



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
PO Box 45040 • Olympia WA • 98504-5040

June 25, 2015

TO: Regional Administrators
Deputy Regional Administrators
Area Administrators
Supervisors

FROM: Jennifer Strus, Assistant Secretary
Children's Administration

SUBJECT: CA Authority and Staff Role in Conducting CPS Investigation and the application of ICWA

This memo is to clarify the role of Children's Administration staff when conducting CPS investigations of Indian children and families.

CPS Investigation of Indian Children and Families who reside on a Reservation

Only at the request of the Tribe can CA Staff conduct a CPS investigation on the reservation. Staff should follow specific instructions contained in the Tribe's MOU with CA.

CPS Investigation of Indian Children and Families who reside off Reservation

[RCW 74.13.031\(3\)](#) requires Child Protective Services to conduct an investigation, or offer Family Assessment Response as allowed in [RCW 74.13.031 \(4\)](#) involving children and families possibly affiliated, or affiliated with a federally recognized Tribe, and who reside off the Tribe's reservation.

CPS investigations and Application of the Indian Child Welfare Act

The Indian Child Welfare Act does NOT apply to CPS investigations. Only if an emergency removal occurs or a "child custody proceeding" is initiated does the ICWA apply. However, the initiation of a child custody proceeding (i.e., dependency) does not relieve CA from completing an ongoing CPS investigation. There is no legal authority which allows CA to turn an ongoing investigation over to a Tribe when the family resides off reservation. If the federally recognized Tribe is known, CA staff should make efforts to partner with the Tribal ICW staff and include them in the investigation. Staff should follow specific instructions contained in the Tribe's MOU with CA.

This memo does not reflect a change to any CA policy. In addition, this memo does not affect procedures related to completing intake referral notice to Washington State Tribes, the [Indian Identity Request \(DSHS #09-761\)](#), or the Native American Inquiry referral process (located at <http://ca.dshs.wa.gov/intranet/programs/icw.asp>). Instead this memo is intended to clarify CA's legal obligation to complete a CPS investigation that possibly or does involve a family affiliated with a federally recognized Tribe who reside off reservation.

If you have questions please contact Bob Smith (smithrc@dshs.wa.gov).