed that the appointment is subject to satisfactory completion of the pre-employment investigation inquiries as well as the post employment investigation.
- ◆ An unfavorable report as a result of the pre-employment inquiry shall be grounds for non-selection, and an unfavorable report as a result of the post employment investigations shall be grounds for separation from employment.
- ◆ Selecting officials shall conduct telephone reference inquiries (only on the applicant tentatively selected) prior to making a final commitment. The inquiries shall include three former employers and personal references or enough other alternative checks to cover the last seven years (e.g., high school/college teachers/counselors, etc.)



- ◆ Document the results and record the date of the telephone checks and the name and title of the person interviewed. The name and title of the person conducting the interview shall also be documented. If the applicant's references checks are found to be inconclusive, then the applicant is required to provide additional references.
- ◆ Certify that the individual's past conduct would not interfere with his /her performance of duties, nor would it create an immediate or long-term risk for any child.
- ◆ Applicants who have been tentatively selected for positions and employees must submit a security package consisting of the following: a Standard Form 85P, Questionnaire for Public Trust Positions, Standard Form 85P-S, Supplemental Questionnaire for Selected Positions, Standard Form 87, Fingerprint Chart, Optional Form 612, Optional Application for Federal Employment or resume along with the Optional Form 306, Declaration for Federal Employment.
- ◆ All positions with regular contact with or control over children have been designated as Public Trust (e.g., all positions in the Office of Indian Education Programs, social services, facilities management, etc.)
- ◆ All employees' occupying Public Trust positions with regular contact with or control over children shall be subject to periodic reinvestigation every five years. The reinvestigation will occur for each succeeding five-year period during the tenure of an employee who is in a position dealing with children. A criminal history check will meet the requirements for the reinvestigation.
- ◆ The designated employee who will request the background investigation from the Office of Personnel Management (OPM) must review the security package and code the case papers. The SF 85P must have "BIA EAGLE" on the top of the form.
- ◆ Those designated employees responsible for the scheduling of the required investigations have been/will be trained in the proper procedures for coding the case papers.
- ◆ The complete security forms must show no gaps in dates. Further, forms must cover the last seven years of the applicant's/employee's life in which the investigation will cover.
- ◆ The completed background investigations will be sent from OPM to the designated security officer as indicated on the security forms. The security officer will review the result of the background investigation, apply the suitability standard and make the suitability determination.
- ◆ Applicants and/or employees MUST be provided an opportunity to deny, explain, or refute derogatory information developed in the background investigation. This response may be accomplished either in person or in writing. If an unfavorable



determination is rendered, the servicing personnel office will notify the applicant or employee in compliance with due process procedures.

- ◆ The designated security officer shall issue a written notification to the designated personnel officer that the applicant/employee has met the investigative requirements for the position (either sensitive or nonsensitive).
- ◆ When determined suitable for a Public Trust position, the designated security officer or supervisor shall provide a briefing to the applicants and/or employees on the topic of “standards of conduct required for Federal employment and their responsibilities.”

Tribes and/or Tribal Organizations

Re: Public Law 101-630 “The Indian Child Protection and Family Violence Prevention Act” of 1990

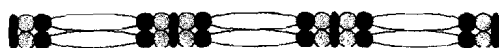
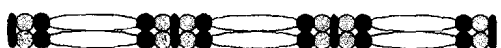
Sec. 408 – Character Investigations – investigations by Indian Tribes and Tribal organizations. – Each Indian tribe or tribal organizations that receive funds under the Indian Self-Determination and Education Assistance Act or Tribally Controlled Schools Act of 1988 shall –

Conduct an investigation of character of each individual who is employed or is being considered for employment, by such tribe or tribal organizations in a position that involves regular contact with, or control over, Indian children –

Employ individuals in those positions only if the individual meets minimum standard character requirements.

Re: Public Law 101-647 “Crime Control Act, Child Care worker – Employee Background Checks” of 1990

Sub chapter V – Each agency of the Federal Government and every facility operated by the Federal Government or operated under contract with the Federal Government, which hires (or contracts for hire) individuals involved with providing child care services to children under the age of 18 shall assure that all existing and newly hired employees undergo a criminal history background check.



EMPLOYEES AND VOLUNTEERS, FEDERAL AND TRIBAL

Provisional Clause:

Public Law 101-647 allows hiring employees or utilizing volunteers provisionally prior to the completion of a background check, if, at all times, the person is within the sight and under the supervision of a staff person who has had a background check and has been determined suitable.

The minimum investigative requirement for volunteers is a **CRIMINAL HISTORY BACKGROUND CHECK**. For all Office of Indian Education Programs (OIEP) volunteers, please refer to 62 BIAM regulations.

WHAT ARE MINIMUM STANDARDS OF CHARACTER and SUITABILITY?

- ♦ **Minimum Standards** of character are established by the employer and refer to identifiable character traits and past conduct.
- ♦ **Minimum Standards** of character SHALL ensure that NO applicant, volunteer or employee is placed in a position whose responsibilities and duties allow regular contact with or control over Indian children if he or she has been found:
 - ♦ guilty of or entered a plea of nolo contendere or guilty to any offense under Federal, State or Tribal law involving crimes of violence,
 - ♦ sexual assault,
 - ♦ sexual molestation,
 - ♦ sexual exploitation,
 - ♦ sexual contact or prostitution,
 - ♦ or crimes against persons.

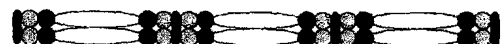
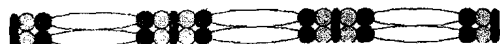
Determination of suitability measures the fitness or eligibility of the applicant, employee or volunteer for a particular position. It requires that:

- ♦ The employers investigate the background of each applicant, employee, or volunteer;
- ♦ Determine the degree of risk the individual brings to the position; and
- ♦ Certify the individual's past conduct would not interfere with his /her performance of duties, nor would it create an immediate or long-term risk for any Indian child.

Suitability for employment does not evaluate an applicant's education, skills, knowledge, or experience.

WHAT POSITIONS REQUIRE A BACKGROUND/CHARACTER INVESTIGATION?

All Federal employees, tribal contract and grant school employees, social and mental health workers, head start employees, child day care employees, juvenile detention, correctional or treatment centers employees, Tribal Courts employees, Law Enforcement personnel, health care service positions, and volunteers that have contact with or control over Indian children, as well as selected other positions, must have a background/character investigation.



Federal

All Federal employees must be investigated by the Office of Personnel Management (OPM).

All applicants and/or employees must complete the SF 85P, Questionnaire for Public Trust Positions; SF 85P-S, Supplemental Questionnaire for Selected Positions; SF 87, Fingerprint Chart, OF 612, Optional Application For Federal Employment; and OF 306, Declaration for Federal Employment. [Some positions may require the SF 86, Questionnaire for Sensitive Positions (For National Security) {for law enforcement positions only} instead of the SF 85P.]

All investigations must be submitted to OPM within 14 days of placement in positions. Those positions designated Public Trust based on regular contact with or control over children must have "BIA EAGLE" on the top of the security form.

The minimum investigation is a **National Agency Check and Inquiries (NACI)**. The NACI consists of a search of the OPM Security/Suitability Investigations Index (SII), the Defense Clearance and Investigations Index (DCII), an FBI Identification Division, fingerprint name file and fingerprint chart, and FBI Records Management Division files, written inquiries, and records searches covering specific areas of a subject's background during the past five years.

All employees occupying positions designated Public Trust based on regular contact with, or control over children will be reinvestigated every five years. The minimum reinvestigation shall be a **CRIMINAL HISTORY CHECK**.

Tribal

All tribal employees who have contact with or care over Indian children must have a background investigation.

The employment application must ask whether the applicant, volunteer, or employee had been arrested or convicted of a crime involving a child, crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution or crimes against persons and the disposition of the arrest or charge.

Criminal History Checks (i.e., by conducting a FBI fingerprint search through the Office of Law Enforcement's Liaison Office, Albuquerque or by checking fingerprints through the states.)

Local Law Enforcement Checks (i.e., State, County and Tribal Court Systems)

Employment history verified for past five years

Employment References for past five years

Education/training verification

Residence history check

A subject interview, applicant or volunteer

Drivers license check/History, if applicable

Military verification, if applicable

ALERT – NOTICE TO ALL AREAS AND AGENCIES. A recent review of the Bureau's security program revealed the following critical deficiencies: background investigations were not completed prior to employees being assigned to sensitive and/or public trust positions, investigations were not consistently being requested for new employees, nor were the appropriate position sensitivity designations assigned. Area or Agency noncompliance with the investigative requirements of applicable Executive Orders and Public Laws **will not be tolerated.**

Character and Background Investigation Forms

Federal:

- ✓ Standard Form (SF) 85P, Questionnaire for Public Trust Positions
- ✓ SF 85P-S, Supplemental Questionnaire for Selected Positions
- ✓ SF 86, Questionnaire for Sensitive Positions (National Security)
- ✓ SF 87, Fingerprint Chart
- ✓ OF 612, Optional Application for Federal Employment
- ✓ OF 306, Declaration for Federal Employment
- ✓ Employer/Personal Reference Inquirer Form

Tribal:

- ✓ Sample tribal forms are available from the BIA's Office of Law Enforcement, Services Liaison Office, Albuquerque, New Mexico.

DEFINITIONS SPECIFIC TO THIS SECTION

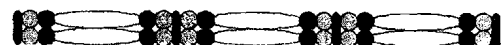
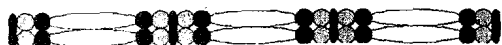
Confidentiality – the sensitivity of documents, criminal history checks, and inquiries received information must be shared with only those officials who have a need to know in the performance of their official duties.

Crimes against persons are defined by local law. Adjudicating officers must contact local law enforcement agencies to determine if the crime for which an applicant, employee or volunteer was found guilty (or entered a plea of nolo contendere or guilty) meets the requirements of Public Law 101-630.

Local law enforcement agency is that Federal, Tribal or state law enforcement agency that has primary responsibility for the investigation of an instance of alleged child abuse with the involved Indian jurisdiction.

National Criminal History Check is a FBI fingerprint search that includes a check of past state criminal history. The FBI search does not include local or tribal criminal histories.

Privacy Act contains provisions for criminal penalties for knowingly and willfully disclosing information from investigative files unless properly authorized.



Examples of positions that require investigation and determination of suitability:

All education positions (Status Quo and Pub. Laws 93-638, 95-561, 100-297)

Academic/support staff (teachers, school counselors, teachers' aide, etc.)

Professional and administrative staff (superintendents, principals)

Dormitory/domestic staff (home living specialists/assistant, night attendants)

Education support services staff (school bus drivers, cooks, school custodial workers, business managers/technicians, and registrars)

Social service and mental health workers

Foster care providers

Physician, dentists, dental assistants, nurses, etc.

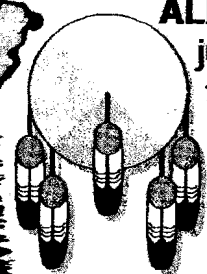
Head Start programs, child day care programs

Efficiency of Service is the employer's verification that the applicant, employee or volunteer is able to perform the duties and responsibilities of the position, and his/her presence on the job will not inhibit other employees or the agency from performing their functions.

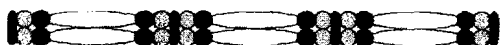
Adjudication is the process employer's use to determine suitability for employment and efficiency of service. The adjudication process protects the interests of the employer and the rights of applicants and employees. Adjudication requires uniform evaluation to ensure fair and consistent judgment. Each case is judged on its own merits based on all information gathered.

Due Process is advising the subject of any of derogatory information received and providing the subject the opportunity to comment, explain, deny or refute the information.

Character and background Investigations will be conducted for all Federal and tribal employees who have contact with control over Indian children.



ALL tribal contract and grant school; juvenile detention; correctional or treatment center; Tribal Court and Law Enforcement personnel; all health care service positions that have contact with or control over Indian children; and other positions involving such contact.



PROGRAM ADMINISTRATION

The Bureau of Indian Affairs recognizes that administrative action is essential to enforce compliance to Executive Order 10450, Public Laws 101-630 and 101-647, which safeguard Indian children. These actions, as stated in E.O. 10450 and the two Public Laws, apply to all employees, volunteers, their supervisors and various other BIA officials as well as tribal officials, tribal contractors, and tribal grantees who have a specific or general responsibility for child abuse prevention or treatment.

Five areas of concern have been identified as requiring immediate administrative intervention:

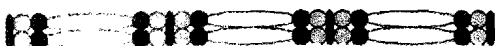
- ◆ Failure to report suspected cases of child abuse or neglect;
- ◆ Unsuitability determinations on applicants, volunteers, or current employees;
- ◆ Compliance with security background investigation procedures by responsible management officials;
- ◆ Child abuse allegations and supported incidents of child abuse among employees and volunteers; and
- ◆ Charges, indictments, and criminal records involving employees or volunteers.

Each of these five areas of concern is addressed in greater detail below. Topics covering access to information on cases of alleged child abuse are addressed at the end of this section, as is conflict of interest.

FAILURE TO REPORT SUSPECTED CASES OF CHILD ABUSE OR NEGLECT

BIA employees must report suspected cases of child abuse or neglect to the local social services, law enforcement or child protection hotline immediately, but no later than 24 hours from the time the incident is brought to their attention. Failure to report within this timeframe will result in corrective disciplinary or adverse action being taken against the employee. Failure to report suspected cases of child abuse or neglect may subject the employee to a fine not to exceed \$5,000 or six months in prison and/or administrative penalties up to and including removal from Federal service.

Any person making a report based upon their reasonable belief and made in good faith shall be immune from civil and criminal liability for making that report. Retaliation against an employee for reporting suspected incidents of child abuse is prohibited.

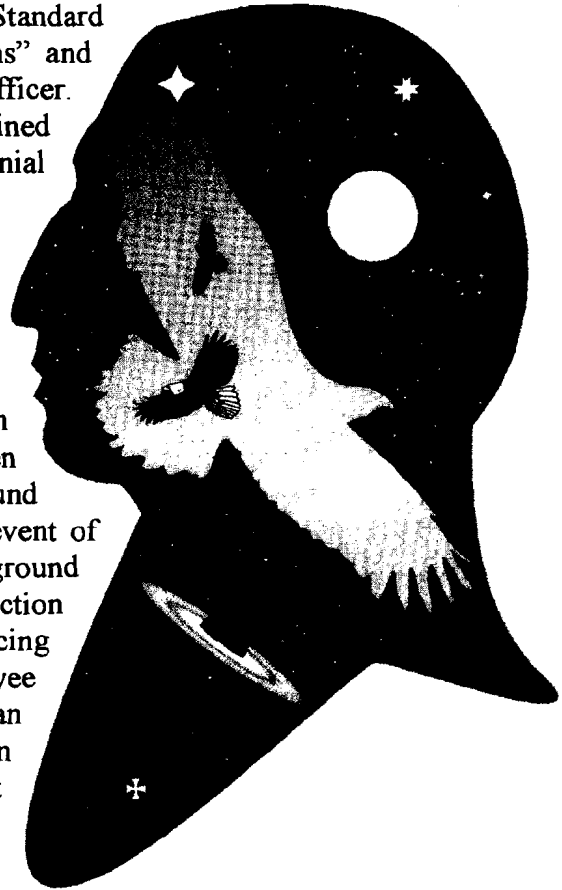


UNSUITABILITY DETERMINATIONS ON APPLICANTS, VOLUNTEERS, OR CURRENT EMPLOYEES

Applicants for BIA positions requiring regular contact with or control over children are required to complete as a minimum the Standard Form 85P, "Questionnaire for Public Trust Positions" and receive appropriate clearance by the BIA Security Officer. Applicants selected for a position and determined unsuitable for employment will be issued a written denial of employment.

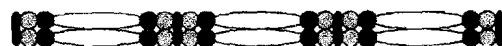
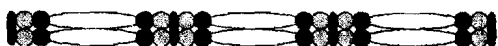
Volunteers are subject to the appropriate background investigation to meet the requirements of the law.

Current BIA employees occupying a position requiring regular contact with and control over children are required to have appropriate security background clearance through the BIA Security Office. In the event of negative results of a post-employment background investigation, or five-year follow-up investigation, action must be initiated in consultation with the servicing personnel office to propose removal of the employee from Federal service. A removal based on an unsuitability determination does not prohibit an employee from re-applying for a Federal position not requiring regular contact with or control over children within the Bureau of Indian Affairs or any other Federal agency.



COMPLIANCE WITH SECURITY BACKGROUND INVESTIGATION PROCEDURES, BY RESPONSIBLE MANAGEMENT OFFICIALS

It is the responsibility of management officials of the BIA to ensure all applicants and volunteers for sensitive positions and employees encumbering such positions requiring regular contact with and control over children have completed the appropriate security background investigation and obtained clearance for the position by the BIA Security Officer. Non-compliance with security background investigation procedures may endanger the safety or well being of Indian children and unnecessarily places them at risk. For this reason, failure to meet these requirements will result in corrective disciplinary or adverse action to be taken against the management official. Security Officers responsible for oversight and implementation of the program are responsible for notifying the second level management official in writing when faced with incidents of non-compliance.



CHILD ABUSE ALLEGATIONS AND SUPPORTED INCIDENTS OF CHILD ABUSE

This policy places safeguarding children from child abuse as the highest priority while an investigation of child abuse allegations is completed. This involves mandatory removal of the alleged perpetrator from contact with or control over children until a preliminary investigative report can be completed by law enforcement to determine whether prosecution is imminent.

Mandatory removal from contact with or control over children

It is the policy of the Bureau of Indian Affairs that any employees, against whom allegations of child abuse or neglect have been raised, will be immediately placed in a position requiring no contact with or control over children or automatically placed on administrative leave for a period of three (3) work days.

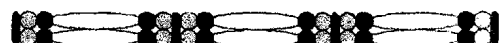
Removing an employee from contact with or control over children will be accomplished by placing the employee in a position that does not have contact with or control over children, if such a position exists and work is available. The employee will be informed in writing of the temporary assignment to this position and will be notified the reason for the action is an allegation of child abuse or neglect. Every effort will be made to place the employee in a position on site or in another office within the local commuting area.

If management determines it is in the best interest of the Federal service to place the employee on administrative leave, a letter stating such will be prepared in consultation with the servicing personnel office. The letter will inform the employee of the expected duration of the administrative leave and that action is being taken based on an allegation of child abuse or neglect.

THE PRELIMINARY INVESTIGATION

The employee will remain in the temporary assignment or on administrative leave pending receipt of a preliminary investigative report from law enforcement on the possibility of criminal prosecution. The preliminary investigation should be completed within three days of the receipt of the referral/allegations.

What happens next? Placing an employee in a temporary position or on administrative leave is required when law enforcement determines prosecution is likely or imminent or if the Agency has not received a preliminary report of investigation. In this case, the employee will be notified the temporary position or administrative leave will be extended for an indefinite amount of time. If law enforcement notifies management the allegations are unfounded, the employee may be immediately returned to duty.



When to initiate an administrative inquiry. In the absence of a preliminary report of investigation from Law Enforcement at the end of the three workdays, management will initiate an administrative inquiry into the merits of the allegation. Also, management will determine whether to continue the employee in a status with no contact or control over children or return the employee to their position. This does not prevent management from determining it is in the best interest of the student, school, or community to delay the employee's return to their position until a determination is made on whether or not administrative action is warranted. Further administrative review will be determined on a case by case basis.

When to inform employee of general allegations. The supervisor shall inform the employee of the general charge(s) or allegation(s) against the employee after receipt of the preliminary investigative report by law enforcement or during the conduct of an administrative investigation initiated by management unless Child Protective Services or Law Enforcement Services officials reasonably believe that notification of the employee shall result in the destruction of evidence, the intimidation of witnesses or victims, or shall otherwise impair the investigation. Management officials must receive concurrence from law enforcement and the servicing personnel office before any notification is given the employee. When the employee is notified of the allegations, the employee may submit a written response within 24-hours.

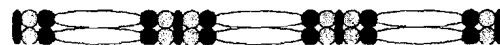
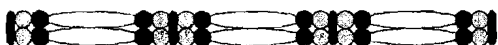
Consultation with servicing personnel office. After the 24-hour period has expired, or the employee has responded in writing, whichever comes first, the supervisor in consultation with the servicing personnel office shall make an initial determination on the merits of the allegations and explanations or responses. The supervisor will make a written determination, whether or not there is sufficient reason to believe the allegations have merit. The supervisor shall immediately submit the employee's written response and the supervisor's written findings and determinations to the servicing personnel office for advice and counsel on appropriate administrative action required. Refer to the directory in this Handbook's appendix for listing of servicing personnel offices and areas served.

CHARGES, INDICTMENTS, AND CRIMINAL RECORDS INVOLVING EMPLOYEES AND VOLUNTEERS

Management is responsible for ensuring none of the individuals appointed to positions having contact with or control over children have been found guilty of, or entered a plea of nolo contendere or guilty to any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

Any employee occupying a position requiring regular contact with or control over children and convicted of crimes against persons or child abuse, neglect or abandonment shall immediately and permanently be removed from contact with or control over children. Charges or indictments of crimes against persons, child abuse, neglect or abandonment in a recognized court of law (tribal, State or Federal) will serve as basis for invoking the crime provision and an indefinite suspension shall be proposed.

The BIA need not await the outcome of the criminal proceedings to proceed with administrative action up to and including removal from Federal service. Management must immediately notify the servicing personnel office upon becoming aware of an employee being charged with or convicted of a crime, which may have a bearing upon continued employment.



Indefinite suspensions will be proposed when there is reasonable cause to believe the employee has committed a crime subject to the penalty of imprisonment. "Reasonable cause" may be established by an indictment alone or by circumstances attendant to an arrest or investigation conducted by the employing agency or criminal law enforcement authorities.

If the supervisor has information to substantiate the allegations brought against the employee, then the supervisor is responsible for taking administrative action against any BIA employee, regardless of pending criminal action against the employee. No administrative action should be taken without first consulting with the servicing personnel office.

ACCESS TO INFORMATION

Referral Source. The identity of any person making a report of child abuse or neglect shall not be disclosed to anyone other than those individuals directly involved in the child protection investigation or the court, without the consent of the individual.

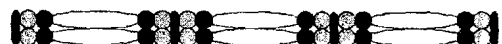
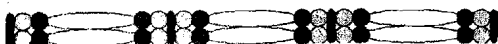
CONFIDENTIALITY. Employees with access to child abuse and neglect information shall keep this information strictly confidential. This information shall not be released to individuals who are not involved in the child protection investigation.

Requests for information. Any requests for information by parties not directly involved in the child protection activities shall be referred to the respective Privacy Act and Freedom of Information Act (FOIA) Coordinators. Requests for information/data received from union representatives shall be forwarded to the Privacy Act/Freedom of Information Act Coordinator and the servicing personnel office for response.

Restrictions on Release of Information. The local law enforcement office, which has received a report of child abuse against a BIA employee, shall advise the employee's immediate supervisor and the servicing personnel office of the allegations within 24 hours. If law enforcement personnel find sufficient reason to believe notification to the supervisor shall cause the destruction of evidence, intimidation of victims or witnesses, or shall otherwise impair the investigation, this information may be withheld. Law enforcement officials who make such a determination must submit their reasons in writing to their next line supervisor.

CONFLICT OF INTEREST

The BIA official, whether immediate, second, third or fourth-line supervisor, law enforcement official, child protection official, or other decision making official, who is presented with a potential conflict of interest or the appearance of a conflict of interest in a case of alleged child abuse, is responsible for excusing themselves from any further involvement in the case.



This document is provided as an example of a negotiated CPT agreement between a tribe and the Federal Government (the BIA and HIS). A tribe may want to refer to this example in drafting a similar CPT document. Each tribe, however, is encouraged to develop a CPT document that reflects the tribe's unique needs, resources, culture, and CPT objectives/goals.

MEMORANDUM OF UNDERSTANDING CROW CHILD PROTECTION TEAM

I. PURPOSE

The purpose of the Crow Child Protection Team (CPT) is to provide a multi-disciplinary team which coordinates child abuse prevention services through public awareness, staff training, and case management. The functions of the (CPT) are to staff cases and implement a coordinated plan for the prevention, intervention, and treatment of child abuse and neglect cases for Native American children residing on the Crow Reservation over whom the Crow Tribal Court has jurisdiction. However, the Crow Child Protection Team is primarily technical and advisory in nature and by definition, cannot assume or undermine the responsibility of individual agencies.

II. OBJECTIVE/GOALS

- A. To assess the needs and facilitate services in individual child abuse and neglect cases including investigation and treatment.
- B. To make team recommendations for short-term and long-term goals in individual child abuse and neglect cases.
- C. To promote awareness and prevention of child abuse and neglect on or near the Crow Reservation.
- D. To promote the concept that abuse and neglect is a shared community responsibility.
- E. To promote and identify appropriate care and preventive health services to children.

III. DEFINITION OF CHILD ABUSE AND NEGLECT

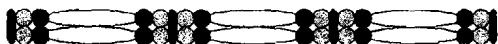
- A. General: **Child abuse and neglect** means the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened.
- B. Specific: **Child Abuse** is non-accidental physical injury, malnourishment, neglect, emotional, the sexual abuse or exploitation of children, or any other action that hinders the mental and physical growth and development of children.
- C. Categories of Abuse:

Physical Abuse -- non-accidental injury, examples may include: severe beatings, burns, strangulation, or human bites.

Neglect -- the failure to provide a child with the basic necessities of life: food, clothing, shelter, or medical care.

Sexual Abuse or Molestation -- the exploitation of a child for the sexual gratification of an adult, as in rape, incest, fondling of the genitals, or exhibitionism.

Emotional Abuse -- a pattern of behavior that attacks a child's emotional development and sense of self worth, examples include constant criticizing, belittling, insulting, rejecting, and providing no love, support, or guidance.



D. **Criteria in Identifying Child Abuse and Neglect:**

- (1) The child is under the age of eighteen.
- (2) The child is under the care of a caretaker.
- (3) The child is non-accidentally injured.

IV. CHILD PROTECTION TEAM COMPOSITION

A. Bureau of Indian Affairs:

Social Services
Criminal Investigators
Law Enforcement

B. Tribal Representatives:

Juvenile Court Counselor
Tribal Court Prosecutor
Tribal Social Services

C. Indian Health Service:

Physician
Medical Social Worker or/ Mental Health

D. Department of Public Health and Human Services -- Family Services DPHHS:

Social Worker

E. School Representative:

School Social Worker

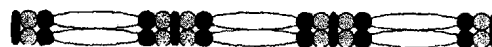
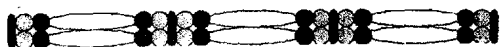
V. ANCILLARY CHILD PROTECTION TEAM

Additional persons and experts may be invited on an as needed basis. Approval is through the Team Coordinator and upon signing confidentially statements. Invited personnel may be excused after the discussion or presentation of the case they are involved with.

VI. ROLES AND FUNCTIONS OF TEAM MEMBERS

A. PHYSICIAN

1. The physician provides consultation within the team and to referring agencies.
2. He/she can provide medical diagnosis, treatment and follow-up of specific cases, either by self or referral of cases to another physician. Recommends referral of cases from the Child Protection Team to other appropriate health agencies and social services workers.
3. He/she will review medical records to determine past care or problems with the child.
4. He/she will request documentation from other medical staff members and agencies when required and request PHN involvement as needed.



B. INDIAN HEALTH SERVICE, MENTAL HEALTH AND MEDICAL SOCIAL WORK SERVICES

1. The Mental Health and Medical Social Service staff will report all suspected child abuse and neglect cases verbally and in writing to the BIA Social Services. Suspected child sexual abuse cases and severe physical abuse will be reported by IHS to BIA Social Services and BIA Law Enforcement.
2. The services available from the Mental Health program include psychological assessment, psychiatric evaluation, individual counseling and therapy, consultation, referral for inpatient treatment and follow-up. The Mental Health Representative will also provide input to CPT on patients received or placed by Mental Health personnel.
3. The services available from the IHS Medical Social Services program include crisis intervention, psychosocial assessment, coordination of discharge planning on inpatient admissions, and follow-up counseling and parenting skills.

C. BUREAU OF INDIAN AFFAIRS SOCIAL SERVICES

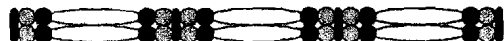
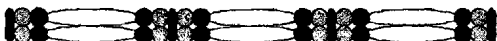
1. It is the responsibility of the BIA, Social Services to investigate or assist with the investigation of all child abuse/neglect complaints.
2. It will generally be the role of the BIA Social Worker to maintain primary, ongoing responsibility for case management and for implementation of a case plan based on input from BIA Criminal Investigators and Law Enforcement personnel, DPHHS, Social Workers, IHS, the Crow Tribal Court and Social Services, and CPT.

D. TRIBAL SOCIAL SERVICES

1. This is an appointed position. The role of this person will be to act as a liaison between the Chairman and the CPT on matters of policy and procedure.
2. Crow Tribal Social Services, when court ordered, will do case management and implementation of the caseplan.
3. Additional duties include but not limited to: The overseeing of the IV-E Program, Home Base, ICWA, Homeless Shelter, Senior Citizens, Day Care, Foster Parent training and licensing, and Crow Victims Assistance Program.

E. BIA LAW ENFORCEMENT

1. Upon receiving a referral, shall investigate to determine if a crime has actually occurred and determine if the crime is a misdemeanor or felony.
2. If the crime is a minor assault or neglect case, the Police Officer will notify Social Services and conduct a full investigation and may request technical assistance from the Criminal Investigators.
3. If the crime is a serious assault or a child sexual abuse case, the Criminal Investigators and the Federal Bureau of Investigation will be notified immediately. The Police Officer shall assist in the investigation, turning over any evidence/information to the Case Agent.
4. If the case is of a civil nature, the case will be referred to Social Services for a full investigation. The Police Officer will assist Social Services with any removal of children if required.
5. The Police Officer is responsible for presenting misdemeanor cases to the Prosecutor once it is complete.
6. The Police Representative will confer with other police officers if questions arise regarding issues of children and share documentation with CPT, if possible.



CRIMINAL INVESTIGATOR

1. Upon receiving a referral of suspected physical or sexual abuse or neglect, a Criminal Investigator will immediately conduct an investigation.
2. The Criminal Investigator will notify the Federal Bureau of Investigation and Social Services once the allegation is substantiated.
3. The Criminal Investigator will present cases of physical abuse, sexual abuse, and neglect to the United States Attorney of an opinion on prosecution in Federal Court.
4. In the event the U.S. Attorney declines Federal prosecution, the Criminal Investigator will present the case to the Tribal Prosecutor for an opinion on prosecution in Tribal Court.
5. Upon request from the Police Officer, the Criminal Investigators will provide technical advice and assistance with any misdemeanor investigation.

F. CROW TRIBAL COURT**ROLE OF THE COURT**

1. The role of the court is to review all facts derived from the investigation and to make an order on placement and/or treatment of the child.
2. The court may subpoena any additional records it feels it needs in order to render an opinion.
3. Child sexual abuse evaluations will be obtained through Indian Health Service or their represented agency if they are requested by BIA Law Enforcement or BIA Social Services in accordance to the Crow Tribal Code.

TRIBAL PROSECUTOR

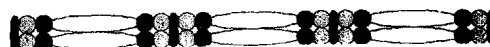
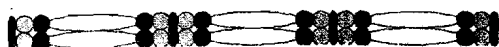
1. The Prosecutor will provide legal advice to the CPT.
2. The Prosecutor will file a petition upon receiving sufficient information of the investigation.
3. The Prosecutor or Clerk of Court will provide notice of hearings 2 days in advance unless the case is an emergency. Copies of court orders will be provided to all agencies involved in care or treatment.

JUVENILE COURT SERVICES:

1. This representative will be a juvenile court counselor. The role of the Juvenile Court Counselor will provide the perspective of the Court to the CPT.

G. DPHHS SOCIAL WORKERS

1. The DPHHS Social Worker's will perform the same functions as BIA Social Services for cases, which occur off the Crow Reservation.
2. Any DPHHS Social Workers may exchange information and records with Crow Tribal Court, IHS, BIA Law Enforcement and BIA Social Services, if the case is transferred or shared with above agencies on the Crow Reservation.





H. TEAM COORDINATOR

1. The Team Coordinator shall be appointed by the CPT team from its membership and may be rotated annually.
2. The Team Coordinator shall take minutes, or appoint someone to take minutes at each meeting.
3. The Team Coordinator will be responsible for planning each CPT meeting, sending out notices and communicating with team members.
4. Records and minutes shall be kept in confidential manner.
5. All other agencies, entities, or individuals, will direct referrals, communication, or requests for attending CPT meetings to the CPT Team Coordinator.
6. The Team Coordinator will ensure that new members and visitors sign confidentiality statements.
7. The Area CPT will communicate with Crow CPT through the Team Coordinator.

I. SCHOOL REPRESENTATIVE

1. Make referrals of child abuse and neglect to CPT.
2. Monitor behavior and emotional status of children and coordinate school related services within the represented school district.
3. Communicate with other county school districts as requested by CPT and present questions or concerns from school personnel to CPT.
4. Provide education and training related to child abuse as necessary.

VII. POLICIES AND PROCEDURES

A. GENERAL

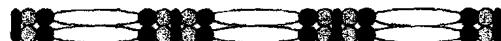
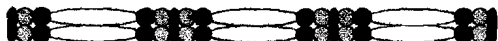
1. Investigations of child abuse/neglect cases on the Crow Reservation will comply with all applicable provisions of Federal, State, and Tribal Laws, statutes and regulations.
2. Communication is a shared responsibility between CPT members and their colleagues within their respective agencies.

B. IDENTIFICATION AND REPORTING CASES OF CHILD ABUSE

1. Any person who suspects or has knowledge of child abuse/neglect is obligated by tribal ordinance and Federal Law Pub. L. 101-630, to make a report directly to BIA Social Services. In the event that they are not available, the report shall be made to BIA Law Enforcement within 24 hours.
2. Failure to report suspected child abuse/neglect by any individual may result in disciplinary action or prosecution in accordance with Pub. L. 101- 630.

C. INPATIENT ADMISSION POLICY

1. An assessment of the child by BIA Social Services, DPHHS, Crow Tribal Court, or Crow Social Services will determine the placement needs and resources available for the child.
2. If an emergency hospital admission is necessary for protection of the child, the admission must be approved by a physician.
3. Emergency hospital admissions for the protection of the child must be approved in by a Tribal Court order within 48 hours.
4. The Social Worker will submit a report to the on-call physician that a child is in protective custody and identify individuals allowed to visit.



D. MEDICAL ASSESSMENT

1. Diagnostic procedures will be conducted in accordance with IHS Manual Chapter 13, Maternal and Child Health Policies. Specifically, a physical examination will be provided which documents any evidence of injury or neglect. These entries will be noted in the child's records and referred to the CPT.
2. A medical report of findings will be provided to Law Enforcement and BIA Social Services.

E. HOME ASSESSMENT

1. Home assessments will be conducted by BIA Social Services and/or Tribal Social Services.

F. FORENSIC INVESTIGATION

1. Law Enforcement will collect evidence, including photographs, and investigate the criminal portion of the case.
2. Indian Health Service may provide for expert witness interviews in cases of child sexual, physical, or emotional abuse as needed.

G. CASE MANAGEMENT

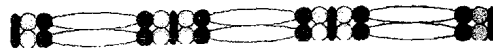
1. A primary case manager will be appointed for each case. It will be the responsibility of the case manager to monitor the progress of the case and report to the CPT.
2. BIA Social Services, Crow Social Services, or DPHHS will be the case manager for children under their care and supervision in which there is an on going investigation.
3. CPT reviews the results of investigations and makes recommendations for the case plan.
4. Progress on cases will be reviewed at the regularly scheduled meetings.
5. Cases will be closed by mutual consensus among CPT members.

H. LEGAL PROCEEDING FOR REMOVAL OF A CHILD

1. BIA Social Services, Tribal Social Services, Tribal Court, Law Enforcement, or IHS medical staff can make the decision to place a child in protective custody for 48 hours.
2. DPHHS staff will request assistance from BIA Social Services, Tribal Social Services, Tribal Court, or from Law Enforcement personnel prior to removal of a child from the Crow Reservation with whom the state has jurisdiction.
3. The CPT may make recommendation to BIA Social Services, Tribal Social Services, Tribal Court, or DPHHS whether to seek temporary custody, long term or temporary placement, or termination of parental rights.
4. It is the responsibility of the placing agency to bring the allegation of abuse or neglect to the Tribal Prosecutor or Court Counselor and provide necessary documentation to substantiate the allegation of child abuse.
5. BIA Criminal Investigators, BIA Law Enforcement, BIA Social Services, or Tribal Social Services, may file Child In Need of Care Petitions regarding abuse or neglect of children with the Tribal Prosecutor or Court Counselor.

I. ATTENDANCE AND PARTICIPATION

1. CPT composition is determined by Crow Tribal Court and reviewed annually.
2. Any member who cannot attend the regularly scheduled CPT meeting will send an alternate or provide written notification to the CPT Secretary, Family Services, Indian Health Service. The member is responsible for briefing the alternate regarding their cases prior to the meeting.



J. DECISION-MAKING OR RECOMMENDATIONS

1. The CPT has the power to make recommendations in an advisory capacity to other CPT members and to the Tribal Court.
2. BIA Law Enforcement, BIA Social Services, and Tribal Social Services staff who have the responsibility for presenting recommendations to the Crow Tribal Court will consider and take under advisement all CPT recommendations.

K. CONFIDENTIALITY

1. All CPT members are required to follow the provisions of the Privacy Act. In addition, all members will be required to sign a confidentiality statement at the beginning of their appointment to the CPT, which will be reviewed annually by the Crow Tribal Court.
2. Visiting members will be required to sign a confidentiality statement prior to the meeting.
3. Minutes and working notes of the CPT will be kept in a locked file.

L. OVERSIGHT FUNCTIONS

1. The CPT will notify the Tribal Chairperson, Bureau of Indian Affairs Superintendent, Service Unit Director of Indian Health Service, or DPHHS Regional Administrator within 30 days, if no action or progress is being made on a case being considered by the CPT.
2. In case of an emergency, the Tribal Chairperson, Agency Superintendent, Service Unit Director of Indian Health service, and/or DPHHS Regional Administrator will be notified immediately.

M. CENTRAL REGISTRY

1. The CPT will comply with the requirements for establishing a Central Registry for tracking purposes in accordance with federal law.

N. TRAINING

1. CPT members will have sufficient training to carry out their functions related to child abuse and neglect.

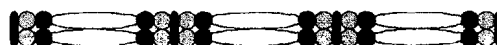
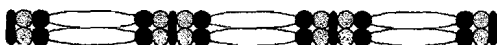
O. CONFLICT OF INTEREST

1. Discretion will be used by each CPT member concerning cases where they may have a conflict of interest. The decision to withdraw from discussion of a case where conflict of interest is a concern will be made by the individual. Conflict of interest issues may also be brought up by the group for discussion.

IX. PERIOD OF MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding between the Crow Tribe, Bureau of Indian Affairs, Indian Health Service, and DPHHS will be in effect for one (1) year. At the end of six (6) months, this agreement will be reviewed and necessary modifications will be made.

[Signatures of the BIA Crow Agency Superintendent, HIS Crow Service Unit Director, and Crow Tribe Chairperson followed on a signature page – a page not included here.]



BIA CENTRAL OFFICE TELEPHONE DIRECTORY (Selected Staff)

OFFICE OF TRIBAL SERVICES		OFFICE OF INDIAN EDUC. PROGRAMS	
Title/Name	Telephone #	Title/Name	Telephone #
Director, Deborah Maddox	(202) 208-3463	Dir., Joann Sebastian-Morris	(202) 208-6123
Security Officer, Janice Ruffin	(202) 208-3599	Deputy Dir., Bill Mehojah	(202) 208-6175
Statistician, Bob Stearns	(202) 208-2484	OIEP Personnel Officer	(505) 766-8126
Chief, Human Serv., Larry Blair	(202) 208-2479	Assistant Dir., Dr. Dennis Fox	(202) 208-6175
Alcohol/Substance Abuse	(202) 208-6179	Planning, Dr. Jim Martin	(202) 208-5810
Child Welfare-GA, Edie Adams	(202) 208-2536	Child Protect., Christine Brown	(202) 208-3559
Child Protection Coordinator	(202) 208-6858	Youth Risk Behavior Survey	(202) 208-3601

BIA SECURITY OFFICES

OFFICE	JURISDICTION	OFFICE	JURISDICTION
Aberdeen Area, BIA Connie Rauer 115 4 th Ave., S.E. Aberdeen, SD 57401 (605) 226-7360	Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin	Navajo Area, BIA Tim Clani P.O. Box 1060 Gallup, NM 87305 (505) 863-8320	Navajo Indian programs only
Albuquerque Area, BIA Sharon Garcia 615 First St. NW ms-230 Albuquerque, NM 87102 (505) 766-3479	Alaska, Colorado, Kansas, New Mexico, and Oklahoma	Phoenix Area, BIA Colleen Florence P.O. Box 10, ms-301 Phoenix, AZ 85001 (602) 379-4010	California
Billings Area, BIA Walter Wetzel 316 N 26 th St. Billings, MT 59101 (406) 247-7913	Montana, Oregon, and Wyoming	Office of Tribal Services Janice Ruffin 1849 C St., NW Washington, DC 30340 (202) 208-3599	Mich., Minn., Navajo (educ. only), S.Dak., (Flandreau Indian Sch. only), Wisc, and oversight of key cases
Div. of Law Enforcement Kay Hayes 123 4 th St., SW Albuquerque, NM 87103 (505) 248-7937	Tribal programs throughout the U.S.	Div. of Law Enforcement Ronda Klinekole 123 4 th St., SW Albuquerque, NM 87103 (505) 248-7937	Tribal programs throughout the U.S.

BIA PERSONNEL OFFICES

OFFICE	JURISDICTION	OFFICE	JURISDICTION
Aberdeen Area Pers. Management 115 4 th Ave., S.E. Aberdeen, SD 57401 (605) 226-7401	Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin	Portland Area The Federal Bldg. 911 NE 11 th Ave. Portland, OR 97232 (503) 231-6708	Idaho, Oregon, Washington, Flathead Agency (Montana), and the Metlakata, AK Field Office
Albuquerque Area Pers. Management P.O. Box 26567 Albuquerque, NM 87125 (505) 766-3130	Colorado (southern) and New Mexico	Human Resources Bureau of Reclamation 2800 Cottage Way Sacramento, CA 95825 (916) 978-5477	Serves BIA offices in California, as per memorandum of agreement
Anadarko Area Pers. Management W.C.D. Office Complex P.O. Box 368 Anadarko, OK 73005 (405) 247-7956	Florida, Kansas, New York, North Carolina, Oklahoma, Texas, and Washington, D.C.	BIA Personnel Offices: Education	
Billings Area Pers. Management 316 N. 26 th St. Billings, MT 59101 (406) 247-7956	Montana and Wyoming		
Juneau Area Pers. Management P.O. Box 25520 Juneau, Ak 99802 (907) 586-7174	Alaska	OIEP Personnel Office 201 3 rd St. N.W. Suite 310 Albuquerque, NM 87102 (505) 766-3564	Serves all of the U.S., except for the Navajo
Phoenix Area Office Pers. Management P.O. Box 10 Phoenix, AZ 85001 (602) 379-6739	Arizona, Nevada, and Utah	OIEP Personnel Training Officer Haskell Indian Nations U. 155 Indian Ave. Lawrence, KS 66046 (913) 749-8434	Serves all of the U.S.

BIA ALCOHOL & SUBSTANCE ABUSE COORDINATORS

OFFICE	OFFICE	OFFICE	OFFICE
Aberdeen Area – BIA Gerald Gallegos 115 4 th Ave., S.E. Aberdeen, SD 57401 (605) 226-7347	Billings Area – BIA JoAnn Birdshead 316 N. 26 th St. Billings, MT 59101 (406) 247-7988	Muskogee Area – BIA LaFonda Mathews 101 N. 5 th St. Muskogee, OK 74401 (918) 687-2507	Portland Area – BIA Robert Carr 911 NE 11 th Ave. Portland, OR 97232 (503) 231-6785
Albuquerque Area – BIA Cecelia Clark P.O. Box 26567 Albuquerque, NM 87125 (505) 766-3164	Juneau Area – BIA Jimmie Clemmons P.O. Box 25520 Juneau, AK 99802 (907) 586-7611	Navajo Area – BIA Vivian Hailstorm P.O. Box 1060 Gallup, NM 87305 (505) 863-8215	Sacramento Area-BIA Lenora Guerrero-Campbell 4330 Watt Ave. 4 th Floor N. Highlands, CA 95660
Anadarko Area – BIA Retha Murdock P.O. Box 368 Anadarko, OK 73005 (405) 247-2242	Minneapolis Area – BIA Claricy Smith 331 2 nd Ave. S. Minneapolis, MN 55401 (612) 373-1000, ex. 1121	Phoenix Area – BIA Evelyn Roanhorse P.O. Box 10 Phoenix, AZ 85001 (602) 379-6785	CENTRAL OFFICE – BIA Gloria Mora 1849 C St. NW, ms-4603 Washington, DC 20040 (202) 208-6179

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