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CHILD PROTECTION: AN OVERVIEW

The tribes and the BIA realize that American Indian/Alaska Native families and children are at-risk of child abuse and neglect, and family violence, as incidents 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 tribal and BIA employee must be an active participant in helping to address the problem of child abuse and neglect in Indian Country. Collaboration between programs, agencies and the community is necessary to provide the services needed to protect our children and families.

This handbook highlights the statutory requirements focused on child protection in Public Laws 99-570, 101-630, and 101-647. These apply to Federally- and tribally-operated child protection services.



Public Law 99-570, The “Indian Alcohol and Substance Abuse Prevention and Treatment Act” of 1986 states:

BIA-administered family or social services programs or tribally-contracted programs under the Indian Self-Determination and Education Assistance Act, shall compile data relating to the number and types of child abuse and neglect cases seen, the type of assistance provided, and categorize 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.

Public Law 101-630, The Indian Child Protection and Family Violence Prevention Act of 1990 provides that:

- Reports of alleged or suspected child abuse and neglect are made to the appropriate authorities in an effort to prevent further abuse;
- Necessary actions are taken to ensure effective child protection in Indian country;
- Technical assistance and training related to the investigation and treatment of cases of child abuse and neglect is provided;

OFFICE OF THE DEPUTY DIRECTOR, TRIBAL SERVICES

Pat Ragsdale, Director, Telephone (202) 208-5116

Director, Jerry Gidner (202) 513-7631

Assistant to Deputy, Harry Rainbolt Jr (202) 513-7630

Chief, Human Services, Stephanie Birdwell (202) 513-7621

Child Welfare-Evangeline Campbell (202) 513-7623

Chief, Tribal Government Services, Daisy West (202) 513-7626

Tribal Relations Specialist/Courts, Ralph Gonzales (202) 513-7629

Acting Chief, Self-Determination, Ed Mouss (202) 513-7616

BUREAU OF INDIAN EDUCATION

Director, Thomas Dowd (202) 208-6123

OFFICE OF LAW ENFORCEMENT SERVICES

Deputy Bureau Director, Christopher B. Chaney (202) 208-5787

ACKNOWLEDGEMENTS

NATIONAL CHILD PROTECTION HANDBOOK TEAM

Louise Zokan-Delos Reyes, BIA Rocky Mountain Region, Indian Services Officer

Evangeline Campbell, BIA Central Office, Human Services, Indian Child Welfare Act Specialist

Chet Eagleman, BIA Central Office, Human Services,

John Oliveira, National Child Abuse Coordinator, BIA Law Enforcement

Gloria Gorman, BIA Alaska Region, Regional Social Worker

Jo Ann Birdshead, BIA Rocky Mountain Region, Regional Social Worker

Evelyn Roan Horse, BIA Western Region, Regional Social Worker

Bob Pumphrey, BIA Rocky Mountain Region, Child Protection Specialist

Ramona Williams, Indian Health Services, Central Office

Margene Tower, Indian Health Services, Billings, Montana

Diane Payne, Children’s Justice Specialist, Tribal Law & Policy Institute, Anchorage, Alaska

Patty Nieves, ICWA Program Director, Association of Village Council Presidents Bethel, Alaska

Patty McGeshick, Fort Peck Tribes, Poplar, Montana

Le Von French, BIA Rocky Mountain Region, Office of Indian Education

OIEP Security Services, Augustine Abeita

Contributing Photographers:

Don Strel

William F. Snell, Jr.

Tony Herrera

**The photos used in this handbook are to enhance the message of child protection and they are not to be reproduced or copied.*

Bureau of Indian Affairs Regional Social Workers

Central Office Human Services Staff:

Stephanie Birdwell, Chief	Telephone: (202) 513-7621
Chet Eagleman, IIM Specialist	(202) 513-7622
Evangeline Campbell, ICWA Specialist	(202) 513-7623
Les Jensen, Housing Director	(202) 513-7620
Gloria Mora, Special Assistant	(202) 513-7619
Olivia Bistrow, Administrative Assistant	(202) 513-7633

Tribal Services:

1894 C Street, NW, MS-4513-MIB
 Washington, DC 20240
 FAX #: (202) 208-2648

<p><u>Alaska Region</u> Gloria Gorman P.O. Box 25520 (ZIP # 99802) Federal Building, Room 301-A 709 West 9th Street Juneau, Alaska 99801 Telephone: (907) 586-7611 (800) 645-8397 FAX: (907) 586-7057</p>	<p><u>Eastern Oklahoma Region</u> Vacant Betty Cummings, Secretary P.O. Box 8002 3100 West Peak Boulevard Muskogee, OK 74401 Telephone: (918) 781-4613 FAX: (918) 781-4649</p>	<p><u>Eastern Region</u> Gloria York Catherine Webster (615) 564-6742 545 Marriott Drive, Suite 700 Nashville, Tennessee 37214-2634 Telephone: (615) 564-6740 FAX: (615) 564-6547</p>
<p><u>Great Plains Region</u> Peggy Davis & Cindy Ross Patty Teusink, Secretary 115 4th Avenue SE Aberdeen, South Dakota 57401 Telephone: (605) 226-7351 (605) 226-7351 FAX: (605) 226-7643</p>	<p><u>Midwest Region</u> Rosalie Clark (612) 725-4571 Valerie Vasquez (612) 725-4572 One Federal Drive, Room 550 Fort Snelling, MN 55111-4007 Telephone: (612) 713-4400, xt. 1071 FAX: (612) 713-4439</p>	<p><u>Navajo Region</u> Vivian Yazza 301 West Hill Street PO Box 1060 Gallup, NM 87305 Telephone: (505) 863-8215 Carol Reynolds (505) 863-8268 FAX: (505) 863-8292</p>
<p><u>Northwest Region</u> Stella Charles 911 NE 11th Avenue Portland, OR 97232 Telephone: (503) 231-6785 FAX: (503) 231-6731</p>	<p><u>Pacific Region</u> Kevin Sanders 2800 Cottage Way Sacramento, CA 95825 Telephone: (916) 978-6048 FAX: (916) 978-6055</p>	<p><u>Rocky Mountain Region</u> Jo Ann Birdshead 316 North 26th Street Billings, MT 59101 Telephone: (406) 247-7988 FAX: (406) 247-7566</p>
<p><u>Southern Plains Region</u> Vacant 1 ½ mile North Highway 281 P.O. Box 368 Anadarko, OK 73005 Telephone: (405) 247-1557 FAX: (405) 247-2895</p>	<p><u>Southwest Region</u> Stephanie Birdwell P.O. Box 26567 (Zip Code 87125) 1001 Indian School Road, NW Branch of Social Services Albuquerque, NM 87104 Telephone: (505) 563-3520 FAX: (505) 563-3058</p>	<p><u>Western Region</u> Evelyn Roanhorse 400 N. 5th Street (Zip Code 85004) P.O. Box 10 Phoenix, AZ 85001 Telephone: (602) 379-6785 FAX: (602) 370-3010</p>

Public Law 101-647 The Crime Control Act, Child Care Worker-Employee Background Checks" of 1990:

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

Under this 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:

The definitions used in this Handbook, are taken directly from Public Law 101-630. Public Law 101-647, or 25 CFR Part 63.

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

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.

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

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.

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.

Juvenile Services. The BIA's Office of Law Enforcement Services provides juvenile services including juvenile delinquency prevention programs and services designed to reduce gang activity.

Local Child Protective Services Agency. That agency of the Federal government, of a state, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within a community in Indian country.

Local Law Enforcement Agency. That Federal, state, or tribal law enforcement agency that has the primary responsibility for the investigation of an instance 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, including any employee or volunteer of a children's residential facility, and any person providing out-of-home care, education, or services to children.

OIEP SCAN Protocol

The Office of Indian Education Programs (OIEP), Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN), known as the SCAN Protocol, provides that each OIEP employee will receive notice of their responsibilities as a Mandated Reporter of child abuse upon initial employment and annually thereafter. Chapter 1 of the SCAN Protocol states, in part, that the notice will include all positions, designated as Mandated Reporters, when a Mandated Reporter must report child abuse or suspected child abuse, how the Mandated Reporter is to report the information, and the ramifications for not reporting child abuse or suspected child abuse. Further, Chapter 6 state, in part, that each OIEP employee will receive information advising them of the requirements of their positions to include the reporting of child abuse or suspected child abuse. The information will be provided upon a tentative offer of employment, and annually thereafter. Finally, all OIEP employees whose positions have been designated as a Mandatory Reporter will receive a briefing on the requirements of this designation upon hiring and annually at the beginning of each school year.

In addition to the Federal laws described above, every state, most tribes, and the BIA have laws, ordinances, or policies which make it mandatory that every person/employee report suspicions or any occurrence of child abuse and/or neglect. A report of suspected abuse is only a request for an investigation or inquiry. The person making the report does not need to prove the abuse. Investigation and validation of child abuse reports are the responsibilities of law enforcement and child protective services. If additional incidents of suspected abuse occur after the initial report has been made, a Mandated Reporter must make another report.

Mandated Reporters who learn of facts that give reason to suspect that a child has suffered an incident of child abuse, know or have a reasonable suspicion that a child was abused in Indian country; OR know that actions are being taken; OR will be taken that would reasonably be expected to result in the abuse of a child in Indian country, MUST immediately contact local law enforcement, local child protective services or the Indian Country Child Abuse Hotline (1.800.633.5155).

Where to Find the OIEP SCAN Protocol

In addition, OIEP has established specific procedures and guidelines for Mandated Reporters to follow when reporting such information within OIEP. Those procedures are found in the OIEP Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN). The SCAN Protocol is available from your Education Line Office, Principal, Administrative Inquiry Team Members, the OIEP Human Resources/Security Services, and from the OIEP Human Resources Office Web Page at: www.oiephr.bia.edu/Security.htm

Familiarity with the mandates of the OIEP Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN) - SCAN Protocol allows educators and other school related personnel to contribute to the well-being of children in a variety of ways. Certainly, the first area of defense against the problem of child maltreatment is one of awareness. Each individual who is involved with children has the obligation of knowing the basics of how to identify suspected child maltreatment and how to protect children from harm. The protection of children is not only an individual or school issue, but a community concern as well. Educators are an integral part of the community and, as such, can lead and be involved in community efforts to combat child maltreatment.

OIEP Resources for Mandated Reporters

The OIEP Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN) - SCAN Protocol (revised December 2005) is available for downloading and printing from the OIEP Human Resources Website: <http://www.oiephr.bia.edu>

Additionally you may Download Security Program documents, find Human Resources Specialists who service your school/facility, and retrieve the latest information on all Human Resources Programs.

Questions concerning the OIEP SCAN Protocol may be addressed to:

Jackie Johnson, Supervisory Security Specialist at (505) 563-5287 or
Augustine Abeita, Security Specialist/OIEP Designated SCAN Law Enforcement Representative at (505) 563-5288
OIEP Human Resources Security Services Program
P.O. Box 769
Albuquerque, NM 87103
FAX Number (505) 563-5292

**Suspected Child Abuse/Neglect (SCAN) Reporting
and Mandated Reporters in the
Office of Indian Education Programs**

OIEP Requirements and Protocol for Reporting Suspected Child Abuse/neglect (SCAN)

In August 2002, the Assistant Secretary—Indian Affairs established the Personnel Security and Suitability program for the Office of Indian Education Programs (OIEP) in order to increase accountability for the program. As the program developed it became apparent that child abuse reporting has a significant impact on employee suitability. It was determined that OIEP needed specific step-by-step procedures for mandated reporters, managers and principals; consistent reporting formats; consistency in what was being reported; and requirements for follow-up action. Training and a method for tracking and initiating pro-active actions plans was also needed. The OIEP Requirements and Protocol for Reporting of Suspected Child Abuse/Neglect (SCAN) Protocol (revised December 2005) addresses the aforementioned issues and is specific to OIEP and has been developed to supplement the Child Protection Handbook. In areas where the Child Protection Procedures conflict with the protocol, the SCAN Protocol will supercede.

Why Educators and Other School Personnel Are Concerned About Child Abuse and Neglect

Over the last few decades, various organizations have developed programs directed at informing educators and related school personnel that they are a valuable resource. Professionals submitted more than one-half of the cases referred to and assessed or investigated by child protective services, with education personnel the most frequent source of those reports. This highlights the important role of educators and related school personnel and indicates that many educators are already involved in responding to this issue, yet more can be done to address child maltreatment.

There are many reasons why educators and related school personnel are so vital in identifying, treating, and preventing child maltreatment. First, they have a close and consistent contact with children. Second, educators and school related personnel have a professional and legally mandated responsibility for reporting suspected maltreatment. While educators facilitate children's learning, children cannot learn effectively if their attention or energy is sapped by conflict inherent in being maltreated. Third, school personnel have a unique opportunity to advocate for children, as well as provide programs and services that can help children and strengthen families.

Recognizing Child Abuse and Neglect At Schools

Every form of maltreatment (e.g., physical abuse, neglect, sexual abuse and emotional maltreatment) is inflicted on school-age children. In addition, many children who live in homes where domestic violence occurs are not only in danger of a misdirected blow, but probably suffer emotional consequences from witnessing this disturbing behavior. Knowledgeable educators and related school personnel can pick up indicators of possible maltreatment by observing children's behavior at school, recognizing physical signs, and noticing family dynamics during routine interactions with parents.

Authorities for Mandating Reporting Child Abuse and Neglect

In addition to trying to help families in which maltreatment is suspected, the involvement of educators and related school personnel in reporting child abuse and neglect is mandated by Federal, state, tribal and local laws. The OIEP SCAN Protocol's authorities are Public Law 101-630—the Indian Child Protection and Family Violence Prevention Act and subsequent amendments and Public Law 101-647—the Crime Control Act of 1990. Educators and all personnel who work in any capacity, in any organization, within the Office of Indian Education Programs, are MANDATED REPORTERS and have a vital role in identifying, reporting, and preventing child abuse and neglect.

Providing Support After the Report: What Schools Can Offer

Reporting suspected child maltreatment is just the beginning of the child protection process. Treatment, rehabilitation, strengthening the family, and preventing future abuse still lie ahead. Traditionally, the roles of the school and the educator in dealing with child maltreatment have ended with reporting, but this changing. Increasingly, educators are providing assistance and support to child protective services staff by sharing relevant information about families and children after they have been reported; providing services to the child, parents and the family; and participating on multidisciplinary teams. Schools are actively involved in community efforts to reduce the incidence of child maltreatment.

BE AWARE!

INDICATORS THAT A CHILD MAY BE A VICTIM OF ABUSE



Behaviorial Indicators:

- Sudden and severe changes in behavior or school performance, such as being too neat or too messy, overly obedient or disagreeable, polite or belligerent, withdrawn or aggressive, friendly or indifferent, decline in academic performance
- Child has learning problems or difficulty concentrating that cannot be attributed to specific physical or psychological causes
- Child is always watchful, as though preparing for something bad to happen, overly compliant, passive or withdrawn
- Problems sleeping, excessive sleeping, eating disorders, withdrawal from families or friends, substance abuse, depression, threatened or attempted suicide, poor self-esteem, truancy, dropping out of school, running away
- Child lacks adult supervision, comes to school or other activities early, stays late and does not want to go home

Physical Indicators:

- Injuries involving the backs of the hands, buttocks, genital area, abdomen, back or sides of the body (particularly the face), cannot remember or gives differing reasons for how injuries occurred
- A seriously dirty child with an odor; multiple animal or human bites; injuries in recognizable patterns, such as a hand print; burns, patches of hair loss; injuries in various stages of healing, injuries that are left untreated
- Has not received help for physical or medical problems brought to the parent's attention

VIOLENCE AND THE INDIAN CHILD

The Bureau of Indian Affairs recognizes that violence directed toward children is a serious and growing problem. BIA funded programs continue to investigate ways to prevent and reduce the impact of family, school, and community violence on children. Representatives from social services, education, and law enforcement are coordinating programs to improve the access, delivery, and quality of educational, social, and family support services through:

- Increased awareness in Indian communities and professional services
- Education and training for parents, school personnel, childcare workers, child protective services providers, law enforcement, and tribal court officials
- Cooperative partnerships with tribal communities to reduce domestic violence in Indian country.



DOMESTIC VIOLENCE

Child abuse is domestic violence when it occurs in the home. Other forms of domestic violence also can result in child abuse and neglect. These two problems may occur simultaneously.

Domestic violence is generally considered a behavior used to control a spouse or partner through fear and intimidation. It may involve physical battering, sexual abuse or psychological abuse. Violence between parents impact children and may also be considered to be abusive.

Continuous Evaluation

Individuals who have been found suitable by the Bureau must continue to meet the loyalty, reliability and trustworthiness standards while employed by the Federal Government. Information regarding an employee that is developed or received by the Bureau is evaluated against the criteria (above). If necessary, previously adjudicated information is re-adjudicated. For example: A plea of guilty second misdemeanor involving an offense in which a child is the victim will be adjudicated as a statutory bar, 25 U.S.C. § 3207.

Due Process

Records used in making a determination must be accurate, relevant, timely and complete to the extent reasonably necessary to assure fairness to the individual. The *Bureau* is responsible for complying with all applicable due process requirements. Before a final determination is made, the individual is provided an opportunity to explain, refute, deny and/or mitigate all actionable information that is the basis of the proposed final determination. Otherwise an individual may be unjustly rejected or terminated based on mistaken identity, false information, unsubstantiated allegations or because mitigating circumstances were not known to the adjudicator.

The *Bureau* adjudicator provides the individual with a copy of the proposed unfavorable determination and advises he/she has 30-days in which to explain, refute, deny or mitigate the information on which the determination is based. If the individual does *not* respond within the time allowed, a final unfavorable determination (including a thorough discussion of the reasons for the decision and the identity of the deciding authority) is issued and reassignment or termination is initiated. If the individual responds within the time allowed, all information is fully considered and a final determination is issued. If the determination is unfavorable, the individual is advised of his/her appeal rights. The individual is generally placed on administrative leave



Disqualifying Conduct Bureau of Indian Affairs Employees, Contractors & Volunteers		Mitigating Factors
Criminal or Immoral Conduct	Including, but not limited to, carnal knowledge, sodomy, prostitution, bigamy or polygamy, pimping or pandering, keeping a house of ill repute, contributing to the delinquency of a minor, sexual harassment, other sexual misconduct as reflected in conviction records, child molestation, sexual assault, rape, statutory rape, incest, and bestiality.	· Evidence of extraordinary circumstances leading to financial obligations (e.g. prolonged or serious illness) and the individual's good faith effort to meet financial obligations (e.g. credit counseling, regular good faith payment of debts).
Firearms and Weapons	Firearms and weapons violations including, but not limited to, unlawfully carrying a concealed weapon or firearm, brandishing a firearm, possession of a firearm by a felon, unlawful possession of a loaded firearm or explosives, improper or illegal sale or transportation of firearms or explosives, illegal manufacture of firearms or explosives.	
Disruptive or Violent Behavior	Including, but not limited to, assault and battery, aggravated assault, assault with a deadly weapon, assault with intent to commit rape, battery, kidnapping or abduction, manslaughter, murder, rape, arson, threat or assault upon a public official, and/or child abuse. A pattern of violence as reflected in conviction records, disregard for life or property, civil actions, employment records, or medical records.	



CHILD ABUSE AND NEGLECT

FACTS:

Reported cases of child abuse and neglect: Nationally, 2,672,000 referrals of child abuse and neglect were received by child protective services in 2001. Nationally an estimated 903,000 were considered victims of abuse and neglect. American Indians and Alaska Natives account for 2% of the victims. [Data from Child Welfare Outcomes 2001: Annual Report, U.S. Department of Health and Human Services].

Neglect is the most common form of child maltreatment. During 2001, 57.2% of victims of child maltreatment suffered neglect, 18.6% were physically abused, 9.6% were sexually abused and 26.6% were associated with additional types of maltreatment. Percentages were similar for male and female victims (48% and 51.5% respectively).

Maltreatment deaths: Each day in the United States, three children die from child abuse related injuries. Most children are under the age of five. A parent or caretaker causes most of these deaths. [National Center for Prosecution of Child Abuse]

Nationally an estimated 1,300 children died of child abuse and neglect in 2001. Maltreatment deaths were often associated with neglect alone (35.6%) than with any other type of abuse. Only 8.8% of the families of child fatality victims had received family preservation services in the 5 years prior to the deaths.

Indian country data: The BIA collects data from the social service and law enforcement programs. The social service information identifies all child protection referrals received by the tribe or agency. Law enforcement information identifies investigations of sexual abuse and physical abuse. These numbers are not the same, and have been the source of much discussion about the need for an integrated information system on child abuse and neglect.

Related Data:

- The suicide rate for native youth ages 15-24 is 250% higher than the national average
- Injuries and deaths account for 75% of all deaths for native youth 1-19 years of age
- Homicide is the third leading cause of death of native youth

REPORTING CHILD ABUSE IN INDIAN COUNTRY

Who must report? The Indian Child Protection and Family Violence Prevention Act, codified as Title 18, United States Code § 1169, requires the following people to immediately report incidents or suspected incidents of child abuse occurring or which may occur:

Medical Field:

- Physician
- Surgeon
- Dentist
- Podiatrist
- Chiropractor
- Nurse
- Dental Hygienist
- Optometrist
- Medical Examiner
- Emergency Medical Technician
- Paramedic
- Health Care Provider

Educational Field:

- Teacher
- School Counselor
- Instructional Aide
- Teacher's Aide
- Teacher's Assistant
- Bus Driver
- Administrative Officer
- Supervisor of Child Welfare and Attendance
- Truancy Officer

Other Reporters:

- 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 Detention 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**
1-800-633-5155.

Disqualifying Conduct Bureau of Indian Affairs Employees, Contractors & Volunteers		Mitigating Factors
Statutory Bar	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	None
Illegal Drugs	Transfer of controlled substances, possession for sale or resale, prescription fraud or forgery, sale of controlled substances, unlawful dispensing of prescription drugs, smuggling contraband drug into prison. A pattern of use or excessive use as reflected in convictions, job performance, employment gaps, inability to function responsibly, medical treatment, or poor health, manufacturing, addiction, importing, trafficking, cultivating for sale.	<ul style="list-style-type: none"> · Insufficient documentation or facts to substantiate disqualifying Conduct. · The older the conduct, the less likely the potential for disqualification. <i>Except</i> conduct requiring automatic debarment.
Honesty	Bribery, embezzlement, grand larceny, grand theft, burglary, robbery (unarmed), perjury, false impersonation, interstate transportation of stolen goods, black market activities with intent to profit, income tax evasion, receiving stolen property. A pattern of dishonesty as reflected in disregard for truth, conviction records, abuse of trust, employment records, blackmail, counterfeiting, extortion, armed robbery, material/intentional false statement or deception or fraud in examination for appointment, deliberate misrepresentation, falsification, or omission of material fact.	<ul style="list-style-type: none"> · The less serious the conduct, the less likely disqualification will occur. Documented affirmative.
Employment Misconduct or Negligence	A pattern of non-employability based on misconduct or negligence as reflected in employment history. Previous instances of security or confidentiality violations. Denial or revocation of a security clearance by a Federal agency.	<ul style="list-style-type: none"> · Evidence of rehabilitation (e.g. counseling, treatment, employment record) may be considered for all conduct, not just alcohol and drug abuse. <i>Except</i> conduct requiring automatic debarment

- ✓ circumstances surrounding the conduct
- ✓ recency of the conduct
- ✓ frequency of the conduct
- ✓ age and maturity of the individual at the time of the conduct
- ✓ voluntariness of the individual's participation
- ✓ presence or absence of rehabilitation
- ✓ potential for pressure, coercion, exploitation or duress
- ✓ likelihood of the conduct continuing or recurring

Disqualifying Conduct

Federal statutory standards bar employment in or appointment to certain positions in the Bureau:

Indefinite, mandatory debarment from a position with duties and responsibilities involving contact with or control over Indian children following a finding of guilty of, or a plea of guilty or nolo contendere to, any felonious offense, or any 2 or more misdemeanor offenses under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children, Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. § 3207, 25 CFR 63.19(a), as amended.

Discretionary debarment from a child care position following conviction for a sex crime, an offense involving a child victim, or a drug felony, Crime Control Act, 42 U.S.C. § 13041, 25 CFR 63.19(b).

Disqualifying conduct is also found in Federal Executive Orders, regulations and policies. A summary of disqualifying conduct for purposes of determining suitability appears in the following table. (See Next Page)



FREQUENTLY ASKED QUESTIONS:

What information is needed for a report? 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. The more information provided by the caller the better.

Is the reporter kept confidential? 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. Tribal, State and Federal agencies which investigate incidents of child abuse may share information with like agencies on a "need to know" basis.

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 agencies and the United States Attorney 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.

Where are children most frequently abused or neglected? Children are most frequently abused in a familiar setting by someone they know. The home is the most common setting for abuse or neglect.

Who manages a child protection referral once it is reported? Usually the child protective services agency is responsible for managing a child protection referral once it has been reported, investigated and the family situation assessed. If a child protection referral results in a criminal prosecution through the federal, state or tribal court, law enforcement or victims witness assistance staff will be primarily responsible for the criminal portion of the case. This may include issues related to the protection of the victim and/or witness and preparation for court.

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 and support families. Communities must develop prevention and intervention programs that are culturally relevant and address the child and the family's issues in the context of the community. Many Indian families deal with a variety of problems including poverty, substance abuse, family violence and limited parenting skills. Communities must coordinate their limited resources to adequately address these problems.



Investigative information received by the Bureau is subject to the Privacy Act, 5 CFR 735.104, Public availability of investigative files. The final determination (favorable or unfavorable) may be furnished to designated officers and employees of agencies and departments of the Federal Government for employment purposes, including a security clearance, an evaluation of qualifications, suitability, including suitability to perform contractual services to the Federal Government.

Background Checks

Tribes must conduct, at minimum, a background check. As defined by 42 U.S.C. § 13041, a background check is based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information and conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application.

Through an agreement between the Bureau and the Federal Bureau of Investigation (FBI), tribes may request criminal record checks through the Bureau. The Bureau submits fingerprints and the FBI will check for "child care providers" (non-law enforcement personnel). *Remember* 42 U.S.C. § 13041 limits such checks to "child care providers", e.g., volunteers and personnel assigned to tribal social services, health and mental health services, child (day) care programs, education programs (whether or not directly involved in teaching), foster care providers, residential care programs, recreational or rehabilitative programs, and detention, correctional, or treatment services.

Information provided by the FBI must be maintained in a secured office and locking files. Reports received from the FBI must not be released or reproduced, even to the individual. The reports are provided to the Tribe and its programs solely for employment purposes (child care provider background checks).

Further information regarding access to FBI criminal records checks is available from the Bureau of Indian Affairs Fingerprint Program, P.O. Box 1887, Albuquerque, New Mexico 87103-1887.

Adjudication

Bureau adjudicators review all information (favorable or unfavorable) and consider the impact of the individual's conduct with regard to the:

- ✓ nature of the position (the more authority or the greater the risk of harm, the more stringently the standards are applied)
- ✓ nature, extent and seriousness of the conduct

Approach A fair and unbiased assessment of individual's past and present conduct. Such assessment requires review of information provided by the individual and obtained from employers, schools, references, criminal justice agencies, etc. All information is considered in light of the kind of position for which the person is applying or in which the person is employed.

Standards The Tribe must develop standards. Federal law requires that the Bureau employ only those individuals who are reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

Positions Subject to 25 U.S.C. § 3207 and 42 U.S.C. § 13041

Bureau employees, contractors and volunteers, including: social services, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, judicial and probation services, as well as detention, correctional, or treatment services. This includes personnel working in these offices and facilities, e.g., cooks, guards, maintenance and custodial workers, counselors, and psychologists. The Bureau's Office of Indian Education Programs has determined that all education positions are subject to 25 U.S.C. § 3207 and 42 U.S.C. § 13041 including: Status Quo and Pub. Law 93-638, 95-561, 100-297 positions; academic/support staff (teachers, school counselors, teachers' aide, etc.); professional and administrative staff (superintendents, principals); dormitory/domestic staff (home living specialists/assistant, night attendants); and, education support services staff (school bus drivers, cooks, school custodial workers, business managers/technicians and registrars).

Background Investigations

The Bureau is required to comply with U.S. Office of Personnel Management and Department of the Interior criteria and procedures for making determinations of suitability for employment in positions or assignment to public trust activities. The U.S. Office of Personnel Management conducts background investigations of all Bureau employees, contractors and volunteers assigned to activities covered by 25 U.S.C. § 3207 and 42 U.S.C. § 13041. Remember 42 U.S.C. § 13041 permits Federal agencies to hire personnel provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the person is within the sight and under the supervision of a staff person with respect to whom a background check has been completed.

DRUG ENDANGERED CHILDREN (DEC)

Background

Innocent children are sometimes found in homes and other environments (hotels, automobiles, apartments, etc.) where methamphetamine and other illegal substances are produced. Around the country, Drug Endangered Children (DEC) programs have been developed to coordinate the efforts of law enforcement, medical services, and child welfare workers to ensure that children found in these environments receive appropriate attention and care.

Children who live at or visit drug-production sites or are present during drug production face a variety of health and safety risks, including:

- (1) inhalation, absorption, or ingestion of toxic chemicals, drugs, or contaminated foods that may result in nausea, chest pain, eye and tissue irritation, chemical burns, and death
- (2) fires and explosion.
- (3) abuse and neglect.
- (4) hazardous lifestyle (presence of booby traps, firearms, code violations, poor ventilation).

According to the El Paso Intelligence Center, there were 14,260 methamphetamine lab-related incidents during calendar year 2003. At 1,442 of the lab incidents during FY 2003, there was at least one child present, with 1,870 total children present. The labs affected more than 3,000 children. This includes children who were residing at the labs but may not have been present at the time of the seizure as well as children who were visiting the site.

	2000	2001	2002	2003
Number of Incidents	8,971	13,270	15,353	14,260
Incidents with children present	1,803	2,191	2,077	1,442
Children residing in labs	216	976	2,023	1,447
Children affected**	1,803	2,191	3,167	3,419
Children exposed to toxic chemicals	345	788	1,373	1,291
Children taken into protective custody	353	778	1,026	724
Children injured	12	14	26	44
Children killed	3	0	2	3

*The 2003 figure for the number of incidents is calendar year, while the remaining data in the column are for the fiscal year
 **Data for 2000 and 2001 may not show all children affected.

The following charts provide a model Drug Endangered Children protocol for child protective services, law enforcement, and medical personnel.

A: CPS DEC Protocol			
Location	Procedure	Timeline	Reporting Forms
CPS staff location	The CPS Investigative or Ongoing Worker is responsible for ensuring that the child is seen for follow up examinations.	2-4 weeks after initial medical visit	Not applicable
CPS staff location	CPS will respond to the request for involvement.	Within two working hours	Standard Intake Reporting Requirements
On-site at the suspected Meth Lab	Protective suit or other protective covering such as shoe covers, gloves, and masks should be worn at the site. All protective covering should be disposed of at the site. Check with the Lead Officer for disposal method.	As appropriate.	Not applicable
On-site at the suspected Meth Lab	Clothing, toys, baby bottles, food or drink, shall not be removed from the scene, as these items are likely contaminated.	Not applicable	Not applicable
On-site at the suspected Meth Lab	CPS will transport the child to the child advocacy center or medical facilities for interviews and additional medical assessment. CPS will make arrangements with the advocacy center or medical personnel for medical appointments.	Initial exam should be set up within 12 hours of contact with child if possible	Not applicable
On-site at the suspected Meth Lab	If the child needs to be removed from the caregiver's care, serve a temporary custody notice.	As soon as is appropriate	Temporary Custody Notice
On-site at the suspected Meth Lab	Work with the appropriate contact to identify a placement for the child.	As soon as is appropriate.	Not applicable
On-site at the suspected Meth Lab	Complete any other on-site investigation necessary with the assistance of Law Enforcement. (In general, the law enforcement officer that has initiated the investigation is the lead individual at the site.) CPS staff should coordinate any entry into the lab site with this individual to ensure no disruption or contamination of evidence. Obtain birth and medical information from the caregiver, if possible.	As soon as is appropriate.	DEC Form

STRATEGIES FOR TRIBES

Work with your Tribal Council and Tribal Attorney to develop personnel security policies and procedures, including standards of character prescribed by the Tribe and Federal statutes, which authorize funding for tribes and tribal organizations.

- Develop personnel policies that define standards of character for employees, contractor and volunteers and position descriptions that clearly define duties and responsibilities requiring specific standards of character (e.g., fiduciary responsibilities, contact with children, care of the elderly or other at-risk populations).
- Develop policies and procedures that mitigate harm (e.g. temporary reassignment or removal of an employee whose conduct indicates a potential for abuse or harm).
- Develop policies and procedures for the investigation and review of allegations that do not result in criminal charges.
- Develop policies and procedures to ensure each individual is afforded due process.
- Develop procedures to conduct background checks and adjudicate the results (e.g., scope of investigation, forms, confidentiality, storage of criminal records reports, and review).
- Obtain a signed statement from volunteers, applicants and employees authorizing the release of information by prior employers, law enforcement agencies, other tribes, credit reporting agencies, as well as state and professional/association registries.
- Obtain a written statement from volunteers, applicants and employees verifying he/she understands that falsifying information is grounds for immediate removal.
- Establish procedures to ensure careful screening, particularly of individuals who will work with children, the elderly, and other at-risk populations —
 - ✓ Designate trusted personnel to receive, review and advise the appropriate officials of criminal records reports and/or adverse reference, employment, credit checks
 - ✓ Contact the BIA Fingerprint Program and designate a point-of-contact to submit fingerprints and process FBI criminal history reports
 - ✓ Standardize interviews and conduct reference checks
 - ✓ Check sex offender registries, contact professional associations and registries, and negotiate access to state criminal and accreditation registries

STANDARDS OF CHARACTER AND ADJUDICATION

Purpose Identification and determination of risk of harm.

Bureau adjudicators must determine:

- Whether a Federal statute prevents the lawful employment of the individual in the position.
- Whether the conduct of the individual may reasonably be expected to interfere with, or prevent, efficient service in the position applied for or encumbered.
- Whether the conduct of the individual may reasonably be expected to interfere with, or prevent accomplishment by the employing agency of its duties or responsibilities.
- Whether there is a reasonable expectation that the individual's employment would promote the efficiency of the Federal service.

resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

Employment applications. Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application. A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

State Plan for Foster Care and Adoption Assistance, 42 U.S.C. § 671.

Criminal Records Checks. Unless an election is made with respect to the State, criminal records checks for any prospective foster or adoptive parent must be completed before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan. Final approval shall not be granted if (1) a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery or (2) a felony conviction within the past 5 years for physical assault, battery, or a drug-related offense.

Head Start Grants, 45 CFR 1301.31

Personnel policies. Before an employee is hired, a grantee must (1) interview the applicant, (2) verify personal and employment references and conduct State or national criminal record check, as required by State law or administrative requirement. If it is not feasible to obtain a criminal record check prior to hiring, an employee must not be considered permanent until such a check has been completed. All current and prospective employees sign a declaration that lists all pending and prior criminal arrests and charges related to child sexual abuse and their disposition, convictions related to other forms of child abuse and neglect; and all convictions of violent felonies. Such declaration may exclude (a) traffic fines of \$200 or less, (b) any offense, other than any offense related to child abuse and/or child sexual abuse or violent felonies, committed before the prospective employee's 18th birthday which was finally adjudicated in a juvenile court or under a youth offender law, (c) any conviction the record of which has been expunged under Federal or State law, and (d) any conviction set aside under the Federal Youth Corrections Act or similar State authority.

Location	Procedure	Timeline	Reporting Form
At the appropriate location, when needed.	If possible, make arrangements for a urine sample to be obtained from the child or other means of testing the child for the presence of meth, such as Cozart, which will be used by law enforcement or physicians. Urine samples should be labeled with date, time, child's name and the investigator's name and brought to the medical personnel who will be conducting the examination.	As soon as is practical, preferably within 12 hours from initial involvement.	Not Applicable
On-site at the suspected Meth Lab	Prior to transporting the child to the medical exam or placement, the CPS investigative worker should notify the Law Enforcement Officer of the intent to leave the child and to provide information about where the child is being placed.	As soon as practical.	Not Applicable
Transportation	Transport the child to the advocacy center, medical facility or placement.	As soon as practical.	Not Applicable
At advocacy center, medical clinic or child's point of placement.	For purposes of evidence collection, the child's clothing should be removed and placed in a brown bag. The caregiver should seal the bag with tape and sign it. The CPS Investigative Worker should return the clothing to law enforcement. Arrangements should be made for the child to be bathed and new clothing put on as soon as is practical. Also for purposes of evidence collection as well as safety, children should be handled with gloves until such time that the child has been bathed and decontamination has taken place. If the CPS Investigative Worker does not personally complete the bathing, specific instructions including the Instruct-	As soon as practical.	Instructions for care givers of children exposed to methamphetamine laboratories.

Location	Procedure	Timeline	Reporting Form
	ions for Care Givers of Children Exposed to Methamphetamine Laboratories should be provided to the caregiver concerning how to bath the child and how to handle clothing and the Tyvex suit.		
CPS Staff Location	Identify the ongoing worker to whom the case will be transferred and notify the DEC Officer or officer assigned.	Within 30 Days	CPS Forms
At advocacy center or medical clinic	Ensure that the child receives an initial medical examination.	Preferably within 12 hours of identification	Not applicable
B: Law Enforcement DEC Protocol			
Location	Procedure	Timeline	Reporting Form
Law Enforcement Offices	Call a briefing about the upcoming investigation. Invite Child Protective Services.	At a time determined appropriate by Law Enforcement	Not applicable
Law Enforcement Offices:	Initial stages of a drug lab investigation where there are indications of suspected child abuse. Investigator may want to contact a DEC Officer or other Officer who has specialized expertise in child crimes.	At a time appropriate to make the Officer a part of the investigation	Law Enforcement Forms
On-site at the suspected Meth Lab	Contact CPS or utilize local procedure that has been established between law enforcement and CPS.	At a time determined appropriate by the law enforcement.	Law Enforcement Forms

ADMINISTRATIVE PROCEDURES

STANDARDS OF CHARACTER AND BACKGROUND CHECKS

This section addresses standards of character and background checks. The following are examples of standards of character prescribed by Federal law.

Indian Child Protection and Family Violence Prevention, 25 U.S.C. § Sec. 3207, as amended.

Character investigations. The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions having duties and responsibilities involving regular contact with or control over Indian children has been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any 2 or more misdemeanor offenses under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.

Investigations by Indian tribes and tribal organizations. Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) shall - (1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and (2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed by the Bureau of Indian Affairs and/or Indian Health Service, as the Indian tribe or tribal organization shall establish.

Crime Control Act of 1990, 42 U.S.C. § 13041, as amended.

Criminal history check. A background check shall be (a) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information and (b) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application. An agency or facility may hire a staff person provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the person is within the sight and under the supervision of a staff person with respect to whom a background check has been completed.

Applicable criminal histories. Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee. In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is

Step Five: Working with a Child Protection Team

A child protection team (CPT) will coordinate services to children and families involved in a child protection referral/investigation. A multidisciplinary approach to coordinating service delivery maximizes the use of services available to victims of child abuse and neglect. They provide oversight regarding reported child abuse/neglect incidents, facilitate the provision of services, provide technical assistance when needed, and assist in the completion of a fatality review when a death occurs. An interagency agreement may be developed to clarify roles and responsibilities of team members.

CPT's should hold regular meetings and emphasize the prevention of child abuse and neglect. Membership should be limited to those agencies who provide primary services to child abuse and neglect victims and families. All formal members of the CPT must have undergone or submit to a background investigation. Confidentiality shall be maintained, and each member shall be required to sign a confidentiality agreement. Violation of confidentiality may result in the individual being replaced on the CPT and potentially to prosecution under federal law.



RELATED WEB SITES:

- America's Children: Key National Indicator's: <http://childstats.gov/americanchildren/index.asp>
- 2005 Kids Count Databook : www.aecf.org/kidscount/sld/databook.jsp
- Child Welfare League of America: www.cwla.org
- Drug Abuse: www.theAntiDrug.com
- Juvenile Justice: www.ncjrs.org/pdffiles1/ojdp/209735.pdf
- National Center for Prosecution of Child Abuse: www.ndaa-apri.org
- National Indian Child Welfare Association: www.nicwa.org
- National Institute on Drug Abuse: www.drugabuse.gov
- Recognizing Child Abuse: <http://nccanch.acf.hhs.gov/pubs/factsheets/signs.cfm>
- Suicide Prevention Resource Center: www.sprc.org

Location	Procedure	Timeline	Reporting Form
On-site at the suspected Meth Lab	Locate the child victim and assess the child's immediate need for medical attention. This may be done in concert with the medically trained personnel (EMT, paramedics) who are on site. If child's needs are emergent, call 911.	As soon as possible but no later than four hours after the child is identified at the lab site.	Not applicable
On-site at the suspected Meth Lab	Separate the victim from the suspects at the location and safeguard the child out of view of the suspects if possible.	As soon as appropriate within the investigation process.	Not applicable
On-site at the suspected Meth Lab	Ensure that photographs are taken, prior to searching or removal of any evidence.	As soon as appropriate within the investigation process.	Not applicable
On-site at the suspected Meth Lab	Identify the parents and obtain biographical information on suspects, care givers and witnesses.	As soon as appropriate within the investigation process.	Not applicable
On-site at the suspected Meth Lab	Dress the child victim in protective clothing (Tyvex suit) to prevent exposure to CPS staff, investigators and others.	As soon as appropriate within the investigation process.	Not applicable
On-site at the suspected Meth Lab	Clothing, toys, baby bottles, food or drink shall not be removed from the scene, as these items are likely contaminated.	Not applicable	Not applicable

Location	Procedure	Timeline	Report Form
On-site at the suspected Meth Lab	Conduct a forensic interview (if possible) of the child that includes determination of the following: primary caregiver, child's knowledge of the drug manufacturing process, victim's living area in relation to the lab, medical problems and school attendance. The child's height and reach should be measured. The interview may be recorded. CPS may be present at the interview.	As soon as possible within the investigation process.	DEC Form
On-site at the suspected Meth Lab	Diagram and measure all of the rooms at the site. Note if the child had access to the lab.	As soon as practical	Not applicable
On-site at the suspected Meth Lab	Identify hazards to the child.	As soon as practical	Not applicable
On-site at the suspected Meth Lab	Measure and photograph the child's belongings in proximity to the hazards.	As soon as practical	Law Enforcement Forms
On-site at the suspected Meth Lab	Handling of evidence: The meth lab investigator will retain the evidence. Toys, food and other items found in proximity to the chemicals should be included in the items tested by the crime lab (usually the DPS.)	Not applicable	Law Enforcement Forms
On-site at the suspected Meth Lab	Surveillance equipment, weapons, explosives will be noted, photographed and measured. Note if the weapons were loaded or the explosives were live.	Not applicable	Law Enforcement Forms
Law Enforcement Offices	Complete Child Abuse Report that includes CPS notes, medical records, autopsy reports, diagrams and photographs and submit to the appropriate law enforcement offices.	At the conclusion of the law enforcement investigation	Law Enforcement Forms
Law Enforcement Offices	Follow up with medical staff about findings and test results and with CPS concerning medical placement, and follow up medical evaluations.	As soon as is practical	Not applicable

When the social service program is given care and supervision, and out of home placement is required the worker must assure that the out of home placement is licensed in accordance with tribal or state standards. Licensure must be current and reviewed annually. This includes kinship care placements where payment is expected by the caregiver. Liability for the child's care remains with the social service program when the child is in placement. Social service staff are required to visit children in placement at least once a month. Background investigations are required of all placement resources.

If a child remains in care for a longer period of time the worker must reassess the case and provide a plan to address the needs of the child and family at least every six months. The case plan will address the same elements identified in the initial plan, but will also include information on the child's health and education, progress in placement, the family's progress on their case plan, the utilization of other available resources, and permanency plans. Permanency planning may include return to the family, placement with relatives, extended placement to address the special needs of the child, independent living (depending on the age of the child) and adoption. Placement alternatives may be limited by the tribal code or resolution. Social service should be knowledgeable of these limits in order to plan for the child.



Relative Placements & Services

If a child is placed with a relative and the relative is given temporary custody social services staff can still provide services in conjunction with a case plan on a voluntary basis with the client or under order of the tribal court. Relatives should be referred to the Temporary Assistance for Needy Families to apply for a child only grant in this case.

Tribal or BIA social service policy determines which worker (child protection or child welfare) is involved with a child protection referral at what time in the process. The overriding principal in transferring a case between workers is the protection of the child and where the investigation stands in the process. Eligibility determination for available resources should be determined as soon as possible.

Supportive services such as home based services may be provided to a child in their home to support the family and try to prevent placement. This should be done in conjunction with the primary case manager/worker under a plan that has been established with the family. The case manager/worker is responsible to monitor progress with the delivery of the home based services, and consistency with the plan.

including the need for placement(what alternatives have been considered), and 3.) what other actions need to be taken for the safety of the child.

- Recommendations on plans for the family may be provided at the initial hearing, but there may be a need for further assessment.
- Any criminal aspects of a child protection investigation are the responsibility of law enforcement.

Each social service program should have an on-call policy. This policy shall be shared with law enforcement and the clinic or hospital on reservation. It shall clearly spell out who is responsible to respond to any child protection referrals received after hours and on weekends. It should provide the supervisors number as back up if the on call worker is not available.

Step Three: The Initial Assessment

An initial investigation or assessment shall be made and documented. The initial assessment shall contain: Information on the alleged victim and the allegations, identifying information on the child and family, any special circumstances surrounding the allegation, medical information if available, history if more than a single episode, tribal enrollment, residency on reservation, family composition, relative resources, a need for protection, and parental involvement. If the family has resources what are they and do they have the ability to assist with payment of out of home placement or treatment. Are there any special circumstances affecting this child or family?

Step Four: Placing the Child

If the child is placed the social service worker is required to provide a case plan within the first 30 days of placement. The plan should incorporate information from the assessment and recommendations to address the first thirty days of placement.

The worker must be familiar with their respective tribal code. The worker is responsible for assuring that the necessary information (initially the investigation or assessment) is filed with the tribal prosecutor. The prosecutor is responsible to file with the court for emergency or temporary placement of the child.

Prosecution and social service workers should clearly understand their respective roles. They are each responsible for meeting the necessary timeframes established in the code or by the court in filing for emergency/temporary custody and for subsequent hearings, if the child remains in out of home placement. Child protection cases may be dismissed if timeframes are not met and the child's safety may be jeopardized.

A tribal court order must be on file if a placement is ordered with any special requirements for the family identified in the case plan. A court order cannot restrict the social services program's placement decision. Restrictive court orders limit the use of federal funds for the placement of the child by identifying a specific placement in the order.

C: Medical Personnel DEC Protocol			
Location	Procedure	Timeline	Reporting Form
At advocacy center or medical clinic	Obtain child's medical history, either from CPS or the caregiver.	Preferably within 12 hours of identification	Medical Records if available
At advocacy center or medical clinic	Administer test and procedures. Ensure that Urine Test was gathered. Request Urine Screen. Perform complete pediatric exam and include as much of the Early Periodic Screening, Detection and Treatment (EPSDT) Protocol as possible. Particular emphasis should be placed on neurological screening, respiratory status and cardiovascular status. Required clinical evaluation include: vital signs, height and weight. Head circumference should be measured for children less than two years old. Arm span and reach for all children less than five years old. Optional tests as medically necessary including CBC, Liver Function, Electrolytes and Kidney Function, Complete Metabolic Panel, Pulmonary Function Tests, Chest X-Ray Skeletal Survey for children less than three years of age when physical abuse is suspected, Oxygen Saturation and Heavy Metals Screen.	Preferably within 12 hours of identification	EPSDT Form
At advocacy center or medical clinic	Conduct Suspected Child Abuse and Neglect Screen.	Preferably within 12 hours of identification	Medical records forms
At advocacy center or medical clinic	Provide a behavioral health referral if appropriate.	Preferably within 12 hours of identification	Local forms if available
At advocacy center or medical clinic	Secure release of the child's medical records to appropriate authorities (CPS and Law Enforcement.)	Preferably within 12 hours of identification	Not applicable

Location	Procedure	Timeline	Report Forms
At advocacy center or medical clinic	Conduct reevaluation of the comprehensive health status of the child.	2-4 weeks after initial medical visit	Medical Records forms
At advocacy center or medical clinic	Conduct formal development assessment on child less than six years of age using the Denver Developmental Screening Tool.	2-4 weeks after initial medical visit	Denver Developmental Screening Tool
At advocacy center or medical clinic	Follow-up on any abnormal screening laboratory tests, or administer screening laboratory tests as indicated.	2-4 weeks after initial medical visit	Not applicable
At advocacy center or medical clinic	Arrange for appropriate follow-up as indicated.	2-4 weeks after initial medical visit	Not applicable
At advocacy center or medical clinic	Evaluate adequacy of placement with regard to medical needs.	2-4 weeks after initial medical visit	Not applicable



*****Advocacy Center**—A facility where a number of agencies have staff available to interview and provide services to a child victim at one location. Medical, law enforcement, legal, mental health and social services staff are on site to interview and address the victim's needs. The goal of advocacy center is to reduce trauma to the victim. Forensic interviews may be completed while staff from other programs observe via an observation window and make sure that important questions are answered. Interviews may be taped and used at a later time.

Step One: Referral

When an intake or referral is received an initial investigation is required within 36 hours:

- Immediately cross refer to law enforcement – track to whom you made the referral, the date and time, and follow-up if provided. A staffing on the case prior to initiating an investigation is recommended when possible, which includes **coordination of activities between law enforcement and social services, and joint investigations whenever possible**. If preliminary investigation indicates a serious criminal violation has occurred local law enforcement must report the occurrence to the Federal Bureau of Investigation.
- **Make sure the referral has sufficient information for child protection to follow-up**. This includes: identifying and contact information on the child and family or alleged perpetrator being referred-address, telephone numbers or significant contacts, relevant background, information on the allegation(s) – victim, perpetrator, allegations- including specific acts, times, and location where this occurred, how does the reporter know of the incident, medical information if available, are drugs or alcohol involved. A complete referral is important to initiate action and plan your response. Staff involved in taking referrals should be trained on what information is necessary to begin this process.
- When the social worker receives the initial referral they shall compile the available information from the intake worker, and law enforcement and coordinate the initial contact with the child and family. **If safety issues are a concern e.g. previous history of violence, indication of methamphetamine use or production etc., initial contact should not be made without a law enforcement officer present.**
- If either the victim or alleged perpetrator has a history with the program, secure information on the history of previous referrals and identify other programs/ individuals currently working with the family.

Remember, the child must be eligible for services otherwise they need to be referred to alternative resources including the state or county. This means they must be an enrolled member of a federally recognized tribe on reservation, in need of protection and not eligible for other available services. The requirements specified in 25 CFR 20.404 must be considered.

Step Two: Findings & Determinations

- If the allegations are unsubstantiated this should be documented in the file with any relevant findings. If there is no further service provided or action to be taken this information should be included in a closing summary.
- If the allegations are substantiated or there appears to be a need for protection this needs to be documented. If there is a need to protect the child and place the child outside of the home, an assessment/investigation should be provided to the prosecutor (frequently as an affidavit) who will present the findings to the court to support a recommendation for temporary custody of the child. This includes: 1.) the facts of the case (answer the who, what, when, where), 2.) the need for protection of the child,

SOCIAL SERVICE CHILD ABUSE PROTOCOL & COMPLIANCE WITH P.L. 101-630 INDIAN CHILD PROTECTION & FAMILY VIOLENCE PREVENTION ACT OF 1990 (25 USC 3203 & 25 CFR Part 63)

This protocol addresses child abuse referrals of Indian children made to the tribal or BIA social service program on reservations in non- PL 280 situations.

The social service program should cooperate with neighboring counties when a tribally enrolled child needs protection off reservation. Any legal intervention however, can only be accomplished through utilization of the Indian Child Welfare Act and the transfer of jurisdiction.

Child neglect/abuse is a crime and depending on the severity of the neglect or abuse may be handled either through the tribal or federal court. Legal jurisdiction, is an issue that impacts how a particular referral is handled by law enforcement and the courts. On some reservations, the state may be the entity responsible for handling a child protection referral.

Nevertheless, the need for protection of a child involved in a child abuse/neglect referral is usually handled by the tribal or BIA social service program. Tribal code may require that law enforcement pick up a child in need of protection, but social services is responsible for assessing the situation and determining if an out of home placement to protect the child is necessary, and taking the necessary actions to make the placement.

Mandatory Reporters

P.L. 101-630 (18 USC 1169) identifies mandatory reporters of suspected child abuse. These include: physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, health care provider, teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, bus driver, administrative officer, supervisor of child welfare and attendance, truancy officer, child day care worker, head start teacher, public assistance worker, group home or day care or residential facility worker, social worker, psychiatrist, psychologist, psychological assistant, marriage or family or child counselor, mental health professionals, law enforcement officer, probation officer, juvenile rehabilitation or detention workers, public agency staff who are responsible for enforcing statutes and judicial orders.

42 USCS §13031 includes other mandatory reporters. These include: medical residents or interns, hospital personnel and administrators, osteopaths, pharmacists, ambulance drivers, undertakers, coroners, alcohol or drug treatment personnel, persons performing a healing role or practicing healing arts, guidance personnel, school officials and administrators, criminal prosecutors, foster parents and commercial film and photo processors.

Any mandatory reporter who fails to immediately report incidents of child abuse shall be fined \$5,000 and/or imprisoned not more that 6 months. The law also provides that any person who supervises or has authority over mandatory reporters and inhibits or prevents that person from making the report shall be fined \$5,000 and/or imprisoned 6 months.

INITIAL INVESTIGATION (25 USC 3203) & ASSESSMENT

The local law enforcement (OLES) or child protection service (CPS) 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 or children involved.

This requires them to:

- Notify the other agency (OLES/CPS) of such report and
- Submit a written report to the other agency (OLES/CPS) within 36 hours, which identifies; the probable facts, the need for protection of the child, the need for removal or continued protective placement and other actions required to ensure the protection and well-being of the victim.



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.

The investigative agency (law enforcement) works cooperatively with the child protection worker. This information is then conveyed to the appropriate prosecutorial agency responsible for initiating legal actions on the emergency removal. If there is a functioning Child Protection or Multidisciplinary Team they will staff the case to assist in the assessment of the case situation and the need for relevant services. The local child protection agency will follow the established local procedures.

Risk assessments are written instruments that identify factors that affect the safety of a child and help identify the need for protection. Various risk assessment instruments have been developed to assist the worker and child protection team in identifying the risks involved in each case. Staff should identify a risk assessment instrument they can use to help them do a more complete evaluation of the factors involved in each case and bring more consistency to their assessment process.

CHILD PROTECTION TEAMS (CPTs)

Child Protection Teams Facilitate Interagency 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 Recommended Composition: membership should be limited to those agencies who provide necessary services to the victims of child abuse or neglect and/ or their families. These generally include 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. They will focus their efforts to more effectively use community resources in the treatment and prevention of child abuse.



Types of CPTs:

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.

Community(Program Development) Team -- These 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.

MULTIDISCIPLINARY TEAM (MDT): a specialized prosecution based team which deals with child abuse and neglect. Key members include prosecutors, law enforcement, social services, medical, mental health personnel, victim advocate, medical, psychological and psychiatric personnel. Secondary professionals can be invited to discuss specific cases when necessary.

INDIAN COUNTRY JURISDICTION

OFFENDER	VICTIM	JURISDICTION
Indian	Indian	Federal jurisdiction for felonies listed in Major Crimes Act 18 U.S.C. 1153; Tribal jurisdiction for misdemeanors; no jurisdiction for felonies not in 1153.
Indian	Non-Indian	Federal jurisdiction for felonies listed in 1153; felonies and misdemeanors not listed in 1153 (including assimilative crimes) unless the tribe has already punished the defendant; Tribal jurisdiction for misdemeanors.
Non-Indian	Indian	Federal jurisdiction for felonies and misdemeanors, including assimilative crimes.
Non-Indian	Non-Indian	State jurisdiction applies for both felonies and misdemeanors.
Indian	Victimless Crime	Tribal jurisdiction applies in most cases; Federal jurisdiction applies in some cases.
Non-Indian	Victimless Crime	State jurisdiction applies in most cases; Federal jurisdiction applies in some cases.

K. TREATMENT

Monitoring and continued contact by the assigned agency will be maintained to assure compliance with the service treatment plan.

[Appendices to the agreement included a Protocol for the Investigation of Child Abuse Cases, CPT Attendance Report, A Confidentiality Agreement, Preliminary Information Regarding Neglected, Physical or Sexually Abused Children and a Child Protection Team Evaluation form.]

Signatures of the Fort Peck BIA Agency Superintendent, IHS Service Unit Director, and Tribal Chairperson followed on a signature page are not included here.]



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,
- agency roles in providing (and funding) 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.

A copy of a current interagency agreement is provided on page 22 of this handbook.



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

- (b) referral to another agency or individual for service with the continued involvement of the Child Protection Team in a timely and effective coordinating capacity;
- (c) referral to other agency or individuals for services with minimal Child Protection Team involvement.

3. Reassess the Service Treatment Plan to evaluate the family's progress towards achieving goals and to ensure that the services which are being provided are effective. This will be accomplished by:
 - (a) identifying problems being confronted;
 - (b) identifying areas of family and individual improvement
 - (c) identifying changes that need to be made in the original assessment and service treatment agreement;
 - (d) Revising the service treatment plan as needed.
4. Services can be terminated using the following criteria:
 - (a) the original problems which led to the abuse or neglect have been resolved to the point that the child is safe in the home;
 - (b) the family has moved;
 - (c) the child dies and there are no other children in the home.
5. Services will be terminated by:
 - (a) decreasing worker-client contact due to progress of the family;
 - (b) identifying resources to which the family may need for future assistance;

J. CONFLICT RESOLUTION

Child Protection Team recommendations or problem solving may not always result in a general consensus. When there are some critical differences of professional opinion, it will be resolved using the following guidelines:

1. the team facilitator and service agency supervisor will evaluate the assessment process giving priority to the protection of the child and determine a course of action which will be provided to the service representative;
2. The team facilitator and the service representative will make a recommendation back to the Child Protection Team for re-evaluation.
3. As the Child Protection Team is advisory in nature, the social service provider responsible for the service treatment agreement shall have the final decision.

- (b) The purpose of providing ongoing services is to reduce any further abuse and neglect and to strengthen the family unit.

2. Recommendations can also be made using the following guidelines:

- (a) abuse or neglect does exist and the family should be offered services, and one agency may be appointed to carry out this responsibility;
- (b) abuse or neglect may be unsubstantiated or there is insufficient evidence to prosecute this case, but the case may remain open for future follow-up;
- (c) abuse or neglect does exist and the family will cooperate with the voluntary services, such as a service treatment plan with a social service agency;
- (d) abuse or neglect does exist and services and treatment are required;
- (e) abuse or neglect does exist and the offender or the child must be removed from the home with a full investigation and prosecution in court;
- (f) abuse or neglect does exist and prosecution may recommend a deferred prosecution with strict stipulations which may require help from agencies involved in child protection services to implement or monitor the stipulations. Progress on the stipulated agreement will determine whether the court initiates a dependent status for the child/ren.

I. PROTECTION OF THE CHILD

In order to protect the child the following will be completed by the appropriate SERVING AGENCY as set forth by the individual agency’s guidelines.

- 1. Gather additional information concerning the child, the family members, and home life situation to:
 - (a) determine if and why abuse or neglect has occurred;
 - (b) identify the areas in which services can help;
 - (c) develop a service treatment plan to establish a safe environment for the child and if possible maintain the family unit by forming objectives which describe activities or behaviors that are measurable or observable; state time frames for completion, acceptable levels of performance and that designate lead agencies to assist and measure achievement of a goal;
 - (d) Identify resources for service provision.
- 2. Implement a Service Treatment Plan through:
 - (a) direct service by a participating agency;

“SAMPLE” INTER-AGENCY AGREEMENT

The Fort Peck Tribes, Bureau of Indian Affairs, Fort Peck Agency, Montana Department of Family Services and the Indian Health Service are the parties involved in this agreement. All parties understand that this is the full complete agreement and that there are no verbal or unwritten parts to this attached document

Tribes throughout the country have developed various agreements between various agencies providing child protection services. This document is an example of a negotiated CPT agreement between a tribe and the Federal Government (the BIA and IHS). 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.

CHILD PROTECTION TEAM AGREEMENT

A. CHILD PROTECTION TEAM

The Child Protection Team Members shall consist of members from each agency/department who has a primary role in child abuse/child neglect issues. Members and alternates are assigned to the team by the Administrator/ Official in charge of each agency/department. Assignment to the team shall be in accordance with the member agency’s written policies.

B. TEAM ORIENTATION

When the Team is completed, it shall be the policy that team members be provided orientation by the Coordinator to insure that all team members will be knowledgeable as to responsibilities of each individual team member. Team members must be familiar with the tribal laws on child abuse/neglect and what constitutes a violation of law. Orientation will be provided to any new members of the Team. Orientation will include:

- 1. Purpose of the team;
- 2. Team roles;
- 3. Team management policies;
- 4. Legal guidelines, including definitions, the reporting procedures, civil and criminal procedures.
- 5. Confidentiality will be discussed and each team member will be required to sign a confidentiality pledge.

C. TEAM MEMBERS

Child Protection Team Coordinator	BIA Social Services Rep.
Investigator/or Law Enforcement Rep.	IHS Mental Health Rep.
School Official/Rep.	State Child Protection Agency Rep.
Alcohol/Drug Counselor	Juvenile Officer/Juvenile Worker
Victims Assistance Program Rep.	Special Prosecutor’s Office Rep.
Doctor/Physician’s Assistant or Medical Social Worker	

D. CHILD PROTECTION TEAM FACILITATOR

The Child Protection Team Facilitator shall be designated by the Chairman of the Fort Peck Tribes. The facilitator will be under the direct supervision of the Tribal chairman. Duties will include the following:

1. implement a case tracking system;
2. coordinate the child protection meetings;
3. coordinate the orderly progression of services;
4. maintain inter-agency communication;
5. develop cooperative work planning procedures;
6. develop procedures for feedback, evaluation and improvement;
7. coordinate abuse prevention activities;
8. data base management (section F);
9. data collection (section E).

E. DATA COLLECTION

Collection of data materials will be maintained for each referral and information will be summarized by the Facilitator in monthly reports to the Bureau of Indian Affairs and the Fort Peck Tribes which will include:

1. number of cases referred;
2. number of cases investigated;
3. type of evaluations or services provided such as; intake and assessment only, ongoing services such as medical, social work, psychological, alcohol counseling, etc.;
4. number of cases founded or unfounded;
5. type of abuse/neglect;
6. severity of the abuse, i.e., tribal or federal violation;
7. identifying the abuser;
8. number of abusers;
9. age/sex of the victim;
10. source of the referrals/agency or individual, taking into consideration the confidentiality of the informant;
11. number of out-of-home placements
12. number of court proceedings and type (civil and criminal) , disposition;

F. DATA BASE MANAGEMENT

There will be a data base management system established for the review of child abuse/neglect cases by the Child Protection Team Facilitator based on the following considerations:

1. a data base that encourages a long term view of family problems and strengths and tracks their progress on identified goals or lack thereof;

2. documentation of problem identification and tentative case plan recommendations by all evaluators;
3. documentation of recommendations by the appropriate social service agency included in the court process;
4. Access to data base will be at the discretion of the service providers on a case by case basis taking into consideration confidentiality issues.

G. ASSESSMENT PROCESS

All cases should be prioritized during the assessment process by the SERVICING AGENCY using a RISK ASSESSMENT FORM compatible with the Child Abuse Investigation Protocol. In making the assessment regarding the investigation and protection of the alleged child abuse/neglect, there may be many outcomes. The SERVICING AGENCY will examine the degree of harm to the child and how the abuse happened.

Priority will be given to the protection of the child/ren. The SERVICING AGENCY will use all of the information and evidence gathered during an investigation available regarding the incident, the child, the parents or guardians, and the family home. After assessing the validity of each allegation, a decision is made as to whether a Child Protection issue exists. On the basis of that decision, the appropriate action will be taken to prioritize the case and submit the RISK ASSESSMENT FORM to the Child Protection Team Facilitator by noon of the day preceding the regularly scheduled CPT meeting.

The agencies who have participated as signatories to this agreement shall take immediate steps to establish a reporting process for child neglect/abuse referrals in accordance with P.L. 101-630 and the Child Abuse Investigation Protocol attached to this agreement. These referrals, with the exception of referrals that are received directly by the CPT Facilitator, will be forwarded to the CPT Facilitator within 48 hours of receipt in a written format to insure that the CPT Coordinator can perform the functions necessary to implement Section E – Data Collection, Section F – Data Base Management, and Section G – Assessment Process, of this agreement.

H. CHILD PROTECTION TEAM ROLES AND RESPONSIBILITIES

The CHILD PROTECTION TEAM is advisory in nature to the service agencies participating under this agreement.

1. Evaluating the family and child's short and long term needs by monitoring on-going services, continued rehabilitation, protection or other assistance that is needed as a result of the abuse and make recommendations to the SERVICING AGENCY.
 - (a) Ongoing services refer to the activities performed after a suspected case of abuse or neglect has been substantiated. The activities include conducting a social assessment, service treatment planning, and implementation of service treatment plan, assessing the family's progress and terminating services.