

Washoe Tribe of Nevada and California

Law & Order Code

CHILD ABUSE PROTOCOL

I. INTRODUCTION

A. Purpose

The purpose of the protocol is to ensure the safety and welfare of the Native American children within the jurisdiction of the Washoe Tribe.

B. Application of the Law and Child Abuse

The Law defines an abused child as someone whose parent or other legally responsible person inflicts serious physical injury or allows someone else to inflict, or commit or allow a sexual offense. A legally responsible person could be a baby sitter, neighbor, family friend, or caregiver who sometimes assumes responsibility for the child or visits his home. A sexual offense specifically includes, but is not limited to: exhibitionism, disrobing, fondling of breasts or genitals, as well as vaginal, anal, or orogenital intercourse as well as variations or combinations of the aforementioned offenses.

C. Maltreatment

Maltreatment addresses a parent or caregiver who abuses drugs or alcohol to the point of being unable to adequately care for the child, fails to provide adequate food, clothing, shelter, education, medical care, or supervision, or inflicts or allows harm to be inflicted, including emotional battering and harsh corporal punishment.

D. Coordination with Departments and Agencies

Coordination with the various departments and/or agencies is necessary to ensure the following:

1. Children are protected;
2. Rights of all are protected;
3. Appropriate interviews are performed;
4. Children and their families receive the best quality of service;
5. All needs of the child and family are addressed;
6. There is no duplication of services by departments and/or agencies;
7. The effectiveness of each department and/or agency's role is maximized;
8. In appropriate cases a prosecution will be pursued and a defendant dealt with according to the law as supported by facts.

E. Role Clarification

This protocol is designed to clarify roles and responsibilities of respective departments and/or agencies and to suggest a formal procedure to handle child abuse cases.

II. INVESTIGATIVE TEAM

A. Definitions

1. SOCIAL SERVICES

The Social Services Department is designated by the Washoe Tribe and operates under P.L. 93-638 Contract, and the Washoe Tribal Law and Order Code in the investigation of reports of child abuse or neglect.

2. CHILD PROTECTIVE TEAM

A multi-disciplinary group consisting of professionals who staff individual cases and make recommendation for individual and family treatment plans.

3. INVESTIGATOR

The Social Worker/Probation Officer and/or Law Enforcement Officer assigned to investigate a report of child abuse or neglect.

4. WASHOE TRIBE LAW ENFORCEMENT/BUREAU OF INDIAN AFFAIRS

The Washoe Tribal Police serve in misdemeanor jurisdiction of all Washoe Tribal Lands with the BIA handling felony cases.

5. PROBATION

The Probation Office is designated by the Washoe Tribe and operates under a P.L. 93-638 Contract, and the Washoe Tribal Law and Order Code in the investigation of reports of child abuse or neglect in the absence of the Social Worker.

B. Reporting of Child Abuse

Persons specifically required to report child abuse include:

1. ANY PERSON WHO IS A:

- a. Physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider.
- b. Teacher, school counselor, instructional aide, teacher's aid, teacher's assistant or bus driver employed by any tribal, Federal, public or private school;
- c. Administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school;
- d. Child day care worker, Head Start teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker;
- e. Psychiatrist, psychologist, or psychological assistant.
- f. Licensed or unlicensed marriage, family or child counselor;
- g. Person employed in the mental health profession;
- h. Law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders; and
- i. Judge, attorney, court counselor, clerk of the court or other judicial system official.

2. ANY PERSON WHO KNOWS, OR HAS REASONABLE SUSPICION, THAT:

- a. A child was abused in Indian country; or
- b. Actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country.

C. PENALTY FOR NOT REPORTING

1. Those persons mandated to report a known or suspected case of abuse or neglect, who knowingly fail to do so, or willfully prevent someone else from doing so, shall be subject to a fine not more than \$5,000 or imprisoned for not more than 6 months or both.
2. Any person who supervises a person described in Section (B)(1) above, who inhibits or prevents that person from making an abuse or neglect

report, shall be subject to a fine not more than \$5,000 or imprisoned for not more than 6 months or both.

D. PROCESS OF REPORTING

1. PERSONS REPORTING

Any person who believes a child was/is sexually, physically, or emotionally abused and/or neglected reports to Washoe Tribal Police and/or to Washoe Social Services Department; Alpine County cases are to be reported to Alpine Social Services, Probation, or the Sheriff's Department. Reports shall be made immediately within a maximum 24 hour time period.

2. COORDINATION OF REPORTS

The Social Worker/Probation and/or designated Police Officer shall screen the report. Coordination between the Social Worker and designated Police Officer shall occur prior to contact with the child and/or family. The report can be submitted in writing or by phone. Anonymous calls are acceptable.

3. ANONYMOUS REPORTS

Any person who has a reasonable cause to suspect that a child has been abused, neglected or abandoned shall be encouraged to report the abuse, neglect or abandonment even if such report is anonymous.

4. ABUSE & NEGLECT REPORTS

The following information shall be included in the written report:

- a. Names, addresses and tribal affiliation of the child and his parents, guardian or custodian;
- b. Child's age;
- c. Nature and content of the child's abuse or neglect;
- d. Previous abuse or neglect of the child or his siblings, if known;
- e. Name and address of the person alleged to be responsible for the child's abuse or neglect, if known;
- f. Name and address of the person or agency making the report.

5. CONFIDENTIALITY OF INFORMANT

The identity of any person making a report shall not be disclosed, with out the consent of the individual, to any person other than a court of competent jurisdiction or the Social Worker/Probation Officer of an Indian Tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties, also as provided by existing laws and regulations as well as the Federal Privacy Act, where applicable.

6. INTERVIEW

The interview is conducted by a designated Police Officer and/or Social Worker/Probation Officer. The decision whether to remove the child is made at this time by the Social Worker and/or designated Police Officer. If the allegations are unfounded, the case is documented and closed.

7. MEDICAL COORDINATION

All cases of child abuse and neglect are referred by the Social Worker/Probation Officer and/or Tribal Police Officer to the nearest medical facility for a medical examination by a physician. Coordination of medical examination shall occur between Physician, Social Worker/Probation Officer and/or Law Enforcement.

8. CENTRAL REGISTRY

The Law Enforcement Department shall maintain a central registry of reports, investigations and evaluations made under this Code. The registry shall contain the information furnished by tribal personnel throughout the tribal territory, including protective service workers, probation officers, caseworkers and Indian Child Welfare Program employees. Data shall be kept in the central registry until the child concerned reaches the age of eighteen (18) years (unless the children's court orders that the individual records shall be kept on file beyond that date in order to protect other siblings). Data and information in the central registry shall be confidential and shall be made available only with the approval of the Director of the Social Services Department to: the children's court, social service agencies, public health, law enforcement agencies, licensed health practitioners, and health and educational institutions licensed or regulated by the Tribe. A request for the release of information must be submitted in writing, and such request and its approval shall be made part of the child's file.

9. INVESTIGATION AND REMOVAL

The only persons authorized to remove are the Social Worker/Probation Officer and a Police Officer. The child abuse or neglect report shall be investigated within one court working day by the Social Services Department or other appropriate agency, unless the children's court directs otherwise.

10. FAMILY INTERVIEWED

An interview of the family is conducted by the Social Worker/Probation Officer and designated Police Officer. The information is assessed in the form of a case.

11. AUTHORITY TO REMOVE

If the person investigating a report of child abuse or neglect finds that the grounds for removal have been met, such person may remove the child from the home in which the child is residing and place the child in a temporary receiving home or other appropriate placement.

12. COURT HEARING

Children who have been removed from their homes and placed in an emergency foster home will have a Juvenile Jurisdictional Hearing within 72 hours. A petition will be filed by the Social Worker/Probation Officer and presented to Washoe Tribal Court. The prosecutor may or may not be involved.

13. TREATMENT PLAN

A treatment plan is developed by the Social Worker/Probation Officer and/or client with in-put from the Child Protective Team (CPT). Appropriate referrals are made to designated departments and/or agencies.

14. CHILD PROTECTION TEAM MEETINGS

Regularly scheduled CPT meetings will provide the means to monitor treatment plans with regular written reports submitted to Social Services by any referring department.

III. ROLE OF THE SOCIAL WORKER/PROBATION OFFICER

- a. The Washoe Tribal Social Worker will receive reports of suspected child abuse and neglect.
- b. All suspected child abuse cases reported to Social Services shall be cross-reported as soon as possible by phone or in writing to the appropriate Law Enforcement Department.
- c. Social Services and Law Enforcement will work cooperatively to complete a child abuse investigation; initially interviewing victims and/or families together whenever possible to minimize the number of interviews for the victim.
- d. Social Worker will complete an assessment of each family member for the following reasons:

1. To determine risk to the child/victim remaining in his/her home;
2. To provide immediate crisis intervention services and other services as needed. Those services are:
 - a. Crisis intervention,
 - b. Assessment,
 - c. Emergency foster home,
 - d. Intake history, and
 - e. Counseling.
- e. Social Worker will request the assistance of Law Enforcement Officers when protective custody appears in order to ensure the safety of the child. The Social Worker is responsible for preparing the child for foster care placement and for helping the child in the transaction.

IV. ROLE OF LAW ENFORCEMENT

- a. All suspected child abuse reports made to Law Enforcement shall be cross-reported as soon as possible to Washoe Social Services/Probation.
- b. All abuse cases reported to Law Enforcement shall be investigated with the intent of reviewing the matter for criminal prosecution. All police reports, medical reports, police background checks and all pertinent information will be copied and shared verbally and in writing between Social Services and Law Enforcement for purposes of prosecution/treatment.
- c. Law Enforcement Officers will decide as to whether they will place suspects in protective custody.
- d. Designated Tribal Law Enforcement Officers assigned to an investigation will be responsible to preserve and maintain all pertinent evidence, provide for medical examinations and collect written statements. Tribal Law Enforcement Officers shall refer the matter to the Prosecutor, Law Enforcement and Bureau of Indian Affairs, as appropriate in the particular circumstance. BIA and FBI are responsible for forwarding cases to the US Attorney's Office for prosecution.