United States Attorney's Office

Federal Districts of Oklahoma

Memorandum of Understanding for Reporting and Investigating Child Abuse Criminal Offenses In Indian Country

These guidelines should be used any time an Indian child in Indian country appears to be the victim of physical or sexual abuse or if the suspected perpetrator appears to be Indian, regardless of the race of the child victim.

"Indian country" under 18 U.S.C. § 1151 includes tribal trust lands/reservations, dependent Indian communities, and Indian allotments held in trust status.

Revised 09.15.07 v5

MEMORANDUM OF UNDERSTANDING

In the fall of 1994 these guidelines were established under a Memorandum of Understanding (MOU) . In 2003 these guidelines were revisited and approved by and between the United States Attorney's Offices for the Western, Northern and Eastern Districts of Oklahoma; Federal Bureau of Investigation(FBI); Oklahoma Department of Human Services (DHS); Bureau of Indian Affairs (BIA); Indian Health Services (IHS); the Absentee Shawnee Tribe, Alabama Quassarte Tribal Town, Apache Tribe, Caddo Nation, Cherokee Nation, Cheyenne-Arapaho Tribes, Chickasaw Nation, Choctaw Nation, Citizen Potawatomi Nation, Comanche Nation, Delaware Nation, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Fort Sill Apache Tribe, Iowa Tribe of Oklahoma, Kaw Nation of Oklahoma, Kialagee Tribal Town, Kickapoo Tribe of Oklahoma, Kiowa Tribe of Oklahoma, Miami Tribe of Oklahoma, Modoc Tribe, Muscogee (Creek) Nation, Osage Tribe, Otoe-Missouria Tribe, Ottawa Tribe, Pawnee Nation of Oklahoma, Peoria Tribe of Indians of Oklahoma, Ponca Nation, Quapaw Tribe of Oklahoma, Sac & Fox Nation, Seminole Nation, Seneca-Cayuga Tribe of Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, Tonkawa Tribe, United Keetoowah Band of Cherokees, Wichita & Affiliated Tribes, and the Wyandotte Nation.

Pursuant to 25 U.S.C. § 2801 et seq., 25 U.S.C. § 3201 et seq., and the memorandum of understanding between the United States Department of the Interior, Bureau of Indian Affairs, and the United States Department of Justice, Federal Bureau of Investigation, the United States Attorney's Offices for the Western, Northern and Eastern Districts of Oklahoma have prepared the following guidelines for the investigation of child sexual/physical abuse or neglect in Indian Country as defined by 18 U.S.C. § 1151.

GOALS

The goals of these guidelines are the protection and safety of the child victims and the identification and prosecution of the perpetrator. These guidelines shall not alter or amend any existing agreements, memoranda of understanding, treaties, regulations or statutes between tribes and/or agencies named herein.

GUIDELINES TO BE USED

These guidelines are to be used in all reported cases in which incidents of child sexual or physical abuse occur in Indian country involving:

- an Indian child or
- Indian perpetrator, including a minor.

MULTI-DISCIPLINARY TEAMS

All child sexual or physical abuse cases shall be coordinated by a Child Protection Team and/or a Multi-disciplinary Team (MDT), when feasible. An MDT, as defined in 25 U.S.C.§ 3209 and 18 U.S.C. § 3509, shall include, but is not limited to, representatives from:

- law enforcement,
- child protection services,
- juvenile counseling and adolescent mental health,
- tribal, state and federal prosecutors,
- domestic violence agency, and
- medical services.

INITIAL REPORT

When an initial report of child sexual or physical abuse involving an Indian child or an Indian perpetrator is received by law enforcement, the Oklahoma Department of Human Services (DHS), or the Child Protection Services agency of an Indian Tribe (CPS), each relevant agency within the following sections must be notified by phone immediately (within 12 hours):

(1) Law Enforcement Agencies:

	Main:	Fax:
Absentee Shawnee Tribal Police	(405) 275-3200	(405) 878-4535
Cherokee Nation	(918) 456-9224	(918) 458-6250
Chickasaw Nation Lighthorse Police	(580) 436-7267	(580) 310-6457
Toll Free	(888) 804-3234	
Choctaw Nation	(580) 286-3977	(580) 924-3363
Citizen Potawatomi Tribal Police	(405) 878-4818	(405) 878-4820
Comanche Nation Police	(580) 492-3789	(580) 492-3718
Eastern Shawnee Tribal Police	(918) 666-4180	(918) 666-4190
Iowa Tribal Police	(405) 547-5355	(405) 547-7215
Kaw Nation Police	(580) 269-2552	(580) 269-2301
Kickapoo Tribal Police	(405) 964-5941	(405) 964-3136
Miami tribal Police	(918) 542-1445	(918) 542-7260
Muscogee (Creek) Nation	(918) 732-7800	(918) 756-4241
Osage Nation	(918) 287-1847	(918) 287-5524
Otoe-Missouri Tribal Police	(580) 723-4540	(580) 723-1017
Pawnee Tribal Police	(918) 762-3013	(918) 762-6456
Ponca Tribal Police	(580) 765-3587	(580) 765-3599
Sac & Fox Nation Police	(918) 968-2098	(918) 968-3781
Tonkawa Tribal Police	(580) 628-2337	(580) 628-2340
Wyandotte Tribal Police	(918) 678-2297	(918) 678-2944

BIA, Anadarko Agency Apache Tribe Caddo Tribe Delaware Nation Fort Sill Apache Tribe Kiowa Tribe Wichita Tribe	(405) 247-6712	(405) 247-7483
BIA, Concho Agency Cheyenne-Arapaho	(405) 262-4814	(405) 262-5955
BIA, Miami Agency Modoc Tribe Ottawa Tribe Peoria Tribe Quapaw Tribe Shawnee Tribe Seneca Cayuga Tribe	(918) 542-6921	(918) 542-7603
BIA, Pawnee Agency	(580) 762-2335	(580) 765-7101
BIA, Wewoka Agency Seminole Nation	(405) 257-9370	(405) 257-9364

In the event that the above tribal law enforcement agencies cannot be reached, call:

	Main:	**Fax:**
Muskogee BIA District Office	(918) 781-4650	(918) 781-4676
Anadarko BIA District Office	(405) 247-1665	(405) 247-2904
BIA Child Abuse Hotline	(800) 633-5155	

AND

(2) Local Child Protection Service that has primary responsibility for child protection within Indian country where offense occurred.

	Main:	**Fax:**
Absentee Shawnee Tribe	(405) 275-4030 or (800) 256-3341	(405) 214-4238
Alabama Quassarte Tribal Town	(405) 452-3987	(405) 878-4535
Cherokee Nation		
Catoosa	(918) 266-5626	(918) 266-5929
Jay	(918) 253-3559	(918) 253-3564
Sallisaw	(918) 774-0800	(918) 774-0088
Stilwell	(918) 696-7603	(918) 696-6534
Tahlequah	(918) 431-4115	(918) 458-6146
Cheyenne-Arapaho Tribe	(405) 422-1173	(405) 422-1176

Chickasaw Nation	(580) 272-5550	(580) 272-5554
Choctaw Nation	(580) 924-8280 ext. 2235	(580) 920-3197
Citizen Potawatomi Nation	(405) 275-3176	(405) 878-4858
Comanche Nation	(580) 492-3792	(580) 492-3742
Eastern Shawnee	(918) 666-5151 ext. 222	(918) 666-2065
Iowa Tribe	(405) 547-2402	(405) 547-1067
Kaw Nation	(580) 269-2003	(580) 269-2113
Kialegee Tribal Town	(405) 452-5388	(405) 452-3413
Kickapoo Tribe	(405) 964-5426	(405) 964-5430
Kiowa Tribe	(580) 654-2300	(580) 654-2188
Miami Tribe	(918) 542-1445	(918) 542-7260
Modoc Tribe	(918) 542-1190	(918) 542-5415
Muscogee (Creek) Nation	(918) 732-7869 or	(918) 732-7854
Toll Free	(800) 521-5432	
Osage Nation	(918) 287-4614	(918) 287-1112
Otoe-Missouria Tribe	(580) 723-4466	(580) 723-1016
Ottawa Tribe	(918) 540-1536	(918) 542-4332
Pawnee Agency	(918) 762-2585	(918) 762-3201
Peoria Tribe	(918) 540-2535	(918) 542-4332
Quapaw Tribe	(918) 542-1853	(918) 542-4694
Seneca-Cayuga Tribe	(918) 787-5452	(918) 787-5521
Thlopthlocco Tribal Town	(918) 560-6198	(918) 560-6195
United Keetoowah Band of Cherokees	(918) 456-9200	(918) 456-9220
Wyandotte Tribe	(918) 678-2297	(918) 678-2944
Sac & Fox Nation	(918) 968-2031	(918) 968-3781
Shawnee Tribe	(918) 542-2441	(918) 542-2922
BIA Anadarko Agency	(405) 247-5412	(405) 247-2252
Apache Tribe		
Caddo Tribe		
Delaware Nation		
Fort Sill Apache Tribe		
Wichita Tribe		
BIA Pawnee Agency	(918) 762-2585 ext. 211	(918) 762-3201
Pawnee Tribe		
Ponca Tribe		
Tonkawa Tribe		
BIA Wewoka Agency		
Seminole Nation	(405) 257-6257	(405) 257-6748

AND

(3) Federal Bureau of Investigation (FBI) (office nearest to location of offense) or the FBI 24-Hour Emergency Number (405) 290-7770

	Main:	Fax:
Ardmore	(580) 223-2018	(580) 223-6541
Durant	(580) 924-4382	(580) 924-2290
Elk City	(580) 225-6000	(580) 243-1520
Enid	(580) 237-6322	(580) 237-6510
Lawton	(580) 353-3090	(580) 250-5080
McAlester	(918) 423-1413	(918) 426-3037
Muskogee	(918) 687-7500	(918) 681-6525
Norman	(405) 364-5137	(405) 307-7719
Oklahoma City	(405) 290-7770	(405) 290-3885
Stillwater	(405) 372-1645	(405) 372-0594
Tulsa	(918) 664-3300	(918) 879-2554
Vinita	(918) 256-2299	(918) 256-5912
Woodward	(580) 256-5711	(580) 256-5714

AND

(4) The United States Attorney's Office:

Eastern District:	Main:	Fax:
Muskogee	(918) 684-5100 Toll Free (800) 659-7913	(918) 684-5150
Northern District:		
Tulsa	(918) 382-2700 Toll Free (888) 735-4540	(918) 560-7938
Western District:		
Oklahoma City	(405) 553-8700 Toll Free (800) 447-3683	(405) 553-8888

If a person, while engaged in a professional capacity or activity (medical, mental health, social worker, teacher, child care worker, law enforcement, prosecutor, foster parent, commercial film processor), learns of facts that give reason to suspect that a child has been abused and fails to make a timely report, that person shall be guilty of a criminal offense. 18 U.S.C. § 2258.

36-HOUR REPORT

Within 36 hours of the initial report, the local law enforcement agency or child protection services agency which received the initial report shall follow the telephone report with a written report to the agencies notified under the Initial Report section. The 36-hour report should contain the following: (See example on page 11)

- The name, address, age and sex of the child that is the subject of the report, including current whereabouts;
- The grade and the school in which the child is currently enrolled;
- The name and address of the child's parents or other person responsible for the child's care and the current whereabouts of the parents or other person responsible for care;
- The name and address of the alleged offender and whereabouts;
- The name and address of the person who made the report to the agency, unless prohibited by statute or DHS policy to disclose name and address of reporting party in writing;
- A brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings, and the suspected date of the abuse;
- Any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse, i.e. emergency room reports, previous court cases, etc.; and
- Agency case number.

INDIAN COUNTRY JURISDICTION

Upon receipt of the initial report, if possible, or upon receipt of the 36-hour report, BIA or Tribal Law Enforcement will take immediate action to determine if it is probable that the alleged offense occurred in Indian country. For the purpose of further investigation it shall be presumed, unless otherwise established, that if the child or the perpetrator resides in Indian country, the probability exists that the offense occurred in Indian country.

COORDINATION OF LAW ENFORCEMENT

When it is determined by BIA or Tribal Law Enforcement that the probability exists that the offense occurred in Indian country, BIA or Tribal Law Enforcement shall notify the local FBI Resident Agency. The law enforcement agencies will make a determination as to which agency will conduct the investigation or if they will conduct a joint investigation together with each other or any other federal, tribal, state or local law enforcement agency.

EMERGENCY REMOVAL OF A CHILD

If immediate removal is necessary, the responsible law enforcement agency, state or Indian child welfare agency, and/or child protection agency will follow the appropriate procedures for emergency removal of the child, including immediate notification of: (1) the child protection agency where the child resides; and (2) the tribal prosecutor in compliance with applicable tribal codes or 25 C.F.R., Part 11 (for tribes served by the Courts of Indian Offenses) concerning show cause and other proceedings.

MEDICAL EXAMINATION

An immediate medical examination by a physician or health care provider will be arranged if there is an acute need, such as injury to the child, which requires medical attention, or the need to preserve evidence, such as the preparation of a rape kit or other examination, or existing conditions make it advisable. Otherwise, a medical examination by a physician or health care provider with a background in child physical or sexual abuse previously identified by the United States Attorney's office will be arranged in the normal course of business.

FORENSIC INTERVIEWS

To minimize the trauma to minor victims, forensic interviews of minor victims of child sexual or physical abuse shall be conducted by a professional who has been trained to interview children and should be carried out in a child friendly atmosphere, such as a child advocacy center when available.

TRIBAL OR FEDERAL PROSECUTION

The United States Attorney's Office will determine if the matter will be prosecuted in federal court. If a matter is declined for federal prosecution, BIA law enforcement, tribal law enforcement, the tribal prosecutor, and the District Attorney's office (if applicable) will be notified in writing.

LIAISON WITH VICTIM

After presentation to the United States Attorney's Office, the investigating officer or victim/witness coordinator will act as liaison with the victim and the family, the service providing agencies, and others as necessary.

CRIMINAL JUSTICE PROCESS

The investigating agent, Assistant United States Attorney, or victim/witness coordinator, with the assistance of the other service providers, shall assist in familiarizing the victim with the criminal justice process, the courtroom, travel and lodging arrangements during court appearances, counseling, victim impact statements, the Bureau of Prisons Victim/Witness notification program, and other needs as they are determined.

JURISDICTIONAL CHART FOR PROSECUTION AND CRIMINAL INVESTIGATION IN INDIAN COUNTRY

Defendant	Victim	Jurisdiction	Responsibility to Investigate
Indian	Indian	Federal jurisdiction for felonies. Tribal jurisdiction for misdemeanors. No state jurisdiction.	FBI or BIA for felonies Tribal police for misdemeanors
Indian	Non-Indian	Federal jurisdiction for felonies. Tribal jurisdiction for misdemeanors. No state jurisdiction.	FBI or BIA for felonies Tribal police for misdemeanors
Non-Indian	Non-Indian	State jurisdiction only.	State authorities.
Non-Indian	Indian	Federal jurisdiction for both. No tribal or state jurisdiction.	FBI or BIA for felonies and misdemeanors
Indian	Victimless	Federal and tribal jurisdiction	FBI or BIA for felonies Tribal police for misdemeanors
Non-Indian	Victimless	State jurisdiction	State authorities.

JURISDICTIONAL CHART FOR CHILD PROTECTION AND INVESTIGATION OF CHILD ABUSE, OR NEGLECT CASES IN INDIAN COUNTRY

Parent or Responsible Person	Child	Responsibility to Investigate
Indian	Indian	Tribal CPS
Indian	Non-Indian	DHS
Non-Indian	Non-Indian	DHS
Non-Indian	Indian	Tribal CPS

The above chart is to be used in determining who is responsible for investigating allegations of child abuse or neglect occurring on Indian country and in determining if a child is "deprived" as defined by the Children's Code, 10 O.S. § 7001-1.1 et *seq.*, tribal code or 25 C.F.R., Part 11 (for tribes served by Courts of Indian Offenses).

Interagency cooperation and coordination in investigations is strongly encouraged, including providing information and records to the investigating agencies. All such agencies shall comply with all applicable state, tribal and federal laws regarding confidentiality involving the investigation.

ICW
36 HOUR REPORT
Elements for Reporting Child Abuse

1. The name of the assigned Indian Child Protection Worker and their supervisor.

2. The name, address, age and sex of the child or children.

3. The grade and school where the child or children are enrolled.

4. The name and address of the parents or guardians of the child.

5. The name and address of the alleged offender, if known.

6. The name and address of the person who made the report.

7. A brief narrative of the alleged abuse, the extent of the injury either physical or mental, whether it is suspected that any other abuse occurred and the dates of the occurrence.

8. Any information relevant to the investigation including information on the emergency placement of the child or children.

JURISDICTIONAL CHART FOR CHILD PROTECTION AND INVESTIGATION OF CHILD ABUSE, OR NEGLECT CASES IN INDIAN COUNTRY

Parent or Responsible Person	Child	Responsibility to Investigate
Indian	Indian	Tribal CPS
Indian	Non-Indian	DHS
Non-Indian	Non-Indian	DHS
Non-Indian	Indian	Tribal CPS

The above chart is to be used in determining who is responsible for investigating allegations of child abuse or neglect occurring on Indian country and in determining if a child is "deprived" as defined by the Children's Code, 10 O.S. § 7001-1.1 et *seq.*, tribal code or 25 C.F.R., Part 11 (for tribes served by Courts of Indian Offenses).

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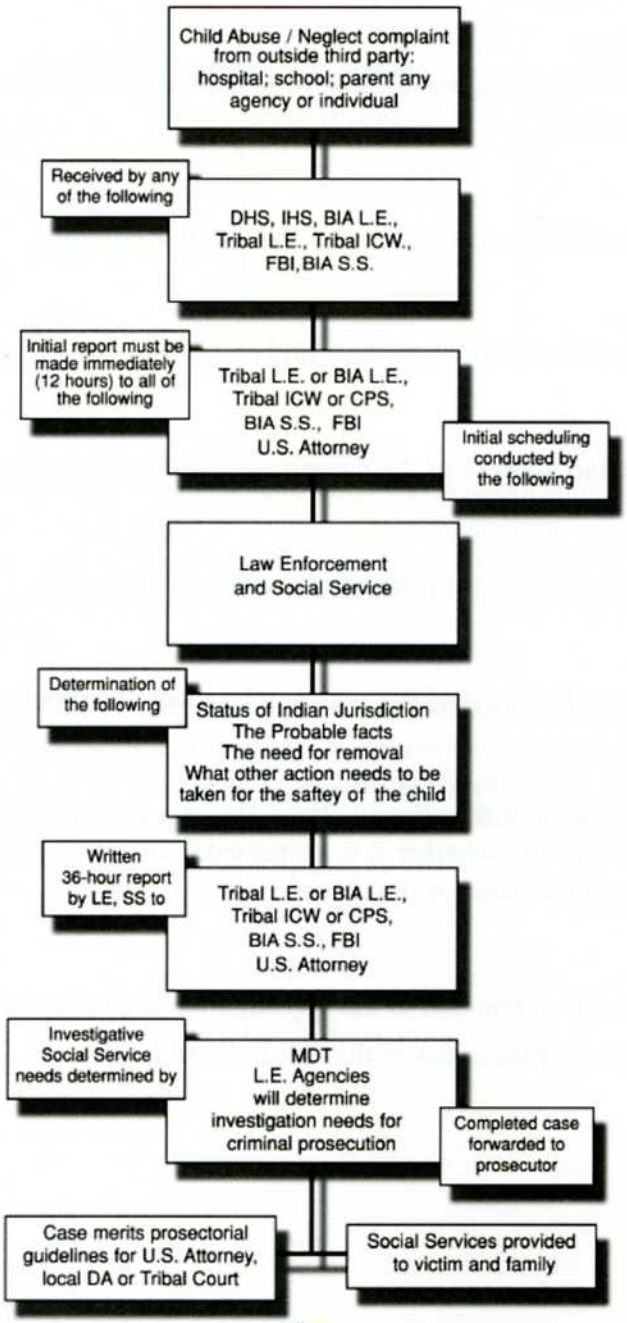
Flow Chart for Reporting and Investigating Child Abuse / Neglect Involving Indian Children or an Indian Perpetrator