
POLICY TRANSMITTAL NO. 06-58	DATE: JANUARY 10, 2007
CHILDREN & FAMILY SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS & POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:75-1, Table of Contents; 75-1-16; 340:75-3, Table of Contents; and 75-3-5.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

Revisions to Subchapters 1 and 3 of Chapter 75 bring the rules into compliance with House Bill (HB) 2840, the Kelsey Smith-Briggs Child Protection Reform Act, effective November 1, 2006, which amends: Sections (§§) 7003-6.2 and 7003-6.2A of Title 10 of the Oklahoma Statutes (O.S.) pertaining to court-ordered placement of a child in Oklahoma Department of Human Services (OKDHS) custody; 10 O.S. § 7106(K) pertaining to reporting child abuse or neglect; and 74 O.S. § 150.5(A)(1)(e) pertaining to requesting investigations by the Oklahoma State Bureau of Investigation (OSBI) in cases of child abuse or neglect.

340:75-1-16 and instructions to staff revisions (ITS) reflect clarification of: (1) hearing type; (2) procedure for giving verbal notice of objection and intention to seek review of the court order releasing a child from state custody to conform with the amendments to 10 O.S. § 7003-6.A; (3) procedures impacted by the amendment to 10 O.S. § 7003-6.2(C) that states when a child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement; and (4) 10 O.S. § 7003-6.2A(A) that allows OKDHS to provide sworn testimony regarding placement of a child.

340:75-3-5 and ITS revisions: (1) clarify that Office of Client Advocacy does not investigate specialized community homes; (2) replace "DHS" with "OKDHS" and add other clarifying language; and (3) add that in certain instances, the OKDHS Director or designee may request a criminal investigation by OSBI, per 10 O. S. § 7106(K), with specific procedures for the request detailed in ITS.

Original signed on 1-4-07

Linda Smith, Director
Children & Family Services Division

Sharon Neuwald, Coordinator
Office of Legislative Relations and Policy

WF # 06-12 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:75-1, Table of Contents

340:75-1-16

340:75-3, Table of Contents

340:75-3-5

INSERT

340:75-1, Table of Contents, pages 1-5,
revised 1-15-07

340:75-1-16, pages 1-8, revised 1-15-07

340:75-3, Table of Contents, 1 page only,
revised 1-15-07

340:75-3-5, pages 1-6, revised 1-15-07

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- 340:75-1-2. Mission, purpose, scope, and legal base of Child Welfare services
- 340:75-1-3. Philosophy of Child Welfare **[REVOKED]**
- 340:75-1-4. Mission of Child Welfare **[REVOKED]**
- 340:75-1-5. Goals of Child Welfare **[REVOKED]**
- 340:75-1-6. Organization and scope of Children and Family Services Division
- 340:75-1-7. Eligibility for Child Welfare services
- 340:75-1-8. Child Welfare program accreditation **[REVOKED]**
- 340:75-1-9. Legal base and authority
- 340:75-1-10. Program funding **[REVOKED]**
- 340:75-1-11. Confidentiality **[REVOKED]**
- 340:75-1-12. Grievances
 - 340:75-1-12.1. Client resolution process **[REVOKED]**
 - 340:75-1-12.2. Appeal process
 - 340:75-1-12.3. Grievance resolution process for children in care or for foster care parents **[REVOKED]**
 - 340:75-1-12.4. Grievance procedures for children placed in shelters, group homes, residential, and psychiatric facilities **[REVOKED]**
 - 340:75-1-12.5. Placement and Mistreatment Grievances **[REVOKED]**
 - 340:75-1-12.6. Fair hearings
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- 340:75-1-16. Custody hearings, placement hearings, and court orders
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- 340:75-1-21. Post adjudication review board
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- 340:75-1-23. Termination of parental rights
- 340:75-1-24. Child Welfare - direct service
- 340:75-1-25. Child Welfare - indirect services

- 340:75-1-26. Child Welfare case records
- 340:75-1-26.1. Safety procedures for Child Welfare (CW) field visits
- 340:75-1-27. Overpayments
- 340:75-1-28. Child Welfare (CW) contingency fund
- 340:75-1-29. Case responsibility
- 340:75-1-30. Address Confidentiality Program
- 340:75-1-31. Citizenship and immigration status

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- 340:75-1-38. Application **[REVOKED]**
- 340:75-1-39. Eligibility requirements for Emergency Family Service (EFS) **[REVOKED]**
- 340:75-1-40. Service authorization **[REVOKED]**

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340:75-1-16. Custody hearings, placement hearings, and court orders**(a) Emergency custody hearing. ■ 1**

(1) Within two judicial days after a child is taken into emergency or protective custody as an alleged deprived child, the child's parent(s), legal guardian, or custodian is entitled to an emergency custody hearing, and thereafter at such intervals as determined by the court. The court conducts a hearing to:

(A) determine whether to place the child into or continue the child in emergency custody, if continuation of the child in the child's home is contrary to the health, safety, or welfare of the child;

(B) determine whether to release the child to the parent(s), legal guardian, custodian, or other responsible adult, with or without conditions as the court finds reasonably necessary to ensure the health, safety, and welfare of the child.

(i) When a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court gives priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests.

(ii) When the court cannot place the child with the noncustodial parent, custody is awarded consistent with the preferences set forth in Section 21.1 of Title 10 of the Oklahoma Statutes, which are:

(I) grandparent;

(II) person indicated by deceased parent;

(III) relative;

(IV) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, a foster parent; or

(V) any other person deemed suitable by the court and able to provide adequate and proper care and guidance for the child.

(iii) When custody of the child cannot be made pursuant to these preferences, the reason for such determination is documented in the court record.

- (iv) When the court returns the child to the custody of a parent, relative, or other responsible party, the court may order the Oklahoma Department of Human Services (OKDHS) to provide supervision of the child; and
- (C) obtain information from the parent, legal guardian, or custodian necessary to identify and locate kinship placement resources.
- (2) The purpose of the emergency custody hearing is to show cause why the child was taken into custody or why custody should not return to the parent(s).
- (A) An order for removal of a child from the home must make a determination;
- (1) that continuation of the child in his or her home is contrary to the child's health, safety, or welfare or is in the child's best interests; and
- (2) whether reasonable efforts to prevent removal were made or, in the absence of preventive efforts, if removal of the child is due to an emergency and is for the child's safety. [10 O.S. § 7003-2.4(G)(1)(a) through (d)]
- (B) The judge may enter an order that reasonable efforts are not required, per OAC 340:75-1-18.4.
- (C) The emergency custody order may not remain in effect for more than 60 days absent a showing that future extension is necessary to ensure the health, safety, and welfare of the child and is in the best interests of the child.
- (b) Opportunity to be heard in placement and custody decisions. ■ 1 & 2 At any hearing under the Oklahoma Children's Code for the purpose of determining the placement of a child or whether a child in the state's custody, whether protective, emergency, temporary or permanent, is to be released from such custody, the court provides an opportunity for a representative from OKDHS, the current foster parent, guardian ad litem, and child, if of sufficient age, to present sworn testimony regarding this placement or release. [10 O.S. § 7003-6.2A]**
- (1) The Child Welfare (CW) worker may be cross-examined by the court and the parties to the case.
- (2) The hearing is on the record and the court must issue a written finding.
- (3) OKDHS does not have the same right to be heard when the district attorney is declining to file a petition and the child is released by operation of law.

(c) Objection to release from the state's custody. ■ 1 & 3 At any hearing where a child is to be released from the state's custody, whether protective, emergency, temporary, or permanent custody, the district attorney, the child's attorney, or OKDHS through the district attorney may give verbal notice of an objection and intention to seek review of the court order based on the grounds that the court order creates a serious risk of danger to the health or safety of the child. The court is required to stay the order pending the filing of an application by the objecting party. When verbal notice of an objection is given, the procedure in (1) through (3) of this subsection is followed.

(1) The party giving notice of objection and intention to seek review of the court order files with the presiding judge of the administrative judicial district no later than 5:00 p.m. the following judicial day a written application to review the order. If OKDHS is the only one to object to the court order, the written application to review the court order is filed by OKDHS.

(2) If the written application is not filed timely or a written notification is received by the court that the objection is withdrawn, the objection is considered abandoned and the stay is lifted.

(3) When the application is filed timely, the presiding judge of the administrative judicial district assigns a juvenile judge within the judicial district to complete a review of the order.

(A) The review is completed within five judicial days of the filing of the written application for review.

(B) When there is no finding of serious risk of danger, the reviewing judge orders the stay lifted and the child released according to the order under review.

(C) When the reviewing judge finds a serious risk of danger, the court issuing the order under review is required to enter another order. [10 O.S. § 7003-6.2]

(d) Directed placement not allowed. ■ 1 & 4 If the court determines it would be in the best interests of the child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.

INSTRUCTIONS TO STAFF 340:75-1-16

1. (a) OKDHS Legal Division assistance. When a question is not satisfactorily resolved by reference to Oklahoma Department of Human Services (OKDHS) policy or interpretation of policy, a request for formal legal opinion is

submitted to OKDHS Legal Division, as provided in OKDHS:2-25-3. Requests for informal legal opinions and advice or assistance on individual case problems are, when time permits, made by or after consultation with administrative, program, or supervisory staff.

(b) Prompt consultation. Circumstances that require prompt consultation between a Child Welfare (CW) worker and an attorney are not delayed by contacts with supervisory or other staff, who are contacted as soon as possible thereafter. Examples of such circumstances include:

(1) a request, by the court, the district attorney (DA), the child's attorney, or a parent's attorney, for the position of OKDHS on a question of law or for legal action by OKDHS made in the course of a hearing or proceeding before the court;

(2) the issuance of an order or directive from the court requiring the provision of a service or other action by OKDHS within a short time and the service or action cannot be provided because it is not authorized by law, conflicts with OKDHS policy, or is impossible to provide or perform within the time allowed;

(3) obstruction of a mandatory Child Protective Services (CPS) investigation or necessary and authorized CPS investigative procedures. Reasonable requests by the DA or law enforcement officers aimed at advancing a criminal investigation and planned multidisciplinary team activities that alter normal investigative protocols do not constitute obstruction per OAC 340:75-3-5(d)(2) and 340:75-3-8.4; and

(4) receipt of work-related legal process, such as a summons or notice, per OAC 340:75-1-45.

2. Opportunity to be heard in release from custody and placement decisions. The CW worker asks the DA for the opportunity to be heard by requesting to testify on the record. If the DA declines, the CW worker directly requests from the court the opportunity to be heard on the record prior to conclusion of the hearing.

(1) If the CW worker is not given the opportunity to advise the court of the OKDHS recommendation, and the court enters an order releasing the child from custody, the CW worker may still make a verbal objection, as described in Instructions to Staff 3.

(2) If the court refuses to provide an opportunity to be heard, the CW worker advises the CW supervisor, who contacts the OKDHS Legal Division.

3. Procedures for objecting to release of child from the state's custody. These procedures apply only when the release is contrary to the recommendation of OKDHS because the release would create a serious risk of danger to the health or safety of the child.

(1) Determination of serious risk of danger. The OKDHS representative makes the determination of serious risk of danger, based upon the guidelines in (A) and (B). "Serious risk of danger to the health or safety of the child" applies, but is not limited, to a child who:

(A) is:

(i) three years of age or younger; or

(ii) older than three years of age but has a disability or any other condition that renders the child totally dependent on the care of others; or

(B) is of any age and will either be returning to or will live in an unsafe home where there is high likelihood that significant injury, life-threatening consequences, or sexual abuse will occur. These conditions include, but are not limited to, a caregiver who:

(i) has an untreated mental illness;

(ii) has significant history of child abuse or neglect or domestic violence;

(iii) uses alcohol or drugs to the extent it interferes with day-to-day functioning;

(iv) displays aimless and chronically dangerous parenting practices;

(v) previously harmed a child, which resulted in significant injury, life-threatening consequences, sexual abuse, or death;

(vi) previously had parental rights terminated or relinquished parental rights to a child due to child abuse or neglect; or

(vii) allows or will continue to allow others who have displayed any of the conditions in (B) to have access to the child.

(2) Verbal notice of objection at the hearing. When the judge or referee releases or removes a child from the state's custody and the OKDHS representative believes release of custody creates a serious risk of danger to the health or safety of the child, and there is no objection made by the DA or attorney for the child, verbal notice of the objection must be given to the court before the conclusion of the hearing.

(A) If it is unclear to the OKDHS representative whether the child was removed from the state's custody, before making an objection, the OKDHS representative gets clarification from the DA.

(B) If release from the state's custody is confirmed by the DA, the OKDHS representative immediately advises the DA of the reasons for the OKDHS objection and asks the DA to give notice of the objection to the court.

(C) If the DA declines to give the notice of objection on behalf of OKDHS, the OKDHS representative asks the juvenile judge or referee for permission to speak and informs the court of the OKDHS objection and intention to seek review of the court order, in accordance with Section 7003-6.2 of Title 10 of the Oklahoma Statutes.

(D) When the reason the child is released from the state's custody is because the DA declines to file a petition, OKDHS does not object.

(3) Review of court order. To apply for a review of the court order, OKDHS Legal Division files a written "Application for Review of Trial Court's Order" (Application) with the presiding judge of the administrative judicial district by 5:00 p.m. the next judicial day after the hearing. The requirements in (A) and (B) are followed.

(A) Immediately after the hearing, the OKDHS representative who objected to the court order notifies the CW supervisor, county director (CD), and CW field liaison (CWFL).

(B) The CD and CWFL decide whether to seek a review of the court order.

(i) If the decision is not to seek a review of the court order, the CD immediately notifies the court, DA, and child's attorney of the OKDHS decision to withdraw the objection, per the county's established protocol.

(ii) If the decision is to seek a review of the court order, the CD:

(I) immediately notifies the area director;

(II) notifies a CW attorney in the OKDHS Legal Division no later than 12:00 noon on the next judicial day after the hearing;

(III) after consultation with the CW attorney, ensures that an Application is filed with the court clerk in the deprived case by 2:00 p.m. on the next judicial day after the hearing. The court order releasing the child from the state's custody is attached to the Application. If the order is not available when the Application is filed, the CD obtains the order as soon as possible and immediately faxes it to the Legal Division;

(IV) obtains three file-stamped copies of the Application at the time of filing, and provides one copy immediately by Fax to the Legal Division at 405-521-6816, Attention: Child Welfare, with a list of the names, mailing addresses, and phone and fax numbers for all parties present at the hearing; one copy for the case file; and one copy to the CD; and

(V) as soon as possible, provides to the OKDHS Legal Division any report or other document submitted at the hearing and reviewed by the juvenile judge. The CW worker and others involved in the case furnish additional information as requested, after consultation with the OKDHS Legal Division.

(4) Release from OKDHS custody but supervision ordered. When the court releases a child from OKDHS custody and orders OKDHS to continue to supervise the child's placement, and a verbal objection to the release was made based upon concern of serious risk of danger to the child's health or safety, the CW worker;

(A) does not recommend that OKDHS be relieved of supervision;

(B) closely supervises the child's placement; and

(C) documents any concerns for the court.

4. Protocol for challenging a court-ordered directed placement. If the court exceeds its authority by ordering OKDHS to place a child in OKDHS custody in a specific home or placement contrary to the recommendation of OKDHS, the procedure in (1) through (5) is followed.

(1) After the hearing, the CW worker immediately consults with the supervisor, CD, and CWFL to determine whether OKDHS will initiate legal action to challenge the court order.

(2) If the decision is made to initiate legal action to challenge the court order, the CD immediately notifies the area director and OKDHS Legal Division.

(3) The OKDHS Legal Division consults with the Human Services Centers chief operating officer to make a determination as to the appropriate legal action warranted by the facts and circumstances of the case, including contacting the court and counsel for the parties, preparing appropriate motions to stay, reconsider, or vacate the order, or preparing an application for new hearing or petition or application for appellate court relief or intervention.

(4) The OKDHS Legal Division notifies the CD of the decision and takes the legal action necessary to challenge the court-ordered directed placement.

(5) The CW worker:

(A) continues to closely supervise the placement;

(B) does not recommend that OKDHS be relieved of custody or supervision; and

(C) documents and notifies the court of any concerns.

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

Section

- 340:75-3-1. Purpose, philosophy, legal base, and authority
- 340:75-3-2. Definitions
- 340:75-3-3. Purposes of Child Protective Services **[REVOKED]**
- 340:75-3-4. Scope of Child Protective Services (CPS)
- 340:75-3-5. Relationship of Child Protective Services and other entities in child abuse and neglect investigations
- 340:75-3-6. Intake process for reports of child abuse or neglect
- 340:75-3-6.1. Exceptional reports of child abuse and neglect
- 340:75-3-7. Screening of reports
- 340:75-3-7.1. Priority guidelines
- 340:75-3-7.2. Reports of abuse or neglect by someone other than the person responsible for the child (PRFC)
- 340:75-3-7.3. Assessment and investigation decision guidelines
- 340:75-3-8. Investigation protocol
- 340:75-3-8.1. Protocol for addressing reports regarding foster or trial adoptive homes
- 340:75-3-8.2. Protocol for investigating reports of abuse in child care centers or homes
- 340:75-3-8.3. Alleged medical neglect of infants born alive and infants with disabilities
- 340:75-3-8.4. Multidisciplinary team participation
- 340:75-3-8.5. Assessment protocol
- 340:75-3-8.6. General protocols for investigations and assessments
- 340:75-3-8.7. Methamphetamine safety precautions
- 340:75-3-9. Information gathering **[REVOKED]**
- 340:75-3-9.1. Critical incidents and child death or near death review procedure
- 340:75-3-10. Interviewing the alleged victim **[REVOKED]**
- 340:75-3-10.1. Safety determination and responses
- 340:75-3-10.2. Findings for Child Protective Services investigations
- 340:75-3-10.3. Confirmation protocol
- 340:75-3-11. Reports to the District Attorney regarding child abuse or neglect investigations
- 340:75-3-12. Child Abuse and Neglect Information System
- 340:75-3-13. Completion of the investigation or assessment process
- 340:75-3-13.1. Service planning **[REVOKED]**
- 340:75-3-13.2. Levels of service and models of intervention **[REVOKED]**
- 340:75-3-14. Statewide hotline and after hours response

340:75-3-5. Relationship of Child Protective Services and other entities in child abuse and neglect investigations**(a) Responsibility of other entities in child abuse or neglect investigations.**

(1) **OCA.** The Oklahoma Department of Human Services (OKDHS), Office of Client Advocacy (OCA) is responsible for the investigation of any allegation of abuse or neglect of a child in any OKDHS facility, or in a public or private residential facility, including, but not limited to, jails or detention centers, hospitals, psychiatric facilities and treatment programs, day treatment programs, and licensed or unlicensed residential child care facilities. OCA is responsible for the investigation of alleged child abuse, neglect, sexual abuse, and sexual exploitation by a community services worker as defined by Section 1025.1 of Title 56 of the Oklahoma Statutes. Reports of suspected abuse or neglect of a child are made to OCA as prescribed in OAC 340:2-3-33. OCA does not investigate allegations of abuse or neglect of a child in a foster home, including specialized community homes, therapeutic foster homes, or kinship home placements.

(2) **DCC.** OKDHS Division of Child Care (DCC) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act through standards designed to ensure the safety of children. [10 O.S. § 401 et seq.] DCC has concurrent responsibilities with Child Protective Services (CPS) in investigations of alleged physical abuse, sexual abuse, or serious neglect in child care centers and homes. Whenever possible, investigations are conducted jointly by DCC and CPS. This does not include violations of licensing standards, which are handled by DCC.

(b) **CPS protocol for inter-agency relationships.** CPS functions as a component of the multi-faceted system established to protect children from abuse and neglect, which includes law enforcement, the court system, other social services agencies, and other organizations. CPS is a component of the Child Welfare (CW) services continuum that includes preventive and protective services and family-centered services, foster care and placement services, and adoption services.

(c) **Role of CPS.** CPS evaluates reports of abuse or neglect, assesses risk of harm and the need for protective services, and provides and coordinates services.

(d) **Role of law enforcement.** Law enforcement investigates a report of child abuse or neglect as a crime. Reports that require joint involvement of CPS and law enforcement are handled as investigations rather than assessments. Law enforcement identifies and arrests the offender(s), gathers court-admissible evidence, and protects the integrity of the evidence so the offender(s) can be prosecuted in criminal court. Law enforcement may:

(1) provide protection to the child, other family members, and the CW worker during crisis intervention; and ■ 1

(2) take the child who is in danger into protective custody and authorize immediate medical treatment, if necessary to protect the child's health. [10 O.S. § 7003-2.1]

(e) OKDHS relationship with law enforcement.

(1) OKDHS staff is responsible for coordinating with law enforcement. If law enforcement asks OKDHS not to interview certain persons or to delay its investigation, OKDHS may not relinquish its responsibility. OKDHS works with law enforcement to develop a plan that allows OKDHS to fulfill its responsibilities without interfering with the criminal investigation. ■ 2

(2) The OKDHS Director or designee has the authority to request a criminal investigation by the Oklahoma State Bureau of Investigation (OSBI), per Section 7106(K) of Title 10 of the Oklahoma Statutes. ■ 3

(f) **Role of the district attorney in deprived matters.** The district attorney has the responsibility to determine whether filing a petition is warranted based on information obtained during the CPS investigation. OKDHS has the responsibility to make a written recommendation, regardless whether the district attorney verbally indicates he or she may not file a deprived petition. Consultation, coordination, and a good working relationship between the CW worker and the district attorney is essential to ensure court protection of the child. ■ 4

(g) **Role of the district attorney in criminal prosecutions.** CW staff makes recommendations to the district attorney regarding deprived actions, but not for criminal prosecution. The district attorney has the responsibility to decide whether criminal charges are filed against the alleged perpetrator(s). The CPS investigation is limited to what is necessary to protect the child.

(h) **Role of the attorney for the child.** In deprived actions a separate attorney is appointed for the child. [10 O.S. § 7003-3.7] In criminal actions brought under Section 7115 of Title 10 of the Oklahoma Statutes, the child victim may be appointed an attorney. The child's attorney represents the child and any expressed interests of the child. The attorney for the child meets with the child as soon as possible after appointment and, except for good cause, not less than 24 hours prior to any proceeding. OKDHS provides the child's attorney access to all reports, records, information relevant to the case, and any reports of examination of the child's parent(s), legal guardian, or custodian. The attorney is advised of the child's location and how best to contact the child, according to OAC 340:75-6-48.1. The CW worker, as an

advocate for the child, coordinates and consults with the child's attorney to ensure the protection and well-being of the child.

(i) **Role of the child's guardian ad litem.** The court appoints a guardian ad litem or court-appointed special advocate (CASA) to advocate for and monitor the child's best interests. The guardian ad litem or CASA makes reports and recommendations to the court and conducts interviews with parents, foster parents, providers, CW workers, and others with knowledge of the case. OKDHS coordinates and cooperates with the guardian ad litem or CASA to ensure the best services are provided for the child. [10 O.S. §§ 7003-3.7 and 7112]

(j) **Role of the judge in deprived matters.** The judge may, upon application by the district attorney, issue a court order to place the child in emergency custody when the child is in need of immediate protection. [10 O.S. § 7003-2.1(A)(2)] The judge hears the evidence presented during the hearing and decides whether the child is adjudicated. The judge decides whether the child is placed in the custody of the person(s) responsible for the child (PRFC(s)), a relative, OKDHS, or another agency, and may order the PRFC(s) and child to participate in a court-ordered treatment plan.

(k) **Role of the judge in matrimonial or child custody actions.** If a judge, during an action for divorce, annulment, custody of a child, appointment of a guardian for a child, or in subsequent proceedings, determines there is evidence of abuse or neglect of the child, Section 7002-1.2 of Title 10 of the Oklahoma Statutes requires the referring court to:

(1) notify the OKDHS county office; and

(2) enter an order to have the child taken into emergency custody, if evidence presented to the referring court indicates the child is in surroundings that endanger the welfare of the child. ■ 5

(l) **Role of other social services agencies.** The CW worker:

(1) refers families for counseling, health care, and other identified services as part of a treatment plan;

(2) obtains information from social services agencies regarding the child's and family's use of the services and progress toward resolving issues that place the child at risk of abuse or neglect; and

(3) ensures social services agencies follow rules regarding confidentiality of case record information in accordance with OAC 340:75-1-42.

INSTRUCTIONS TO STAFF 340:75-3-5**1. Notification to law enforcement. Child Welfare (CW) notifies law enforcement as soon as possible when the CW worker determines that:**

- (1) a child, the CW worker, or other person needs immediate protection to prevent bodily harm;**
- (2) a child is found in a situation that is dangerous to the child's health or welfare;**
- (3) a child's health or condition warrants medical examination or treatment and the parent(s) is unavailable or unwilling to obtain it;**
- (4) the act of abuse or neglect caused serious injury to the child;**
- (5) sexual abuse appears likely to have occurred based on initial interviews or on the basis of the report of sexual abuse if there are allegations of physical trauma resulting from sexual abuse; or**
- (6) a child who was placed in protective custody has a sibling(s) who is also considered at risk of serious harm.**

2. (a) Coordinating with law enforcement.

(1) If problems arise in coordinating the investigation with law enforcement, the county director (CD) is notified and assistance from the Oklahoma Department of Human Services (OKDHS) Legal Division is requested if needed.

(2) The CW worker completes Form 04KI003E, Report to the District Attorney, and the narrative to document this event.

(b) Notification to law enforcement regarding crime

(1) It is the responsibility of CW to notify law enforcement at any point a criminal investigation appears warranted.

(2) The CW worker verbally notifies law enforcement and follows up with written notification using Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse/Neglect Report.

3. (a) When to request OSBI criminal investigation. A criminal investigation by the Oklahoma State Bureau of Investigation (OSBI) may be warranted in an open CW case when:

(1) local law enforcement or the district attorney's (DA's) office does not have the available local resources and has not requested assistance; and

(2) the physical abuse, sexual abuse, or neglect is serious, as defined in OAC 340:75-3-2; and

(3) the alleged perpetrator(s) of the abuse, sexual abuse, or neglect is:

(A) an unknown caregiver; or

(B) there is more than one caregiver; and

(4) CW does not have the investigative resources or information to determine who abused the child, and thus is unable to ensure the child's safety.

(b) Procedures for requesting an OSBI criminal investigation. When an OSBI investigation appears warranted:

(1) the local CW worker and supervisor consult with the CD and CW field liaison (CWFL);

(2) the CD and CWFL:

(A) review the matter;

(B) consult with the DA to determine whether the DA has requested or will request OSBI assistance; and

(C) when the DA declines to request OSBI assistance, notify the area director; and

(3) the area director notifies the Children and Family Services Division CPS Programs office, who initiates the OKDHS Director request for a criminal investigation by OSBI.

4. Recommendations to the district attorney. The CW worker makes

recommendations to the district attorney through an affidavit or Form **04KI003E**:

(1) when an emergency custody order is **required** to ensure the safety of the child;

(2) when a deprived petition is needed to seek court intervention; **or**

(3) on all investigations, unless the findings are reasonable parental discipline.

5. Child placed in emergency custody. When the referring court places the child into OKDHS custody, the information is documented on Form 04KI001E, Referral Information Report, and an investigation is immediately assigned with a Priority I time frame.