

Child Abuse Reporting

Mandatory Reporting of Child Abuse

Personnel with knowledge or reasonable suspicion that a child was abused in Indian Country or 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 report such abuse or action to local child protective services or local law enforcement.

(Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 18 U.S.C. § 1196 (a))

Mandated Reporters

Federal Law requires that the following personnel report abuse –

- **Health Care Personnel** including physicians, surgeons, dentists, podiatrists, chiropractors, nurses, dental hygienists, optometrists, medical examiners, emergency medical technicians, paramedics,
- **Education Personnel** including teachers, school counselors, instructional aides, teacher's aides, teachers' assistance, bus drivers, administrative officers, supervisors of child welfare and attendance, truancy officers
- **Child Care Personnel** including child day care workers, Headstart teachers, public assistance workers, group home workers, residential home workers, day care facility workers, social workers
- **Mental Health Personnel** including psychiatrists, psychologist, psychological assistants; marriage, family, and child counselors
- **Law Enforcement Personnel** including law enforcement officers, probation officers, juvenile rehabilitation or detention facility workers, employees of public agencies responsible for enforcing statues and judicial orders

(Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 18 U.S.C. § 1169 (a))

Failure to Report Child Abuse is a Crime

Failure to immediately report the abuse of a child in Indian Country or actions being taken or that would reasonably be expected to result in abuse of a child in Indian Country to local child protective services or local law enforcement is a Federal crime.

(Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 18 U.S.C. § 1169 (a)(3))

Interfering with a Report of Child Abuse is a Crime

It is a federal crime for any supervisor or person in authority to inhibit or prevent a mandated reporter from making a report that a child was abused in Indian Country or actions are being taken or will be taken that would reasonably be expected to result in the abuse of a child in Indian Country.

(Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 18 U.S.C. § 1169 (b)(3))

Immunity from Liability

Any mandated reporter who reports the abuse of a child based upon his/her reasonable belief and in good faith is immune from civil or criminal liability for making the report.

Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 25 U.S.C. § 3203

Confidentiality

The identity of any person making a child abuse report will not be disclosed without the consent of the individual. However, a Tribal, State or Federal investigative or social services agency may provide information, records, and the name of the informant to a court of competent jurisdiction or other agency that needs to know the information in performance of its duties.

Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 18 U.S.C. § 3203

When Local Law Enforcement or Social Services Receives a Report of Child Abuse

The agency receiving the report is required to –

- Immediately initiate an investigation
- Take appropriate steps to secure the safety and well-being of the child(ren)
- Inform appropriate officials of the other agency (FBI/BIA or whomever has jurisdiction)
- Within 36 hours, prepare and submit a written report to the other agency
- Immediately notify the Federal Bureau of Investigation if the abuse involves an Indian child or the alleged abuser is an Indian

(Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 25 U.S.C. § 3203 (b)(c))

25 U.S. Code § 3203 - Reporting procedures

(a) Omitted

(b) Notification of child abuse reports

(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of—

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) Written report of child abuse

(1) Within 36 hours after receiving an initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) 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; and

(G) 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.

(2)

(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 3202(3) [1] of this title shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

25 U.S. Code § 3206 - Waiver of parental consent

(a) Examinations and interviews

Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) Interviews by law enforcement and child protective services officials

In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) Protection of child

Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise,[1] or under the guidance, of a local multidisciplinary team established pursuant to section 3210 of this title or, in the absence of a local team, a multidisciplinary team established pursuant to section 3209 of this title.

(d) Court orders

Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate judge or United States District Court may issue an order enforcing any provision of this section.