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POLICY TRANSMITTAL NO. 11-31	DATE: OCTOBER 4, 2011
CHILDREN AND FAMILY SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:75-3-6.1; 75-3-7.3 through 75-3-7.4; 75-3-9.1; 75-3-10.2 through 75-3-10.3; 75-6-40.4 through 75-6-40.5; and 75-6-85.2.

EXPLANATION: OAC 340:75-3-6.1 Instructions to Staff (ITS) are amended to: (1) establish procedure to determine the most objective course of investigation when a report alleges serious physical abuse or sexual abuse by a Child Welfare (CW) staff person; (2) include trial reunification in the procedure for reports of abuse or neglect or injury of a child in an open case; (3) update protocol to require, and set out procedure for, a preliminary inquiry prior to screening out an accidental injury to a child in Oklahoma Department of Human Services (OKDHS) custody; (4) update procedure regarding reports of abuse or neglect or rules violations in an open or closed foster or trial adoptive home; (5) require an investigation when three or more referrals have been accepted or the family is or has been the subject of a deprived petition; and (6) update sentence structure and verbiage to current usage.

OAC 340:75-3-7.3 ITS are amended to: (1) require an investigation response time of five calendar days or less; (2) require an investigation for a child five years of age or younger when the abuse or neglect results in serious injury or near-death or risk of near-death; (3) update examples of when investigations are required according to a child's age from three to five years of age and younger; (4) allows the first contact during an assessment to be made with the non-offending parent to arrange a time to interview and observe the alleged child victim; and (5) update sentence structure and verbiage to current usage.

OAC 340:75-3-7.4 ITS are amended to: (1) return language that was inadvertently deleted during a previous rulemaking process; (2) update protocol related to response time for initiation of assessment or investigation and efforts to locate the child victim; (3) require an investigation of an accepted report when there have been three previous reports accepted for assessment or investigation; and (4) update protocols for attempted home visits and contact with the family by mail.

OAC 340:75-3-9.1 ITS are amended to: (1) reposition language regarding consultation for child death or near-death investigations; (2) update the process for reporting death or near-deaths to Children and Family Services Division (CFSD) Child Protective Services Section; (3) clarify the public inquiries process; (4) refer staff to a certain policy cite for the final determination protocol; and (5) update the Critical Incidents Review Committee process.

OAC 340:75-3-10.2 ITS are amended to: (1) include direction for a Substantiated – Services recommended findings; and (2) establish a final determination review process for substantiated findings in an out-of-home investigation or critical incident investigation.

OAC 340:75-3-10.3 ITS only are amended to update substantiation protocols.

OAC 340:75-6-40.4 ITS only are amended to: (1) clarify that an individualized service plan (ISP) is not required when a request for immediate termination of parental rights or termination of a guardianship is filed or when the court finds efforts to reunite are not required; and (2) update sentence structure and form name.

OAC 340:75-6-40.5 ITS only are amended to: (1) require that service provider progress reports and critical incident reports are submitted to the court and others; (2) allow a letter or template-type report to be submitted to the court in certain instances; (3) correct a statutory cite; and (4) update sentence structure.

OAC 340:75-6-85.2 ITS only are amended to: (1) provide protocol for diligent search for relatives or kin who reside out-of-state and may be interested in an ICPC placement; and (2) restructure information and update sentence structure.

Original signed on 10-4-11

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Deborah G. Smith, Director  
Children and Family Services Division

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Sandra Harrison, Coordinator  
Office of Intergovernmental Relations and  
Policy

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WF # 11-U (NAP)

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## **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.

<b><u>REMOVE</u></b>	<b><u>INSERT</u></b>
340:75-3-6.1	340:75-3-6.1, pages 1-15, revised 10-1-11
340:75-3-7.3	340:75-3-7.3, pages 1-6, revised 10-1-11
340:75-3-7.4	340:75-3-7.4, pages 1-26, revised 10-1-11
340:75-3-9.1	340:75-3-9.1, pages 1-6, revised 10-1-11
340:75-3-10.2	340:75-3-10.2, pages 1-6, revised 10-1-11
340:75-3-10.3	340:75-3-10.3, pages 1-11, revised 10-1-11
340:75-6-40.4	340:75-6-40.4, pages 1-12, revised 10-1-11
340:75-6-40.5	340:75-6-40.5, pages 1-10, revised 10-1-11
340:75-6-85.2	340:75-6-85.2, pages 1-8, revised 10-1-11



**340:75-3-6.1. Reports of child abuse and neglect with specialized protocols**

Revised 7-1-11

Reports of child abuse and neglect with specialized protocols considered for assessment or investigation include, but are not limited to:

- (1) anonymous reports; ■ 1
- (2) Child Protective Services (CPS) reports regarding an Oklahoma Department of Human Services (OKDHS) employee; ■ 2
- (3) reports of abuse or neglect in an active permanency planning or voluntary Family-Centered Services (FCS) case; ■ 3
- (4) newborns in an active permanency planning or voluntary FCS case; ■ 4
- (5) reports regarding a child whose address is confidential per the Address Confidentiality Program (ACP) pursuant to Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14); ■ 5
- (6) reports regarding Indian children; ■ 6
- (7) reports regarding children in foster or trial adoptive homes; ■ 7
- (8) reports of abuse or neglect in child care center or home; ■ 8
- (9) reports of alleged medical neglect of infants born alive and infants with disabilities; ■ 9
- (10) reports of a child death or near death; ■ 10
- (11) new report(s) on open assessments or investigations; ■ 12
- (12) reports of abuse or neglect by someone other than the person responsible for the child (PRFC) per 10A O.S. § 1-2-102. ■ 13

(A) OKDHS makes a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation, when, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, OKDHS determines that the:

(i) alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare; and

(ii) alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child.

(B) After making the referral to the law enforcement agency, OKDHS is not responsible for further investigation unless:

(i) OKDHS has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child;

(ii) notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation; or

(iii) the appropriate law enforcement agency requests OKDHS, in writing, to participate in the investigation. If funds and personnel are available, as determined by the OKDHS Director, or designee, OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse;

(13) reports resulting from judicial proceedings.

(A) When a report of child abuse or neglect resulting from court proceedings concerning child custody or visitation is received, the CPS assessment or investigation protocol and the provisions of Section 1-4-102 of Title 10A are followed.

(B) The assessment or investigation is completed within 30 days of the referral date. Upon completion, the Child Welfare worker:

(i) submits an investigation or assessment report to the office of the district attorney;

(ii) provides a copy of the report to the referring court; and

(iii) notifies the parties to the proceeding of the submission of the report to the court;

(C) When the evidence in a court proceeding concerning child custody or visitation results in the child being placed into OKDHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.

(D) A referral is assigned as an assessment or investigation when a defendant, subject to incarceration and the sole custodian of a minor child, has not made safe and appropriate arrangements for the care of the child. ■ 14

(14) reports of relinquishment of child seven days of age or younger to OKDHS.

(A) OKDHS will, without court order, take possession of a child seven days of age or younger when the child is voluntarily delivered to the child protective services agency when a parent voluntarily relinquishes the child as defined in 10A O.S. § 1-2-109 and does not express an intent to return for the child. OKDHS may:

(i) request, but not demand, information the parent is willing to share about the child, including the details of relevant medical history relating to the child or the parents of the child; and

(ii) provide the parent with printed information relating to the rights of the parents, including both parents, with respect to reunification with the child and sources of counseling for the parents, if desired.

(B) Once a child has been relinquished to OKDHS, OKDHS:

(i) performs or provides for the performance of any act necessary to protect the physical health or safety of the child; and

(ii) immediately checks with law enforcement authorities to determine if a child has been reported missing and whether the missing child could be the relinquished child. ■ 15

## **INSTRUCTIONS TO STAFF 340:75-3-6.1**

### **Revised 10-1-11**

**1. Anonymous reports. When a person reporting suspected child abuse, neglect, or both is reluctant to identify himself or herself, the Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline (Hotline) specialist:**

- (1) uses good interviewing skills to obtain the reporter's identity; and
  - (2) attempts to determine relevant information and the reporter's relationship to the child and family in question.
2. Child Protective Services (CPS) reports regarding an OKDHS employee. Specific procedures are followed when a report of neglect, abuse, or both is received involving an OKDHS employee or a member of the employee's immediate or extended family, with the exception of alleged abuse in an institution.
  - (1) A CW specialist from Field Operations Division (FOD) in another county is assigned the assessment or investigation:
    - (A) to avoid potential conflicts of interest when there is close proximity between the CW office and work location of the OKDHS employee; or
    - (B) when the CW specialist is acquainted with the OKDHS employee or the employee's family.
  - (2) When a report alleges serious physical or sexual abuse by a CW staff person the local district attorney is consulted to determine the most objective course of investigation.
  - (3) Hotline staff contact the FOD area director for direction regarding assignment of the accepted report for assessment or investigation.
  - (4) All case information related to the assessment or investigation is restricted in KIDS.
3. Reports of abuse, neglect, or injury of a child in an open permanency planning, trial reunification, or voluntary Family-Centered Services (FCS) case.
  - (1) When abuse or neglect of a child, who is part of an open permanency planning, trial reunification, or voluntary FCS case, is suspected, or when the child has evidence of any abuse, neglect, or both per OAC 340:75-3-6, 340:75-4-13, and 340:75-6-88, including alleged accidental physical injury when the accidental injury is to the face, head, neck, stomach, or genitals, the information is reported to the Hotline and documented on Form 04KI001E, Referral Information Report.

**(2) The Hotline supervisor may screen out the report of accidental injury to the child when someone other than the direct caregiver verifies, during a preliminary inquiry, that the injury was the result of an accident. The Hotline refers the report for a preliminary inquiry to the CW specialist responsible for the child.**

**(A) The CW specialist conducts and completes a preliminary inquiry within 23 hours of receipt of the report to determine whether the injury was the result of an accident. The preliminary inquiry includes interviewing the:**

**(i) child;**

**(ii) witnesses; and**

**(iii) person who was the direct caregiver at the time of the incident.**

**(B) The preliminary inquiry may include seeking a professional medical opinion, when appropriate. A medical examination or consultation with a physician is required for:**

**(i) a child five years of age or younger with any burn or fracture;**

**(ii) a child five years of age or younger with any bruise or mark to the head, face, neck, stomach, or genitals;**

**(iii) a child any age with an unexplained or implausibly explained bruise, burn, or fracture; or**

**(iv) a non-ambulatory child with any bruise, burn, or fracture.**

**(C) Injuries are photographed and the photographs are stored in the case file and scanned into the KIDS File Cabinet in the child's case.**

**(D) The CW specialist documents all information concerning the injury in KIDS Contacts screen in the child's case.**

**(E) The CW specialist reports the results of the preliminary inquiry to the Hotline and based on the information, the report is:**

**(i) screened out as an accidental injury; or**

**(ii) assigned for investigation.**

**(F) Information justifying the screen-out disposition is documented in the Contact screen of Form 04KI001E, Referral Information Report, by the CW specialist who conducted the preliminary inquiry.**

**(G) CW specialist notifies the parent that the:**

**(i) result of the preliminary inquiry determined the injury was accidental; or**

**(ii) report of injury is assigned for a child abuse or neglect investigation.**

**(H) The report assigned for investigation is assigned to a CW specialist who does not have assignment to the open permanency planning, trial reunification, or voluntary family-centered services case.**

4. Newborns in an active permanency planning or voluntary FCS case. When a baby is born to a person responsible for the child (PRFC) or to a minor child in OKDHS custody with an open permanency planning or voluntary FCS case, the information is reported to the Hotline and documented on Form 04KI001E, per OAC 340:75-3-6.

(1) When the baby is born to a PRFC with an open permanency or voluntary case, the referral is accepted and assigned as an investigation to determine the immediate safety of and threat of harm to the newborn per OAC 340:75-3-6, 340:75-3-10.1 Instructions To Staff (ITS), and 340:75-6-40.3 ITS.

(2) When the baby is born to a minor child in OKDHS custody, the referral is accepted and assigned as either an assessment or investigation per OAC 340:75-3-7.3.

5. Address Confidentiality Program (ACP). Reports regarding child abuse and neglect that fall within the scope of CPS are accepted for assessment or investigation even though the actual finding address of the child is confidential, per 22 O.S. § 60.14.

6. Indian children. To ensure compliance with the Indian Child Welfare Act

(ICWA), procedures per OAC 340:75-19-9 and 340:75-19-10 are followed for all children reported or determined to be Indian.

7. Reports of abuse, neglect, or a violation of OKDHS rules in foster or trial adoptive homes.

(1) When a report regarding a foster or trial adoptive home is received, it is documented and evaluated to determine whether the allegations indicate abuse, neglect, or a violation of OKDHS rules. Reports of abuse or neglect of children in foster or trial adoptive homes are documented on Form 04KI001E.

(2) When information is received from any source, including the child, that an OKDHS rules violation occurred and it is not known if there is resulting physical or mental injury or potential for serious physical or mental injury, a preliminary inquiry is conducted and completed by the permanency planning specialist within 23 hours of receipt of the report. When the suspected rules violation is reported to the Hotline by someone other than the CW specialist responsible for the child, the Hotline contacts the CW specialist responsible for the child and the resource specialist, when applicable, to gather additional information to assist the screening decision.

(A) The responsible CW specialist interviews and observes the child for any injuries.

(B) When serious injuries or sexual abuse are suspected during the preliminary inquiry, an investigation is immediately initiated. When there are no injuries or other safety threat indicators:

(i) a summary of the CW specialist's contact with the child is entered in the narrative of Form 04KI001E;

(ii) the report is screened out by selecting "policy violation" and entering the resource ID;

(iii) an assignment is generated by KIDS to the resource supervisor;

(iv) the report is referred to CW foster care or adoption staff to address the violations, per OAC 340:75-7-94; and

(v) OKDHS Children and Family Services Division (CFSD) CPS,

Foster Care, Adoption, Therapeutic Foster Care (TFC), Tribal, or Family-Centered Services Section, as appropriate, is notified by email of the screened out report when the report is regarding a child in a foster or trial adoptive home. OAC 340:75-3-7 Instructions to Staff (ITS) provides examples of appropriate screened out reports regarding a child in a foster or trial adoptive home.

(C) A preliminary inquiry is not conducted or if initiated is converted to an investigation immediately when information indicates the child is in imminent danger or the circumstances meet the criteria for investigation.

(3) All reports that meet the definition of abuse or neglect of a child in a foster or trial adoptive home are assigned as investigations including, but not limited to:

(i) non-accidental physical or mental injuries to a child of any age;

(ii) neglect;

(iii) sexual abuse; and

(iv) behaviors by the foster or trial adoptive parent that involve hitting or striking a child five years of age or younger, even when there is no report or observation of injury.

(4) All investigations regarding suspected abuse or neglect in foster or trial adoptive homes are assigned as a Priority I.

(A) When information indicates the safety of the child can be assured without an immediate investigation, the Hotline supervisor may assign the report as a Priority II with a response time of no more than three days for initiation of the investigation.

(B) The Hotline supervisor documents the reason the report was not assigned as Priority I on Form 04KI001E.

(5) When an incident is reported alleging child abuse or neglect in a foster or trial adoptive home that is not a recent event, a preliminary inquiry is conducted to determine whether there are children in the foster or trial adoptive home who may be at risk of present or impending danger or

**safety threats.**

**(A) When the foster or trial adoptive home is open, the report is assigned for investigation. An example is an adult who reports she was molested as a child by her foster father and the foster home is currently open.**

**(B) When a report is received regarding a closed foster or trial adoptive home, the allegations are assessed considering:**

**(i) the information reported or obtained from the alleged victim;**

**(ii) the time elapsed since the alleged incident; and**

**(iii) the current safety threats.**

**(C) When the allegations contain issues of inappropriate discipline or other rules violations:**

**(i) the report is screened out using policy violation as the reason;**

**(ii) the report is associated to the resource file on the disposition screen of the report; and**

**(iii) a copy of the report is filed in the closed foster or trial adoptive resource record.**

**(6) When a report of child abuse or neglect is received regarding a child in a foster or trial adoptive home that identifies the alleged perpetrator as a person not responsible for the child (non-PRFC), a referral is made to law enforcement. A preliminary inquiry is conducted to determine whether the foster or trial adoptive parent failed to protect the child from a high risk situation that the foster or trial adoptive parent had knowledge of or could have predicted.**

**8. Reports of abuse in a child care center or home.**

**(1) Reports of physical abuse, sexual abuse, and serious neglect in child care centers or homes, licensed or unlicensed, are investigated by CPS staff.**

- (A) All accepted child care home and center reports are assigned as investigations.
- (B) The response time for initiation of the investigation pertaining to child care centers depends on whether the alleged perpetrator is employed, resides in the home, or continues to care for or have access to children.
- (C) Accepted reports pertaining to child care homes are assigned a Priority I response time for initiation of the investigation because generally, the owner/operator is the employee with continuing access to children.
- (2) Allegations of general neglect and violations of licensing laws and regulations such as a dirty facility, unsupervised children, or other similar situations are referred to and addressed by Oklahoma Child Care Services (OCCS).
9. Reports of alleged medical neglect of infants born alive or with disabilities.
- (1) Reports alleging a parent's denial of medically beneficial treatment including nutrition and hydration, to an infant born alive or an infant with disabilities are accepted and assigned for investigation. The Hotline specialist obtains as much information as possible regarding the:
- (A) infant's condition, including diagnosis and prognosis; and
- (B) basis for the reporter's statement that medically indicated treatment is being, or will be, withheld.
- (2) Reports alleging denial of medically beneficial treatment by the medical provider are investigated by the Office of Client Advocacy. When reports of neglect by a medical provider are received, the Hotline notifies the county director and CFSD CPS Section who makes a referral to the Office of Client Advocacy.
10. Reports of a child death or near-death. When the OKDHS Abuse & Neglect Hotline receives a report concerning the death or near-death of a child that is suspected to be the result of abuse or neglect, email contact is made with CFSD CPS section programs staff at \*STO.DCFS.CPS Notifications. Refer to OAC 340:75-3-9.1 Instructions to Staff (ITS) # 2.

(1) The OKDHS Abuse and Neglect Hotline staff immediately notifies the CFSD CPS section of a report of a child's death or near-death by email.

(2) The information provided to CFSD CPS Section regarding the child includes:

(A) name;

(B) date of birth;

(C) date of death or near-death incident;

(D) race;

(E) gender;

(F) circumstances of the child's death or near-death;

(G) any known CW history;

(H) KIDS report number; and

(I) assigned county.

**11. Investigations are required when three or more referrals are accepted or the family is or was the subject of a deprived petition. An accepted referral is assigned for investigation when:**

**(1) an assessment or investigation has been conducted on three or more previous referrals of abuse or neglect; or**

**(2) the child or family members listed in an accepted referral have been the subject of a deprived petition.**

**12. New accepted referrals regarding open assessments or investigations. More than one report regarding the same family may be an indicator of increasing danger, particularly when one or more previously assigned reports have not been initiated or completed.**

**(1) When a subsequent report is received, the Hotline supervisor reviews each report and considers the previous reports in determining response**

times for initiation of the assessment or investigation.

**(2) When any of the pending reports are assigned as investigations, subsequent reports that meet acceptance criteria are accepted and assigned as investigations.**

**(3) When three or more reports have been accepted, the most recently accepted report is assigned as an investigation.**

**13. Reports of abuse or neglect alleging someone other than the PRFC is the perpetrator.**

**(1) When a reporter makes an allegation of abuse or neglect perpetrated by someone other than a PRFC, a preliminary inquiry, assessment, or investigation is conducted to determine if the alleged abuse or neglect is attributable to failure on the part of a PRFC to provide protection. A determination is made regarding whether the third party perpetrator resides with a child who may be unsafe due to the alleged perpetrator's actions. A separate referral is completed and assigned for CPS assessment or investigation when information indicates a child is at risk of harm.**

**(2) A preliminary inquiry is conducted when the report indicates the alleged abuse or neglect is not attributable to failure on the part of the PRFC to provide protection and the alleged child victim is not at risk of further abuse or neglect by an unrelated third party perpetrator. The preliminary inquiry protocol consists of:**

**(A) documenting report information on Form 04KI001E, Referral Information Report, related to a third party perpetrator;**

**(B) determining whether the third party perpetrator lives with or has a child who could be at risk;**

**(C) verbally notifying law enforcement of the report of abuse or neglect alleging someone other than the PRFC, is the perpetrator;**

**(D) forwarding Form 04KI001E, Referral Information Report, and Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report, to law enforcement and screening out the third party perpetrator report that is not assigned;**

**(3) Examples of the need for a preliminary inquiry include, but are not limited to, a:**

**(A) parent calls to report abuse of his or her child by a stranger and the information indicates the parent is taking appropriate steps to protect the child;**

**(B) grandmother, who is the child's legal guardian, calls to report abuse of her grandchild by a teacher. The grandmother provides information that indicates she is taking appropriate action to protect the child; or**

**(C) child is reportedly abused by a neighbor and there is no indication that the PRFC failed to protect the child.**

**(4) A referral is assigned for CPS assessment or investigation to evaluate the family's circumstances when it is unknown whether the alleged abuse or neglect of a child by a third party relative is attributable to failure on the part of the PRFC to provide protection for the child. A third party assessment or investigation assignment protocol consists of:**

**(A) documenting report information on Form 04KI001E;**

**(B) determining whether the third party perpetrator lives with or has a child who is at risk;**

**(C) completing Form 04KI001E relating to the alleged perpetrator and the perpetrator's own child, when appropriate;**

**(D) verbally notifying law enforcement of the report of abuse or neglect by someone other than the PRFC;**

**(E) forwarding Forms 04KI001E and 04CP002E to law enforcement; and**

**(F) assigning the report for assessment or investigation.**

**(5) Examples of the need for third party assessment or investigation include, but are not limited to, a:**

**(A) child is allegedly abused by a temporary baby-sitter who is a close friend of the child's mother. While the baby-sitter is an alleged third party perpetrator, the close friendship between the mother and the**

**alleged perpetrator indicates the need to conduct an assessment or investigation to rule out failure to protect on the part of the PRFC and to determine whether there will be ongoing protection for the child; or**

**(B) child's grandparent, who does not live in the child's home, allegedly sexually abused the child. While the grandparent is a third party perpetrator, the close relative relationship indicates the need to conduct an assessment or investigation to determine if the PRFC failed to protect and whether there will be ongoing protection for the child.**

**14. Reports resulting from judicial proceedings.**

**(1) When a report of abuse or neglect is made by a referring court resulting from a child custody or visitation proceeding, the report is accepted for an assessment or investigation.**

**(A) When evidence in a court proceeding concerning child custody or visitation indicates that a child may be a victim of abuse or neglect, the court makes a report to OKDHS for assignment as an assessment or investigation.**

**(B) When evidence in a court proceeding concerning child custody or visitation indicates a child is in surroundings that endanger the welfare of the child, the court may enter an order placing the child in OKDHS emergency custody at which time the provisions of the Oklahoma Children's Code apply.**

**(2) When any defendant sentenced to incarceration has sole custody of a minor child and has not made appropriate arrangements for the care of the child during the period of incarceration, the court makes a referral to OKDHS by contacting the Hotline and completes an OKDHS-provided form.**

**(3) Any court presiding over any proceeding may report allegations of child abuse or neglect to OKDHS for assignment as an assessment or investigation.**

**(4) Judicial reports are not screened out except with permission of the referring court.**

**15. Abandoned or relinquished newborn. When a parent is reported to have abandoned or relinquished a newborn, a report is provided to the Hotline and**

documented on Form 04KI001E, Referral Information, and assigned for investigation. When the name and birth date of the abandoned newborn is unknown, the newborn's:

- (1) first name is selected by the CW specialist and entered in KIDS;
- (2) last name is entered as XOXO in KIDS; and
- (3) birth date is entered as the 15th day of the month of birth.



**340:75-3-7.3. Child Protective Services assessment and investigation assignment guidelines ■ 1**

Revised 3-26-10

(a) An assessment is conducted when a report meets the abuse or neglect guidelines and does not constitute a serious and immediate safety threat to a child.

(b) An investigation is conducted when a report meets the abuse or neglect guidelines and constitutes a serious and immediate threat to the safety of a child. [10A O.S. § 1-1-105]

**INSTRUCTIONS TO STAFF 340:75-3-7.3**

Revised 10-1-11

1. The guidelines outlined in this Instruction assist Child Welfare (CW) Hotline specialists and supervisors with decision making on whether a report is handled as an investigation or an assessment. This guide is not intended to be all inclusive and does not replace judgment regarding alleged risk factors and safety threats.

(1) Factors to consider in conjunction with the guidelines. As in any decision-making process, the risk factors are considered first rather than strictly following the guidelines.

(A) The age of the child is a critical risk factor since any abuse or neglect to a child five years of age and under has the potential to constitute a serious and immediate safety threat to the child's health and safety.

(B) Refer to OAC 340:75-3-7.1, Instructions to Staff (ITS), for priority guidelines.

(C) An investigation is the more cautious approach and has a response time of five calendar days or less.

(2) Assignment of investigations and assessments. When a report is assigned as an assessment, but upon contact with the family the specialist determines the family situation falls within guidelines for an investigation, an investigation is initiated immediately by the CW specialist assigned to the assessment.

**(4) Investigations.** An investigation is conducted when the allegations in the report indicate there is serious abuse or neglect resulting in immediate or impending harm to the child. Examples of reports addressed as investigations include:

**(A) child sexual abuse by a person responsible for a child (PRFC);**

**(B) a child death or near-death;**

**(C) a child placed in Oklahoma Department of Human Services (OKDHS) emergency custody;**

**(D) abuse or neglect in a:**

**(i) child care center or home that is licensed or should be licensed;  
or**

**(ii) foster family or trial adoptive home;**

**(E) abuse or neglect resulting in serious injury or near-death or risk of near-death including, but not limited to:**

**(i) children five years of age or younger that are alleged to be left alone;**

**(ii) fractures;**

**(iii) burns or lacerations;**

**(iv) head trauma;**

**(v) life-threatening injuries;**

**(vi) torture;**

**(vii) mutilation;**

**(viii) maiming;**

**(ix) forced ingestion of a dangerous substance; or**

- (x) confinement with life-threatening consequences;**
- (F) abuse or neglect requiring medical evaluation or treatment, including, but not limited to:**
  - (i) non-organic failure-to-thrive;**
  - (ii) multiple injuries of varying ages;**
  - (iii) suspected fabricated or induced illnesses;**
  - (iv) injuries to fragile areas of the body such as head, face, neck, or genitals;**
  - (v) serious medical neglect; and**
  - (vi) serious suicide threats or attempts and emergency intervention is required;**
- (G) abandonment;**
- (H) infant born exposed to drugs;**
- (I) any alleged inflicted physical injury to a child five years of age or younger;**
- (J) emotional abuse or neglect that results in the child displaying self-destructive behaviors, such as eating disorders or self-mutilation;**
- (K) history of confirmed or substantiated reports of serious abuse or neglect or sexual abuse within the last two years;**
- (L) history of children related to the PRFC that were previously adjudicated deprived;**
- (M) allegations of serious abuse or neglect in an open permanency planning or voluntary family-centered services case;**
- (N) allegations that the PRFC is violent or psychotic;**
- (O) allegations that a child five years of age or younger was physically**

disciplined by a foster or trial adoptive parent. Refer to OAC 340:75-3-8.1 ITS;

(P) a child placed in a foster or trial adoptive home is exhibiting sexual behavior that is outside the normal range of development. Refer to OAC 340:75-3-8.1 ITS;

(Q) allegations that children are having sexual contact with other children placed in a foster or trial adoptive home. Refer to OAC 75-3-8.1, ITS;

(R) a child exhibiting sexual behavior that is outside the child's normal range or development, or the child is having sexual contact with other children;

(S) a child sexually abused by a third party perpetrator and there is reason to believe the PRFC failed to protect the child, or is allowing the third party perpetrator continuing access to the child; or

(T) a child born to a PRFC with an open permanency planning or voluntary family-centered services case and:

(i) the siblings are in out-of-home placement with no plans for reunification within the next few weeks; or

(ii) there are plans for termination of the PRFC's parental rights.

(5) **Assessments.** An assessment is conducted when the allegations in the report do not indicate a serious and immediate threat to a child. Generally assessments are conducted when the concerns outlined in the report indicate inadequate parenting or life management rather than dangerous actions and parenting practices. The first contact during an assessment may be made with the non-offending parents to arrange a time to interview and observe the alleged child victim. Examples of reports that are addressed as assessments include:

(A) minor physical injury to a child six years of age or older resulting from excessive discipline that does not require medical attention;

(B) minor injuries suggesting inattention to child's safety;

(C) food, clothing, shelter, supervision, or hygiene needs are inconsistently met but do not cause significant risk of harm;

(D) untreated minor physical injuries, illnesses, or impairments and the child is not in danger of significant harm in a short time period;

(E) a pattern of unexplained absences from school that suggest parental responsibility for non-attendance subsequent to the school fulfilling its statutory responsibilities and exhausting all legal remedies, and the absences are not due to truancy or home schooling;

(F) intervention is necessary but there is concern that the PRFC is not responding to the matter seriously;

(G) emotional abuse or neglect that does not indicate risk of serious physical harm to the child;

(H) the current report does not contain serious allegations; and

(i) the history of prior reports of abuse or neglect do not contain serious allegations of abuse or neglect;

(ii) the allegations of abuse or neglect are not escalating in seriousness; and

(iii) there have been no more than two previously accepted reports.

(I) the child is in a shelter or reception center or is placed in a shelter either by law enforcement or through voluntary placement and the circumstances that resulted in the shelter placement;

(i) are not related to child abuse or neglect; or

(ii) there are no imminent safety threats to the child;

(J) a baby is born to a minor child who is in OKDHS custody and there are no concerns regarding serious and immediate threat of harm to the newborn;

(K) an infant born exposed to drugs and:

- (i) there are no prior reports of abuse or neglect; and**
- (ii) the current report does not contain serious allegations.**

**340:75-3-7.4. General protocols for Child Protective Services (CPS) assessments and investigations ■ 1 through 31**

Revised 7-1-11

(a) **Assessment and investigation process.** The CPS assessment and investigation process allows Child Welfare (CW) to have direct involvement with the family to identify problems and provide services, either directly or indirectly, that protect children and assist the family. Pursuant to Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), Oklahoma Department of Human Services (OKDHS) responds promptly to a report of child abuse or neglect by initiating an assessment of the family or an investigation of the report per OKDHS priority guidelines. The process includes gathering information:

- (1) about the reported allegations and any family dynamics that jeopardize the child's safety; and
- (2) to assess the protective capacity of the family. ■ 1

(b) **Assessment and investigation protocols.** Protocols provide:

- (1) continuity in addressing safety threats;
- (2) assessment of family functioning; and
- (3) continuity related to the CW worker's contact with families. ■ 2

(c) **Multidisciplinary investigation protocol.** Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible per OAC 340:75-3-8.4. All investigations of child sexual abuse and child physical abuse or neglect and interviews of child abuse or neglect victims are carried out by appropriate personnel using the protocols and procedures specified in 10A O.S. § 1-9-102. The investigation may proceed without full participation of all personnel:

- (1) when trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or OKDHS, there is reasonable cause to believe a delay in investigation or interview of the child victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare; and
- (2) for only as long as reasonable danger to the child exists. ■17

(d) **Assessment and investigation requirements.**

(1) Pursuant to 10A O.S. § 1-2-105, the assessment or investigation requires:

(A) a visit to the home of the child, unless:

(i) there is reason to believe there is an extreme safety risk to the child or OKDHS worker; or

(ii) it appears the referral was made in bad faith;

(B) an interview with and examination of the child;

(C) the visit to be conducted at any reasonable time and at any place including, but not limited to, the child's school; and

(D) when a child is interviewed at school, OKDHS notifies the person responsible for the health, safety, and welfare of the child that the child was interviewed at a school. ■ 12

(2) The assessment or investigation may include:

(A) an interview with and examination of any child in the home; and

(B) interviews with the parents of the child or any other person responsible for the health, safety, or welfare of the child.

(e) **Disclosure of specific complaint or allegation to PRFC.** At the initial time of contact with a person responsible for the health, safety, or welfare of a child who is the subject of an investigation pursuant to the Oklahoma Children's Code, OKDHS advises the person of the specific complaint or allegation made against the person as required by 10A O.S. § 1-2-106.

(f) **Description of investigation process provided to the person responsible for the child (PRFC).**

(1) the investigation undertaken by OKDHS is pursuant to the requirements of the Oklahoma Children's Code in response to a report of child abuse or neglect;

(2) the identity of the person who reported the incident of abuse is confidential and may not even be known to OKDHS since the report may be made anonymously;

(3) the investigation is required by law to be conducted in order to enable OKDHS to identify incidents of abuse or neglect to provide protective or preventive social services to families in need of such services;

(4) upon completion of the investigation, OKDHS sends the PRFC a letter stating:

(A) OKDHS found insufficient evidence of abuse or neglect; or

(B) there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of OKDHS;

(C) of the procedures OKDHS uses to conduct an investigation of alleged child abuse or neglect, including:

(i) a description of the circumstances under which OKDHS would seek to remove the child from the home through the judicial system; and

(ii) an explanation that the law requires OKDHS to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(D) the procedures to follow when:

(i) there is a complaint regarding the actions of OKDHS; or

(ii) requesting a review of the findings made by OKDHS during or at the conclusion of an investigation;

(5) the PRFC has a right to review unsealed records filed with the court in the event an action is filed;

(6) the PRFC has a right to seek legal counsel;

(7) of the references to the statutory and regulatory provisions governing child abuse and neglect and how the PRFC may obtain copies of the provisions;

(8) the process the PRFC may use to acquire visitation with the child if the child is removed from the home; and

(9) failure to appear for court proceedings may result in the termination of the person's parental rights to the child.

(g) **Assessment or investigation report forwarded to district attorney (DA).** OKDHS, pursuant to 10A O.S. § 1-2-102, forwards the completed assessment or investigation report and findings to any district attorney's office that may have jurisdiction to file a petition in accordance with 10A O.S. § 1-4-902. ■ 28

(h) **Referral to law enforcement.**

(1) Per 10A O.S. 1-2-102, OKDHS immediately makes a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse, neglect, or during the assessment or investigation, OKDHS determines:

(A) the alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare; and

(B) the alleged abuse or neglect of the child does not appear attributable to failure on the part of a PRFC to provide protection for the child. ■ 27

(2) OKDHS, after making the referral to law enforcement, is not responsible for further investigation unless:

(A) OKDHS has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child;

(B) notice is received from a law enforcement agency that has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child, not the subject of the criminal investigation; or

(C) the appropriate law enforcement agency requests OKDHS in writing, to participate in the investigation. If funds and personnel are available, as determined by the OKDHS Director or a designee, OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse. ■ 31

(i) **Court order for access to or examination of child.** The assessment or investigation may include a medical, psychological, or psychiatric examination of any child in the home. When the PRFC refuses to cooperate with arranging an examination, or when admission to the home, school, or any place where the child may be located cannot be obtained, the CW worker may request the district attorney make application for a court order to compel access or examination of the child. [10A O.S. § 1-2-105(B)(2)] It is the duty of the PRFC to secure medical examinations that may be

necessary due to abuse or neglect of a child by a third party. ■ 20

(j) **Obtaining the child's medical records.** As necessary in the course of conducting an assessment or investigation, OKDHS may request and obtain, without a court order, copies of current and prior medical records of a child including, but not limited to, hospital records, medical, and dental records. The physician-patient privilege does not constitute grounds for failure to produce the requested records, per 10A O.S. § 1-2-105.

(k) **Requests for the child or PRFC's behavioral health records relevant to the assessment or investigation.** Pursuant to 10A O.S. § 1-2-105, the assessment or investigation may include an inquiry into the possibility the child or person responsible for the health, safety, or welfare of the child has a history of mental illness. When the PRFC denies OKDHS access to behavioral health records or treatment plans requested by OKDHS, that may be relevant to the alleged abuse or neglect, OKDHS requests the DA make application for a court order allowing OKDHS access to the records pursuant to terms and conditions prescribed by the court. ■ 20

(l) **Failure to report child abuse or neglect.** Pursuant to 10A O.S. § 1-2-101 any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor. ■29

(m) **False reports of abuse or neglect made knowingly and willfully.** Any person who knowingly and willfully makes a false report of child abuse or neglect pursuant to the provisions of 10A O.S. § 1-2-101, or who makes a report the person knows lacks factual foundation, may be reported to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor. ■ 30

(n) **Restraining order prohibiting removal of child from state.** Pursuant to 10A O.S. § 1-2-105, when OKDHS has reason to believe a person responsible for the health, safety, and welfare of the child may remove the child from the state before the investigation is completed, OKDHS may request that the DA file an application for a temporary restraining order in any district court in Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the assessment or investigation.

#### **INSTRUCTIONS TO STAFF 340:75-3-7.4**

**Revised 10-1-11**

1. **Assessment or investigation purpose. During the assessment or investigation process the Child Welfare (CW) specialist gathers information from family members or other persons. The purpose of the assessment or investigation is to:**
  - (1) explain the function of CW;
  - (2) explain the allegations to the family;
  - (3) gather information for decision-making;
  - (4) determine whether abuse or neglect occurred;
  - (5) assess the presence or absence of safety threats to each child in the home;
  - (6) determine what safety response is indicated;
  - (7) reduce trauma to each child;
  - (8) intervene for child safety; and
  - (9) identify services appropriate for the family.
2. **Purpose for Protocols. The Child Protective Services (CPS) process includes identifying child safety threats, incident-based fact-finding as well as identifying the presence or absence of maltreatment and the circumstances surrounding the reported allegations. The family is encouraged to participate in identifying and addressing threats to child safety.**
3. **Safety precautions when conducting an assessment or investigation. During the course of an assessment or investigation CW specialist safety precautions include, but are not limited to:**
  - (1) taking any threat by a parent seriously;
  - (2) seeking the assistance of law enforcement when the specialist is at risk of harm, such as when:
    - (A) there is a previous history of domestic violence or serious abuse or neglect alleged;

- (B) a family member may be mentally ill, using drugs, or volatile;
  - (C) firearms or other weapons are present or reported to be present;
  - (D) illegal substance manufacturing or distribution is reported to be present [Refer to OAC 340:75-3-8.7]; or
  - (E) the family's geographic location is isolated or dangerous;
- (3) using discretion in checking a child for signs of abuse, based on the child's age and gender, specialist's gender, and the location and type of abuse. Examinations for sexual abuse are performed by medical doctors and never by the CW specialist; and
- (4) not entering a home when there is any risk to the CW specialist's safety.
- (A) When making a home visit, law enforcement is contacted when there is a concern for the safety of the child or CW specialist.
  - (B) When law enforcement:
    - (i) accompanies the CW specialist to the home and no adult is present in the home, the CW specialist does not enter the home even though law enforcement may enter; and
    - (ii) requests the assistance of the CW specialist in the residence due to an extreme emergency with the child, the CW specialist does not enter the residence until it has been secured and determined safe to enter by law enforcement; and
- (5) not conducting a search of any type in the home, including a search for illegal substances. The CW specialist is prohibited from conducting a search regardless whether an adult in the home gives permission or is requested by law enforcement.
4. Response time for initiation of assessment or investigation. An assessment or investigation is prioritized according to the guidelines in OAC 340:75-3-7.1 and OAC 340:75-3-7.3. The priority guidelines determine the assignment type and response time required to evaluate safety for the alleged child victim. Generally, the reported allegations that necessitate an investigation require a shorter response time than an assessment. Response times for initiation are

established at the time of disposition of the referral report.

**(1) The report assigned as an investigation has a response time of five days or less.**

**(2) When a report is assigned as an assessment, the first contact may be with the non-offending parent to arrange a time to see the child.**

**(3) Priority 1 reports require:**

**(A) two diligent, face-to-face attempts to contact the child victim on the date the report is received; and**

**(B) a minimum of one diligent, face-to-face attempt to contact the child victim every calendar day thereafter until:**

**(i) the child victim is located, interviewed, and safety is established;**  
**or**

**(ii) a decision is made that diligent efforts were made and failed to locate the child and family per OAC 340:75-3-7.4 Instructions To Staff (ITS) # 26.**

**(4) Priority 2 reports require:**

**(A) two diligent, face-to-face attempts to contact the child victim on or before the response time indicated in KIDS; and**

**(B) a minimum of one diligent, face-to-face attempt to contact the child victim every subsequent business day until:**

**(i) the child victim is located, interviewed, and safety is established;**  
**or**

**(ii) a decision is made that diligent efforts were made and failed to locate the child and family per OAC 340:75-3-7.4 ITS # 26.**

**(5) After 72 hours of unsuccessful diligent attempts to make face-to-face contact with the alleged child victim, a contact letter may be mailed to the PRFC. When there is no response to the contact letter after 10 calendar days, refer to OAC 340:75-3-7.4 ITS # 26.**

**(6) Efforts to locate a child victim other than actual face-to-face attempts are documented in the Child Victim screen in KIDS – Type of Contact - Other with detailed information regarding efforts made to locate the alleged abuse or neglect victim. Efforts to locate the child victim may include contact with law enforcement, the local utility company, the child's school, or child care.**

**(7) Assessment and investigation reports submitted to the district attorney are completed per OAC 340:75-3-11.**

**(A) Child victim and Person Responsible for the Child (PRFC) interviews are documented in KIDS within 10 days.**

**(B) An extension may be approved for an additional 30 days to complete documentation requirements that do not include child victim or PRFC interviews. The approval is documented by the CW supervisor in the KIDS Extension screen.**

- 5. When response time exceeds requirements. When the response time for initiation of the assessment or investigation cannot be achieved due to excessive workload or staff vacancies, refer to OAC 340:75-3-11 Instructions to Staff.**
- 6. New referral of abuse or neglect received when previous report pending. When an assessment or investigation is not completed and a subsequent report of abuse or neglect is received, the CW supervisor reviews each referral report and considers the pending reports when setting time requirements for completion of the pending and subsequent reports. When there have been three reports accepted for assessment or investigation, any subsequent accepted report is assigned as an investigation per OAC 340:75-3-6.1 and Section 1-2-102 of Title 10A of the Oklahoma Statutes.**
- 7. Initiation and safety determination requirement when three or more reports of abuse or neglect have been assigned. When three or more reports are pending concerning the same child and family, completion of all the reports are expedited and the most recent report is assigned as an investigation per OAC 340:75-3-6.1. The safety determination is completed no more than five calendar days from receipt of the most recent report.**
- 8. Assessing prior CW history.**

**(1) When there is prior CW history involving the adults and children listed in the current or pending reports of abuse or neglect, the history is reviewed prior to initiating the assessment or investigation unless:**

**(A) an urgent response is required and there is no time to review prior to initiating; or**

**(B) it is outside office hours and not possible to access the paper file or KIDS. In these instances, the history is reviewed as soon as possible.**

**(2) Background information includes whether the child and family are:**

**(A) known to OKDHS and CPS;**

**(B) currently receiving OKDHS or CW services;**

**(C) known to another state's CPS; or**

**(D) known to law enforcement due to reports of domestic violence, substance abuse, or sexual abuse.**

**(3) When CW history indicates more than three previous reports regarding a family, the CW specialist and supervisor:**

**(A) discuss all previous reports along with the information gained from the entire case record and determine whether there is a pattern of behavior that contributes to safety threats within the family, or if more information is needed to determine whether there are significant problems in the family; and**

**(B) document the date of the staffing and the results of the staffing in the referral, assessment, or investigation KIDS contacts screen.**

**(4) The CW specialist contacts CFSD CPS Section immediately for additional information when a child protective services alert is found during a search.**

**(5) When there is an open CW case regarding the family, the assigned CW specialist obtains the name of any current OKDHS worker involved with the family. Contact with the current OKDHS worker is initiated, when possible, prior to the first contact with the child and family to determine the case**

status and to request the case records;

(6) When it is determined the family may have had CPS involvement in another state, the CW contacts CPS in the other state and:

(i) makes a verbal request for records;

(ii) follows up with a written request for the records;

(iii) scans the records into the KK case File Cabinet upon receipt. When volume makes scanning difficult, the CW specialist documents in KIDS contacts that the records are located in the case paper file. The contact contains a brief summary of the information and a contact number for the jurisdiction with the records; and

(iv) ensures the new report is properly connected to the history in KIDS.

(7) The CW specialist contacts law enforcement and obtains police records when the report alleges domestic violence, substance abuse, or sexual abuse.

9. Safeguarding reporter identity. To prevent unintended disclosure of the reporting party, the CW specialist leaves all KIDS or OKDHS generated documents regarding the report in a secure location.

10. Gathering information. The primary methods used in gathering information are:

(1) interviewing. The interview is a face-to-face contact between the CW specialist and a person who has or may have information pertinent to assessment safety.

(A) Face-to-face interviews with the alleged victim(s), other children in the home, person(s) responsible for the child (PRFC(s)), and collaterals are required.

(B) Interviews with other witnesses are conducted in person, when possible.

(C) Interviews are conducted in private, and sufficient time is allowed to elicit information and make observations relative to assessing safety.

**(2) observing.** Observing the physical and cultural environment is critical in assessing safety. The CW specialist observes the:

**(A) physical setting of the home;**

**(B) sleeping arrangements for all family members;**

**(C) degree to which the house is safe and healthy for a child;**

**(D) physical appearance of the PRFC(s) and child, including hygiene, affect, and injuries; and**

**(E) differences in culture and lifestyle that may affect the response of the family; and**

**(3) documentary evidence.** Documentary evidence provides factual information in assessing safety. Documents may include but are not limited to:

**(A) written records of interviews and observations;**

**(B) medical reports;**

**(C) psychological evaluations;**

**(D) police reports;**

**(E) Medical Examiner's Report of Autopsy; and**

**(F) photographs.**

**11. Contact protocol.** Talking to the alleged child victim is the most critical step in the assessment process.

**(1) When necessary, discussion with and examination of the alleged child victim may be conducted at any reasonable time and at any place including, but not limited to, the child's school. [10A O.S. § 1-2-105] It may be necessary to talk to the child in a neutral setting first, because of the nature of the allegations.**

**(2) When the alleged child victim is of sufficient age or maturity to provide**

information, it is generally best to conduct the first in-depth discussion with the child even if a brief discussion is first conducted with the PRFC or other caretaker.

(3) The child's age, developmental level, and emotional state guide the CW specialist's approach to gathering information. A separate discussion may be needed to ensure the child victim's safety. It may be necessary with some children, to have an older sibling or another significant person present to obtain information.

(4) All children must be observed. Even non-verbal children can provide information when observed. An attempt must be made to talk to every verbal child victim. Although a very young child may not have extensive verbal skills, the child may provide critical statements or phrases that assist in the assessment.

(5) Interviews in the home are preferable to interviews conducted elsewhere. The home provides insight into the family's environment and the way in which family members interact with one another.

(6) Utilizing the school setting for interviews is not routine for the convenience of CW staff, as this may be disruptive to the child's educational process. The CW specialist may conduct an interview at a school or in a neutral setting when the allegations place the child at a high risk level, such as alleged sexual abuse and serious abuse and neglect.

(7) When the child is interviewed in school, a child care center or home, or with another caregiver, the person caring for the child gives permission prior to the interview.

(A) When permission is denied by the authorities or the person caring for the child, and the PRFC subsequently denies permission, the CW specialist follows the refusal to cooperate or respond protocol in ITS # 25 of this Section.

(B) The PRFC's permission is not required before interviewing a child in a neutral setting such as a school or child care facility.

(C) When the child is interviewed without the PRFC's knowledge, the PRFC is notified the same day the child is interviewed.

**(8) When there is concern about safety for the alleged child victim or CW specialist in making a home visit, contact is made with law enforcement for assistance in making the home visit.**

**(9) Family members are observed interacting together.**

**12. Notification to PRFC when child interviewed at school or other location.**

**(1) When the child victim or siblings are interviewed by the CW specialist in a setting other than the home, a home visit with the PRFC(s) is initiated the same day the child is interviewed.**

**(2) When the child victim or siblings have been interviewed and OKDHS is unable to locate the person responsible for the child, OKDHS notifies the PRFC(s) by leaving Form 04CP001E, Contact Letter, at the person's home and provides the PRFC, as soon as possible after initiating the investigation, a brief and easily understood written description of the investigation and assessment process, OKDHS Publication No. 87-02, Questions and Answers for Parents about Child Protective Services, pursuant to 10A O.S.1-2-106.**

**13. Initial contact with the PRFC or family in the home. The assessment or investigation includes a visit to the home of the child pursuant to 10A O.S. § 1-2-105 unless there is reason to believe there is an extreme safety risk to the child or CPS specialist.**

**(1) Contact with the family is made by an unannounced home visit.**

**(2) The CW specialist introduces him or herself and explains the reason for the visit in a non-accusatory, courteous manner and shows the family an OKDHS employee identification card.**

**(2) The specific reported allegations are explained to the PRFC(s) per 10A O.S. §1-2-105.**

**(3) The PRFC(s) is given Oklahoma Department of Human Services (OKDHS) Publication No. 87-02, Questions and Answers for Parents about Child Protective Services.**

**(4) The CW specialist does not enter the home when an adult is not present. When young children are found alone, the CW specialist**

immediately contacts law enforcement. An investigation rather than an assessment is conducted when young children are left alone.

(5) When hostility, anger, or other defensive reactions are encountered, the CW specialist assures the family their concerns about the process will be addressed, but that the assessment or investigation must be conducted.

(6) The CW specialist does not enter the home unless invited by an adult. The specialist never enters the home unless an adult is present in the home.

(7) When ordered out of the home, the CW specialist leaves immediately.

(8) When admitted to the home, the CW specialist discusses the reported allegations with the family without revealing the name of the reporter.

(9) The CW specialist asks to observe or interview all children and family members in the home.

(10) During the assessment or investigation the CW specialist gathers, per OAC 340:75-1-26 ITS and 340:75-19-8, demographic information for all family members, including accurate birth dates, any names used by family members, including full legal names, Social Security numbers, races, and ethnicities.

14. Attempted home visit. When a home visit is attempted during the assessment or investigation and the family is not home, the CW specialist:

(1) after 72 hours of unsuccessful diligent efforts to locate and interview the child victim, may leave Form 04CP001E, Contact Letter, in a sealed envelope at the home;

(2) leaves Form 04CP001E, when the child victim or siblings have been interviewed, to notify the PRFC that the CW specialist attempted contact with the family;

(3) may omit leaving Form 04CP001E at the home when there is reason to believe such notice to the family may place the child in danger or prevent the CW specialist from obtaining unrehearsed information; and

- (4) may not leave correspondence in the mailbox as federal law prohibits the use of a mailbox for letters that are not mailed.
15. Contact with the family by mail. When the CW specialist is unsuccessful in the attempts to reach the family at home, the family may be contacted by mail using Form 04CP001E. The letter is mailed first class in an envelope indicating address correction requested. When the letter is not returned after 10 calendar days, the CW specialist follows protocol per OAC 340:75-3-7.4 ITS # 25.
16. Phone contact at PRFC's place of employment. When the CW specialist has made unsuccessful attempts to contact the family and determines the PRFC or perpetrator is employed, the CW specialist:
- (1) may attempt to phone the PRFC or perpetrator at work;
  - (2) when calling the PRFC's or perpetrator's place of employment, identifies himself or herself by name only. No information about the nature of the call is discussed with the employer; and
  - (3) when the employer does not allow personal calls or the PRFC or perpetrator is unavailable, leaves a message giving only the specialist's name and phone number. No letter is sent to the employer.
17. Joint investigation with law enforcement. Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible. Other members of a multidisciplinary team may be used as consultants, when appropriate. Refer to OAC 340:75-3-10.1 and OAC 340:75-3-8.4.
18. Visual inspection of the child.
- (1) Permission of the child and either the PRFC or caregiver is obtained prior to the visual inspection of the child.
  - (2) Regardless of whether an injury is alleged, the CW specialist conducts a full body inspection by asking the PRFC or caregiver to remove or rearrange the child's clothing, including diapers, for any child younger than 12 months.
  - (3) When one child is alleged to have serious or non-accidental injuries, the CW specialist checks the siblings for injuries.

**(4) When injuries are alleged, the CW specialist, after obtaining permission, conducts a:**

**(A) full body inspection of any child younger than five years of age that requires removal of the child's clothing, including diapers; and**

**(B) cursory inspection of the child age five years of age and older rather than a full body inspection by rearranging the child's clothing.**

**(i) When injuries or possible injuries cannot be seen without a full body inspection, an examination by medical personnel is conducted.**

**(ii) The child is observed by the CW specialist in the presence of the PRFC unless the observation is made while in a setting outside the home, such as child care or school.**

**(I) When the child is verbal, the reason for the visual inspection is explained to the child.**

**(II) Visual inspections are conducted in a manner that is sensitive to the child's feelings, privacy needs, and gender.**

**(III) When the child requires assistance undressing due to age, physical condition, or emotional comfort, the CW specialist asks the PRFC or caregiver to remove or lift the child's clothing allowing the child to be observed.**

**(IV) When the injuries on a child of any age indicate the need for a medical examination, or the child's age limits the CW specialist's ability to conduct an inspection of alleged injuries, the child is taken for a medical examination. Refer to ITS # 31 of this Section.**

**(5) When a PRFC or caregiver refuses to permit the CW specialist to visually inspect the child victim or siblings, the CW specialist consults with the CW supervisor regarding whether to request assistance from law enforcement or submit a request to the district attorney (DA) for a court order per 10A O.S. § 1-2-105(B)(2).**

**(6) When a child refuses to permit the CW specialist to conduct an inspection, the CW specialist consults with the CW supervisor regarding arrangements for a medical examination.**

**19. Photographing child victim injuries. When injuries appear indicative of child abuse or neglect, the CW specialist:**

**(A) arranges for the child to be photographed. The CW specialist may take the photographs or, when possible, law enforcement or medical professionals take the photographs;**

**(B) maintains conventional photographs in the child's paper case record;**

**(C) does not enhance or alter and stores the digital photographs taken by the specialist per OAC 340:75-1-26 ITS; and**

**(D) makes any photograph available to law enforcement and the DA.**

**20. Physical injuries, or need for medical, psychological, or psychiatric examination. Protocols described in (1) through (10) are followed when there are physical injuries or a need for a medical, psychological, or psychiatric examination for a child of any age.**

**(1) The CW specialist inspects the child victim younger than 12 months of age regardless of the allegation per ITS # 18 of this Section.**

**(2) When the report alleges physical injury due to abuse or neglect or injuries are found during the assessment or investigation, an inspection is required by the CW specialist or an examination by a medical professional, or both, of the:**

**(A) child victim; and**

**(B) sibling, when applicable.**

**(3) Information gathered may indicate a need for medical, psychological, or psychiatric examination or treatment of any child in the home of the PRFC as authorized by 10A O.S. § 1-2-105(B)(2). It may also include an inquiry into the possibility that the child or PRFC has a history of behavioral health issues.**

**(4) As necessary in conducting an assessment or investigation, the CW specialist requests and obtains, without a court order, copies of prior medical records of the child, including, but not limited to, hospital, medical, and dental records, per 10A O.S. § 1-2-105(C)(2).**

**(5) When a medical examination is required, the CW specialist assists the PRFC in making the arrangements. Medical examination or consultation with a physician or appropriate licensed medical professional is required for:**

**(A) all burns or fractures of a child five years of age or younger;**

**(B) all bruises or marks on a child younger than two years of age;**

**(C) unexplained or implausibly explained bruises, burns, or fractures of a child of any age;**

**(D) all bruises, burns, or fractures of a non-ambulatory child;**

**(E) all referrals of sexual abuse in non-verbal children whose behavior mimics adult sexual behavior, for example, simulated intercourse or oral stimulation of another's genitals;**

**(F) all sexual abuse cases in which oral or genital skin-to-skin contact is alleged or suspected;**

**(G) all cases of:**

**(i) sexually transmitted disease in a prepubescent child;**

**(ii) reported malnutrition and failure-to-thrive; or**

**(iii) serious medical neglect. When the child receives regular medical care, consultation with the child's physician is sufficient;**

**(H) reports in which the child has an observable injury, the caregiver admits responsibility for the injury, and medical documentation is necessary to determine whether there are internal or old injuries; or**

**(I) a child who exhibits a need for an immediate psychological or psychiatric evaluation.**

**(6) The CW specialist accompanies the PRFC and child to the medical examination and remains available during the examination for consultation with the physician or appropriate licensed medical professional.**

- (A) When the child victim has been seen by a physician prior to the initiation of the investigation, the CW specialist consults with the physician or appropriate licensed medical professional as soon as possible and requests a written report of the examination and diagnosis.
- (B) Following the child's medical examination or treatment, and after receiving a verbal report from the physician or appropriate licensed medical professional, the CW specialist requests a written report.
- (7) Although a second medical opinion is suggested for all serious child abuse and neglect, it is particularly crucial in cases of head trauma or fractures in a child age three years of age and younger. Consultation with the CW field liaison is required in these circumstances. Consultation with the CFSD CPS Programs office is available.
- (8) Reimbursement to the vendor for the child abuse examination or treatment is made per OAC 340:75-13-64. The CW specialist, not the medical provider, determines whether other resources are available to the child and advises the hospital, physician, or appropriate licensed medical professional regarding procedures for payment, per OAC 340:75-13-64.
- (9) Exceptions to medical examination procedures are approved by the CW supervisor as soon as possible after the child victim is observed. The exception is documented in the Summary/Recommendation section of Form 04KI003E, Report to District Attorney, and good cause is shown for the modification.
- (10) When the PRFC refuses to secure needed medical attention for a child, the specialist evaluates the level of risk to the child and determines whether a request will be made to law enforcement regarding protective custody for the purposes of securing an exam or a request made to the district attorney for an application for a court order to secure needed medical services.
21. Confidential information. Confidential information regarding the family's situation may be released to other public officials involved in an official capacity in the investigation or appropriate professionals providing medical or treatment services to the family.
22. Professional consultation. The CW specialist consults, as needed, with those

who have additional expertise in child abuse or neglect, or in areas related to the family's service needs.

(1) Examples of the need for professional consultation include the need to verify whether a particular:

(A) sexual behavior is typically normal; or

(B) drug has certain side effects.

(2) Persons who may be consulted include:

(A) CW staff who specialize in certain areas, such as specialists with advanced child sexual abuse training, Swift adoption specialists, and Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) counselors;

(B) staff within other divisions of OKDHS regarding eligibility or availability of services for a child or family; and

(C) outside consultants, such as members of a multidisciplinary team, a physician, psychologist, pharmacist, and similar professionals.

23. Modifying investigation protocol. Protocol is followed unless good cause exists for modification.

(1) Modifications:

(A) to the required home visit are not authorized unless it is determined contact in the home jeopardizes the safety of the specialist or child;

(B) are approved by the CW supervisor;

(C) are not authorized when there are two or more reports regarding the same child and family in the preceding twelve months unless there is clear indication that previous reports were false or made in bad faith; and

(D) may include:

(i) altering the required order in which interviews are conducted,

when:

(I) emergency conditions exist that require immediate action to protect the child. Protocol is reinstated after the child is safe;

(II) the emotional atmosphere is volatile, for example, people are emotionally immobilized or violent; or

(III) key persons are not available; and

(ii) omitting required interviews with individuals other than the child victim or PRFC when:

(I) all allegations are obviously and unquestionably false;

(II) it is determined the report was made in bad faith; or

(III) the report was a result of an absolute misperception of the child's condition or circumstances; and

(IV) no information collected in the six key questions of the Assessment of Child Safety, from the child victim and PRFC, indicate a possible safety threat;

(iii) substituting required face-to-face interviews with telephone contact when the interviewee's circumstance or location makes the person otherwise unavailable for a face-to-face interview; or

(iv) authorizing joint interviews for required separate interviews when a separate interview is declined by the person interviewed. The CW specialist is aware that information gathered during joint interviewing may not accurately provide representation of the incident or the family's actual functioning.

(2) When a modification is authorized, at a minimum, the six key questions on Form 04KI030E, Assessment of Child Safety, are completed from interviews with each child victim and the PRFC with a determination of no safety threats.

(3) A modification and the reason for the modification to the investigation or assessment protocol is documented in the Summary/ Recommendation

section of Form 04KI003E, Report to District Attorney, for investigations and in the Comments/Summary section of Form 04KI030E, Assessment of Child Safety, for assessments.

**24. Documenting assessment or investigation initiation. Only face-to-face contacts attempted or completed with the alleged child victim are considered initiated assessments or investigations in KIDS. The CW specialist documents in KIDS:**

**(A) each attempted contact with the alleged child victim or other family member;**

**(B) a Face-to-Face, NA Child Death, when the alleged child victim is deceased; and**

**(C) all completed contacts in the appropriate screens.**

**25. Refusal to cooperate or respond protocol.**

**(1) When a family refuses to cooperate or respond in an assessment or investigation by:**

**(A) refusing to be interviewed;**

**(B) refusing to allow access to the child for observation and interview;**

**(C) failing to respond to notices from the CW specialist when the specialist has reliable information that the PRFC received the notice;**

**(D) denying access to behavioral health records or treatment plans; or**

**(E) removing the child from Oklahoma before the assessment or investigation is completed, the CW specialist:**

**(i) evaluates the available information and determines the most appropriate action; and**

**(ii) when the child is in present danger:**

**(l) immediately contacts law enforcement for assistance in interviewing and observing the child; and**

(II) when the PRFC continues to refuse to allow access to the child and law enforcement declines to place the child in protective custody, immediately documents information obtained from collaterals or witnesses and submits the information on an affidavit or Form 04KI003E, Report to District Attorney, requesting the DA make application for a court order to allow access to the child.

(2) When the PRFC denies access to mental health records or treatment plans that may relate to abuse or neglect, the CW specialist requests that the DA file an application for a court order.

(3) When the CW specialist believes a PRFC or other person may remove the child from Oklahoma before the assessment or investigation is completed, the CW specialist requests that the DA file an application for a temporary restraining order.

26. Unable to locate protocol. When the CW specialist is unable to locate the child and family, efforts are made to seek additional sources of information regarding the child and family's whereabouts.

(1) Diligent efforts are made to locate the child and family using available resources. All attempts to locate a child are documented in KIDS. When the CW specialist encounters difficulty in locating the child or family, the CW specialist:

(A) contacts the reporter and advises of the difficulty in locating the family and asks the reporter for additional sources of information; and

(B) makes another computer inquiry to determine whether the family is receiving services from OKDHS.

(i) When the family is receiving services, the CW specialist contacts the assigned worker to determine whether there is a new address for the family or any other information to assist in locating the family.

(ii) The assessment or investigation does not affect eligibility for other OKDHS services.

(2) When a new address is provided and the assessment or investigation has not been closed, the assessment or investigation protocols continue

regardless whether the completion time has been exceeded.

(3) No report is closed as unable to locate until the protocol per this ITS Section is followed.

(4) When the report indicates the safety of the child is or will be at risk and it appears the family has relocated within Oklahoma or to another state, but the address is not known, a statewide or nationwide protective service alert may be initiated by contacting Children and Family Services Division CPS Section. Refer to OAC 340:75-3-10.3 ITS # 17.

(A) When it appears the family has moved to another identified state, the CW specialist calls that state's CPS and makes a report regarding the child's safety.

(B) Any requested copies of child abuse or neglect records may be forwarded to the requesting state per OAC 340:75-1-44.

(5) When a family is found after an assessment or investigation is closed due to failure to locate, the allegations in the child abuse or neglect report that led to the assessment or investigation are documented on a new Form 04KI001E, Referral Information Report.

(A) The previous KIDS referral number is documented on the new report along with any new information about the family.

(B) The new referral is prioritized and assigned for assessment or investigation, per OAC 340:75-3-7.1.

(C) The assessment or investigation addresses the allegations:

(i) in the previous referral that was closed due to failure to locate; and

(ii) any current allegations.

27. Referral to law enforcement. Form 04KI001E, Referral Information Report, may be sent to law enforcement for written documentation with Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report, attached. When forwarding Form 04KI001E to law enforcement, the name of the reporter is deleted. The name of the reporter is maintained on the copy

that remains in OKDHS files and may be provided verbally to law enforcement, when requested.

28. Assessment and investigation report submitted to appropriate district attorney. All reports of assessment recommendations and investigation findings are submitted to appropriate district attorneys per 10A O.S. § 1-2-105.
29. Failure to report child abuse or neglect. When in the course of the assessment or investigation, it is determined there is a person who, knowingly, and willfully failed to make a report of child abuse or neglect, the CW specialist discusses the information with the CW supervisor. The information may be forwarded to local law enforcement using Form 04CP002E for the purpose of a criminal investigation.
30. False reports of abuse or neglect made knowingly and willfully. When, in the course of the assessment or investigation, the CW specialist determines a false report concerning child abuse or neglect was made knowingly and willfully, the CW specialist discusses the information with the CW supervisor. With supervisory approval, information regarding the false report is forwarded to law enforcement for consideration of a criminal investigation, using Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report. Form 04KI001E, Referral Information Report, may be sent to law enforcement attached to Form 04CP002E. When forwarding Form 04KI001E to law enforcement, the name of the reporter is deleted. The name of the reporter is maintained on the copy that remains in the OKDHS file ensuring the information may be provided verbally to law enforcement, when requested.
31. Requests to assist law enforcement on non-OKDHS related investigations. When a law enforcement agency requests in writing for OKDHS to participate in an investigation, the CFSD CPS Section is contacted for guidance.

**340:75-3-9.1. Child death or near death and critical incidents review**

Revised 3-26-10

Child deaths or near deaths resulting from suspected abuse or neglect may be reviewed by the Oklahoma Department of Human Services Critical Incidents Review Committee or by administrative investigation. Requests for the release of information concerning child deaths and near deaths are handled according to OAC 340:75-1-44. ■ 1 through 7

**INSTRUCTIONS TO STAFF 340:75-3-9.1**Revised 10-1-11**1. Consultation for child death or near-death investigations. Children and Family Services Division (CFSD) Child Protective Services (CPS) programs staff provide, upon inquiry by CW staff:**

**(1) consultation regarding whether a death or near death falls within the scope of CW; and**

**(2) direction regarding the unique investigative procedures required in a death or near-death investigation.**

**2. Reporting a child death or near-death to CFSD CPS.**

**(1) When the abuse or neglect is suspected in connection with a report of a child death or near-death, the OKDHS Abuse and Neglect Hotline (Hotline) contacts the CFSD CPS Section by email;**

**(A) the same business day; or**

**(B) the next business day when the death or near-death report is received during non-business hours.**

**(2) The initial information provided verbally by the Hotline includes:**

**(A) the child's name;**

**(B) the child's date of birth;**

- (C) the date of death or near-death incident;**
- (D) the child's race;**
- (E) the child's gender;**
- (F) the circumstances of the child's death or near-death;**
- (G) any known Child Welfare (CW) history regarding the child;**
- (H) the KIDS report number; and**
- (I) the assigned county.**

**(3) When a near-death occurs, the CW specialist sends a copy of the entire case record to CFSD CPS Section within 90 calendar days of the child's near-death. CPS programs staff contacts the CW specialist for additional information, when needed.**

**(4) When a child death occurs, the CW specialist sends a copy of the entire case record to CFSD CPS Section within 30 calendar days of receiving notice from CFSD CPS of the receipt of the Medical Examiner's Report of Autopsy.**

**(A) When it appears the investigative process will not be completed timely, an extension for completion of the investigation or related paperwork may be granted per OAC 340:75-3-11 Instructions to Staff.**

**(B) CPS programs staff contacts the CW specialist for additional information, when needed.**

**3. Initial report prepared by CFSD CPS.**

**(1) After receipt of the death or near-death notice from the Hotline, CFSD CPS Section programs staff prepares a factual account of known circumstances of the child death or near-death including current and previous Oklahoma Department of Human Services (OKDHS) and CW history.**

**(2) The initial report is sent to the:**

- (A) applicable OKDHS Human Services Center;**

**(B)** Field Operations Division;

**(C)** Legal Division;

**(D)** applicable CFSD staff;

**(E)** OKDHS Office of Communications;

**(F)** State Child Death Review Board; and

**(G)** Oklahoma Commission on Children and Youth.

**4. Public inquiries. Any media, public, or other inquiry about a specific case by persons without an official need to know are directed to the Office of Communications.**

**(1)** CW information and investigations are confidential unless otherwise provided by law.

**(2)** All public communications regarding reports under investigation, and the investigation itself, are issued only by authorized personnel within the OKDHS Office of Communications or by a CFSD designated spokesperson.

**5. Final determination in child death, near-death, or other critical incident investigation. Upon completion of a child death or near-death investigation, a review is conducted by CFSD CPS programs staff per OAC 340:75-3-10.2.**

**6. (a) Critical Incidents Review Committee (CIRC).**

**(1)** The Critical Incidents Review Committee may schedule reviews of reports alleging abuse or neglect involving:

**(A)** child deaths;

**(B)** child near-deaths;

**(C)** critical incidents for which a review is requested by CW staff; or

**(D)** other special circumstances indicating the need for a review of the incident.

**(2) The CIRC routinely sets child death or near-death incidents for review in which:**

**(A) there is an ongoing permanency planning or voluntary family-centered services case with siblings;**

**(B) there are siblings named in a substantiated child death or near-death investigation and there is no related ongoing permanency planning or voluntary Family-Centered Services case;**

**(C) a report of suspected child abuse or neglect has been received within the previous two years;**

**(D) there have been more than one child death or near-death in the family; and**

**(E) there is an identified concern about the investigative process or ongoing permanency planning or voluntary family-centered services case.**

**(3) CIRC is composed of OKDHS employees from:**

**(A) Children and Family Services Division;**

**(B) Field Operations Division;**

**(C) Family Support Services Division;**

**(D) Office of Client Advocacy; and**

**(E) Office of Information and Referral.**

**(4) CIRC members receive a copy of the applicable portions of the CW case record and read it prior to the scheduled review.**

**(5) Notice of the critical incidents review is sent to the appropriate area director, county director, and CW staff at least 30 calendar days prior to the scheduled review.**

**(6) Mandatory attendance at the CIRC includes the:**

**(A) CW case supervisor;**

**(B) CPS specialist; and**

**(C) permanency planning or voluntary family-centered services specialist.**

**(7) One staff person is prepared to verbally present the circumstances of the investigation and answer questions posed by the CIRC. Information regarding any ongoing services is provided by the permanency planning or voluntary family-centered services specialist.**

**(8) Administrative investigation of the death or near-death of a child known to CW. Upon receipt of a notice of the death or near-death of a child known to CW, CFSD CPS Section programs staff reviews the case and notifies the human services center chief operating officer and CFSD director who determines whether an administrative investigation occurs per OKDHS:2-3-2. A child known to CW is a child who at any time:**

**(1) within six months prior to the child's death or near-death incident:**

**(A) was the subject of a CPS assessment or investigation alleging child abuse or neglect;**

**(B) was the subject of a CPS report that CFSD determines was improperly screened out;**

**(C) resided in a household that included a member who was the subject of a CPS assessment or investigation alleging child abuse or neglect;**

**(D) was in OKDHS custody or under OKDHS supervision as a child alleged or adjudicated deprived;**

**(E) had an active CW case with OKDHS; or**

**(F) had an active voluntary family-centered services case; or**

**(2) during the two years preceding the child's death or near-death incident:**

**(A) was the subject of more than five CPS reports of abuse or neglect or three assessments or investigations alleging child abuse or neglect; or**

**(B) resided in a household that included a household member who was the subject of more than five CPS reports or three assessments or investigations alleging child abuse or neglect.**

**340:75-3-10.2. Findings for Child Protective Services investigations ■ 1 through 6**

Revised 3-26-10

After completing the Child Protective Services (CPS) investigation, a finding is made regarding whether the child was or is at risk of abuse, neglect, or both, per Section 1-1-105 of Title 10A of the Oklahoma Statutes and OAC 340:75. ■ 1

(1) **Ruled out.** A finding of ruled out means a report in which a child protective services worker, after an investigation, determines that no child abuse or neglect has occurred. ■ 2

(2) **Unsubstantiated – Services recommended.** A finding of Unsubstantiated - Services recommended means a report in which a child protective services worker, after an investigation, determines there is insufficient evidence to fully determine whether child abuse or neglect has occurred, but one in which Oklahoma Department of Human Services (OKDHS) determines the child and family of the child may benefit from prevention and intervention-related services. Services may be provided either by OKDHS or other community resources or providers.

(3) **Substantiated – Services recommended.** A finding of Substantiated – Services recommended means a report is determined, by a child protective services worker, after an investigation, and based upon some credible evidence, to constitute child abuse or neglect that is of such a nature that OKDHS recommends prevention and intervention-related services for the parents or person(s) responsible for the child (PRFC(s)) and the child, but for which initial court intervention is not required. Services may be provided by OKDHS or other community resources or providers.

(4) **Substantiated - Court intervention recommended.** A finding of Substantiated - Court intervention recommended means a report that is determined, by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect that is of such a nature that OKDHS finds the child's health, safety, or welfare is threatened. ■ 3

(5) **Reasonable exercise of parental discipline.** Per 10A O.S. § 1-2-105, if an investigation or assessment conducted by OKDHS in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force,

including spanking, switching, or paddling, the investigation or assessment will proceed no further and all records regarding the incident are expunged. ■ 4

## **INSTRUCTIONS TO STAFF 340:75-3-10.2**

Revised 10-1-11

1. **Child Protective Services (CPS) findings.** CPS findings are entered into the KIDS system. Form 04KI003E, Report to District Attorney, is used to document all findings.

(1) **CPS investigative findings.** Findings in OAC 340:75-3-10.2 (1) through (5) are made only in CPS investigations and not in CPS assessments according to the guidelines in OAC 340:75-3-10.3.

(2) **Documentation.** Form 04KI003E is initially used to document all investigative findings, including a finding of reasonable exercise of parental discipline. Procedures in OAC 340:75-3-12 Instructions to Staff (ITS) are followed to document findings in KIDS.

(3) **Other findings.** CPS investigation findings, other than those found in OAC 340:75-3-10.2 (1) through (5), or assessment conclusions that may be used under very specific circumstances are:

(A) an unable to locate conclusion or finding. This conclusion or finding may be made when diligent efforts were to locate the child victim and family per OAC 340:75-3-7.4 Instructions to Staff (ITS) # 26; and

(B) a failure to cooperate conclusion or finding. This conclusion or finding may be made when the person responsible for the child (PRFC) does not cooperate in an assessment or investigation by refusing to allow access to the child victim for observation and interview per OAC 340:75-3-7.4 ITS # 25.

2. **Ruled out.** When there is no identified risk of child abuse or neglect and the family does not need prevention or intervention-related services, a finding of ruled-out is appropriate.

3. **Substantiated – Services recommended.**

**(1) A Substantiated – Services recommended finding is appropriate when a report is determined by a CPS specialist, after an investigation and based upon some credible evidence, to constitute child abuse or neglect and:**

**(A) the PRFC cooperates with Oklahoma Department of Human Services (OKDHS) to modify his or her behaviors or conditions in the home that caused the abuse or neglect to occur;**

**(B) the PRFC agrees to voluntarily participate in family-centered services; and**

**(C) the OKDHS case remains open to monitor the safety plan; or**

**(D) a PRFC is determined able to control or manage the safety threats by taking action and has the protective capacity to keep the child safe.**

**(2) Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record per OAC 340:75-3-13.**

**4. (a) Substantiated – Court intervention recommended finding. Cases that meet the definition of serious abuse or neglect and warrant court intervention to protect the child are appropriate for a Substantiated – Court intervention recommended finding. Refer to OAC 340:75-3-10.1 and 340:75-3-11 for additional information regarding decisions about court intervention.**

**(b) Other options for Substantiated – Court intervention recommended finding. Certain situations, due to the seriousness of the abuse or neglect, require a finding of Substantiated – Court intervention recommended when a deprived petition is not requested, such as:**

**(1) foster or trial adoptive home investigations. When a foster or trial adoptive home investigation is conducted, court intervention has already been initiated regarding the child in OKDHS custody. A Substantiated – Court intervention recommended finding is appropriate when:**

**(A) a determination is made that serious abuse or neglect occurred in the foster or trial adoptive home; and**

**(B) law enforcement is conducting a joint criminal investigation;**

**(2) child care center and child care home investigations. Deprived court**

intervention is not necessary for child care center and child care home investigations. When there is concern the parent is not protecting the child from the child care center or child care home perpetrator, a separate referral is made regarding the parent's alleged failure to protect the child and an assessment or investigation is conducted, when indicated. A Substantiated – Court intervention recommended finding is appropriate for child care center and child care home investigations when:

(A) a determination is made that serious abuse or neglect occurred in the child care center or child care home;

(B) law enforcement is conducting a joint criminal investigation; and

(C) Oklahoma Child Care Services (OCCS) is investigating continued licensure for the facility or home; and

(3) when a child dies as the result of abuse or neglect by a person responsible for the child (PRFC) and there are no surviving siblings. A Substantiated – Court intervention recommended finding is appropriate when the cause of the death was of such a serious nature that a criminal investigation is conducted by law enforcement.

5. Reasonable exercise of parental discipline. A finding of reasonable exercise of parental discipline is made when circumstances indicate that a PRFC used ordinary force and age appropriate, reasonable discipline methods that did not result in injury or visible marks on the child. When a finding is made that the report is the result of reasonable parental discipline, the case information is forwarded to Children and Family Services Division CPS Section for review, per OAC 340:75-3-12 ITS # 2.

6. (a) Final determination review process. The final substantiated finding in an out-of-home or critical incident investigation as described in OAC 340:75-3-9.1 ITS # 5 is deferred for 90 days pending review and final determination by Children and Family Services Division (CFSD).

(1) Upon completion of Form 04KI003E, Report to District Attorney (DA), the child welfare field liaison (CWFL) reviews the substantiated finding of the out-of-home or critical incident investigation for compliance with OAC 340:75-3-10.3 and 340:75-3-2 and documents the review in the KIDS Review screen.

**(2) When the proposed substantiated finding is not in compliance with OAC 340:75-3-10.3 and 340:75-3-2, the CWFL:**

**(A) mentors the CW specialist and supervisor;**

**(B) requests additional information or investigation, as necessary; and**

**(C) revises the finding when appropriate.**

**(3) When an appeal of a substantiated finding is requested by the PRFC, the CFSD Appeals Section:**

**(A) reviews the proposed finding for compliance with OAC 340:75-3-10.3 and 340:75-3-2; and**

**(B) documents the final determination review in the appeals screen in KIDS per OAC 340:75-3-20.**

**(4) When no appeal is requested by the PRFC, the CFSD CPS Section reviews the proposed finding for compliance with OAC 340:75-3-10.3 and 340:75-3-2.**

**(A) When the proposed substantiated finding is consistent with OAC 340:75-3-10.3 and 340:75-3-2, no action is taken and the review is documented in the appeals screen in KIDS.**

**(B) When the proposed substantiated finding is inconsistent with OAC 340:75-3-10.3 and 340:75-3-2:**

**(i) the CFSD CPS Section contacts the appropriate area director, county director, and CWFL to assure all relevant information is considered prior to the final determination;**

**(ii) CFSD CPS Section amends the finding, when appropriate, and notifies the appropriate area director, county director, and CWFL of the change; and**

**(iii) the county office notifies the PRFC and district attorney of the new finding, when necessary.**

**(5) After the CFSD CPS review and the exchange of information between**

**county and program staff, the finding becomes final.**

**(b) CFSD CPS final determination review and finding.**

**(1) Upon receipt of the full case record, the CFSD CPS Section conducts a review of the out-of-home or critical incident investigation for compliance with OAC 340:75-3-10.3 and 340:75-3-2 and makes a final determination by:**

**(A) upholding the proposed finding;**

**(B) citing an improper entry and entering the revised finding; or**

**(C) amending the proposed finding in KIDS.**

**(2) When a finding is changed, the CFSD CPS Section:**

**(A) updates KIDS accordingly; and**

**(B) notifies the county, area, and other appropriate program staff of the change and related information within five business days; or**

**(C) may conduct a formal review with area and county staff.**

**(c) Re-opening the out-of-home or critical incident investigation involving a death or near-death pending final determination. During the final determination review process, the investigation may be re-opened at the request of CFSD CPS Section or Field Operations to add additional information or conduct additional interviews.**

**(d) Critical incident review during the final determination process. A case may be set for critical incident review during or after the final determination review process.**

**340:75-3-10.3. Substantiation protocol**

Revised 3-26-10

Specific guidelines in conjunction with definitions found in OAC 340:75-3-2 are utilized in substantiating findings of abuse or neglect. ■ 1

**INSTRUCTIONS TO STAFF 340:75-3-10.3**Revised 10-1-11

1. **Guidelines for substantiated finding of abuse or neglect.** Guidelines described in (1) through (12) apply when all required and necessary interviews and observations with the child, person responsible for the child (PRFC), and collaterals have been conducted, except when a modification is approved by the Child Welfare (CW) supervisor.

**(1) Abandonment.**

**(A) Prior to substantiating abandonment, the CW specialist considers:**

**(i) the PRFC's explanation of the incident to determine the reason the PRFC did not resume custody of the child;**

**(ii) whether mitigating circumstances exist, such as a teen parent who is in Oklahoma Department of Human Services (OKDHS) custody and who is unable, but not unwilling to provide care for the child;**

**(iii) the duration and chronicity of the PRFC's absence;**

**(iv) the efforts by the caregiver to locate the PRFC; and**

**(v) the impact of the PRFC's absence on the child.**

**(B) In general, to substantiate abandonment one of the factors in (i) through (v) is present. The PRFC:**

**(i) leaves the child, and there are no stated or implied plans by the PRFC to resume care or custody of the child;**

(ii) arranges for a substitute caregiver and the substitute caregiver:

(I) is unwilling or unable to continue to care for the child. The child left with an appropriate caregiver is not abandoned unless the caregiver refuses to continue to provide care. Refer to OAC 340:75-3-2 ITS # 1; and

(II) is unable to locate the PRFC, and more than 24 hours have passed;

(iii) fails to make an effort to retrieve the child from the substitute caregiver and more than 24 hours have passed.

(iv) refuses to provide or assume care of the child or make appropriate alternative arrangements for the child; or

(v) is unable to provide care for the child and will not be able to assume care of the child.

(2) Domestic violence.

(A) Prior to substantiating domestic violence, the CW specialist considers the:

(i) child's age and vulnerability;

(ii) the severity of the incident; and

(iii) capacity of the PRFC to protect the child.

(B) In general, to substantiate domestic violence there:

(i) is an incident that results in serious physical harm to a member of the household;

(ii) is a pattern of assaultive and coercive behaviors between adults when a child is present that include, but are not limited to:

(I) threats that involve the child;

(II) choking the victim;

**(III) physical injury requiring medical attention; or**

**(IV) the presence of weapons; or**

**(ii) are safety threats to the child that pose:**

**(I) imminent or impending physical danger; or**

**(II) significant neglect; or**

**(III) significant emotional harm.**

**(3) Educational neglect.**

**(A) Prior to substantiating educational neglect, the CW specialist considers whether the child is receiving an alternative form of education and when the child is not, considers the:**

**(i) frequency and duration of non-attendance;**

**(ii) efforts made by the school district to rectify the problem;**

**(iii) PRFC's response to the efforts documented by the school district; and**

**(iv) PRFC's attempts to resolve the problems.**

**(B) In general, to substantiate educational neglect the factors in (i) and (ii) are present.**

**(i) The child fails to attend school or receive other means of education due to the PRFC's pattern of behavior.**

**(ii) The school district exhausts all available means to compel attendance and the PRFC has failed to respond.**

**(4) Failure to protect.**

**(A) Prior to substantiating failure to protect, the CW specialist considers:**

- (i) the PRFC's knowledge of a potential safety threat to the child;
- (ii) the PRFC's overall attitude regarding the child's need for safety; and
- (iii) whether a reasonable adult could have predicted harm to the child in the situation. A reasonable person acts sensibly, acts without serious delay, and takes proper, but not excessive precautions.

(B) In general, to substantiate failure to protect, either or both of the factors in (i) and (ii) are present.

- (i) The PRFC had knowledge or could have predicted that the child would be:
  - (I) in an unsafe situation; or
  - (II) with an individual who had a history of abusive, neglectful, or violent behavior.
- (ii) The PRFC failed to show attention, care, or consideration for the child's need for safety.

(C) When someone other than the PRFC is the perpetrator of the abuse or neglect to the child and:

- (i) the PRFC has protected the child and will continue to protect the child, a finding of ruled out is made unless the CW specialist determines services are recommended to continue to ensure the child's protection; or
- (ii) it appears the abuse or neglect was attributable to failure on the part of the PRFC to protect the child, a finding of substantiated failure to protect is appropriate.

(5) Lack of supervision.

(A) Prior to substantiating lack of supervision, the CW specialist considers the:

- (i) child's competence;
- (ii) environment where the child is left unsupervised;
- (iii) duration and frequency the child is left without supervision;
- (iv) child's accessibility to a capable adult;
- (v) PRFC's expectations of the child while the child is alone;
- (vi) resources available to the PRFC to improve the supervision plan;  
and
- (vii) the PRFC's ability to make safety-related decisions regarding the child.

(B) In general, to substantiate lack of supervision the factors in (i) and (ii) are present.

(i) The child is placed in situations beyond the child's developmental ability to manage without competent supervision, guidance, or protection.

(ii) The circumstances of the supervision plan are such that a reasonable person would be expected to foresee that the child is placed in danger of physical harm, sexual abuse, or sexual exploitation.

(6) Medical neglect. In general, to substantiate medical neglect, consultation with medical personnel occurs and either factors (A) and (B) are present or factor (C) is present.

(A) The child does not receive medical, dental, or behavioral health care for a documented health problem that, if untreated, may place the child in imminent or impending jeopardy of limitation, incapacitation, or death.

(B) The PRFC demonstrates a consistent refusal to obtain and follow through with specified medical care.

- (C) The health of the child was significantly endangered by the PRFC's failure to obtain medical treatment for the child.
- (7) Mental injury - emotional abuse or neglect. In general, to substantiate mental injury one or more of the factors in (A) through (C) is present.

(A) The PRFC demonstrates a pattern of emotionally abusive or neglectful behavior causing the child extreme unpleasant mental reactions such as fright, horror, grief, shame, or humiliation.

(B) A professional opinion from someone with skills in diagnosing behavioral health concerns indicates the PRFC's behavior causes the child's observable and substantial impairment of his or her intellectual or emotional functioning.

(C) There is cumulative documentation of the child's impairment and the PRFC's behaviors such as:

- (i) statements by the child and at least one competent witness;
- (ii) the PRFC's description of a typical family interaction;
- (iii) the PRFC's description of an attitude toward the child;
- (iv) collaborative evidence provided by collateral sources familiar with the family; or
- (v) the CW specialist's observation and assessment of the child's behavior and demeanor.

(8) Neglect.

(A) Prior to substantiating neglect, the CW specialist considers the:

- (i) impact on the child related to the child's age, physical condition, and vulnerability to the conditions;
- (ii) PRFC's pattern of neglectful behavior;
- (iii) duration of the neglect; and

**(iv) resources available to the PRFC to assist the PRFC with increasing protective capacities.**

**(B) In general, to substantiate neglect, the factors in (i) and (ii) are present.**

**(i) The PRFC does not provide basic food, clothing, or shelter, supervision, or essential medical, dental, or behavioral health care necessary for the child's health or safety, due to the PRFC's behaviors or refusal to use available resources.**

**(ii) The child is harmed or threatened with substantial harm as the result of the PRFC's behavior.**

**(9) Physical abuse.**

**(A) Prior to substantiating physical abuse, the CW specialist:**

**(i) determines whether the child sustained a physical injury;**

**(ii) assesses the severity of the injury; and**

**(iii) obtains the explanation given by the PRFC and child for the injury.**

**(B) Minor injury on a child older than ten years of age is not considered physical abuse unless the PRFC's actions that caused the injury created a probability that the child would sustain a more serious injury.**

**(C) In general, to substantiate physical abuse the factors in (i) and (ii) are present.**

**(i) The child sustains a physical injury inflicted by the PRFC resulting in permanent or temporary damage to the child's body from extreme physical punishment, punching, beating, kicking, biting, burning, or otherwise harming the child.**

**(ii) The injury is inflicted non-accidentally by the PRFC.**

**(D) When the PRFC does not admit inflicting the injury to the child, one or more pieces of evidence in (i) through (iii) is present.**

(i) In the professional judgment of the CW specialist, the injury is clearly consistent with abuse or neglect based on credible evidence gathered regarding the cause of the injury.

(ii) It is the opinion of medical personnel that the injury is consistent with abuse.

(iii) A witness statement corroborates the child's statement.

(E) Physical abuse may be substantiated without the presence of an injury when the PRFC admits to an action that in the CW specialist's opinion based on professional training or on collaborating witness statements constitutes the potential for substantial injury to the child such as:

(i) the child is customarily hit in the face or head or receives extreme physical punishment inconsistent with the explanation; or

(ii) the child is very young and frail.

(10) Sexual abuse and sexual exploitation. Sexual abuse and sexual exploitation of a child seldom results in physical evidence and often a child victim, due to the seriously troubling emotional aspects of sexual abuse, does not provide consistent reliable information. The absence of substantiation does not mean that sexual abuse or sexual exploitation did not occur. It merely means that the information obtained during the investigation is not sufficient to substantiate the allegation.

(A) Prior to substantiating sexual abuse or sexual exploitation, the CW specialist considers that:

(i) the statements and behaviors of the child are usually the primary sources of documentation of sexual abuse;

(ii) to substantiate sexual abuse or sexual exploitation based solely on the child's statement and behavior, the child's ability to describe or demonstrate the specific sexual acts must be present and supported by the child's description as to the context of the sexual abuse; and

**(iii) when witnesses in the sexual abuse investigation provide information that supports the child's statement and behavior, the information may be used to support substantiation of sexual abuse.**

**(B) The three aspects explored regarding the child's statement and behavior are listed in (i) through (iii).**

**(i) The child's ability to describe either verbally or behaviorally the:**

**(I) sexual behavior by exhibiting sexual knowledge beyond what is expected for the child's developmental stage;**

**(II) description of the sexual behavior from a child's viewpoint;  
and**

**(III) explicit accounts of sex acts.**

**(ii) Generally, a child may be able to provide three or more details about the context of the victimization such as:**

**(I) where it happened;**

**(II) when it happened;**

**(III) what the perpetrator said to obtain the child's involvement;**

**(IV) where other family members were;**

**(V) what the victim was wearing;**

**(VI) what pieces of the child's clothing were removed;**

**(VII) what the perpetrator was wearing;**

**(VIII) what pieces of the perpetrator's clothing were removed; and**

**(IX) the child's emotional state during the abuse such as being scared, feeling bad, or being confused;**

**(X) whether the perpetrator said anything about the child or perpetrator telling or not telling;**

**(XI)** whether the child told anyone; and

**(XII)** the reactions of persons the child told.

**(iii)** The child's statement and behavior **is explored regarding** the child's affect or emotional reaction when recounting sexual abuse. Common emotional reactions to disclosure include:

**(I)** reluctance to disclose;

**(II)** embarrassment;

**(III)** anger;

**(IV)** anxiety;

**(V)** disgust;

**(VI)** sexual arousal; or

**(VII)** fear.

**(C)** Medical evidence of sexual abuse is seldom found in sexual abuse or sexual exploitation cases. The probability of medical findings is greater with younger children, acute abuse, and the availability of a skilled examiner. Most medical evidence will be described as consistent with or suggestive of sexual abuse rather than conclusive.

**(D)** Complete confession by the perpetrator during the CW **specialist's** investigation rarely occurs. The perpetrator may:

**(i)** admit to some but not all sexual abuse described by the child victim. Typically, the admission is to lesser acts; or

**(ii)** indirectly admit to the sexual abuse without directly stating that he or she sexually abused the child, for example, the perpetrator says the child isn't lying but doesn't admit his or her guilt.

**(E)** In general, to substantiate sexual abuse, one **or more** of the factors in (i) through (iii) **are** present;

(i) the child's statement and behavior includes the ability to describe or demonstrate specific sexual acts and the ability to describe the context of the sexual abuse;

(ii) medical evidence; or

(iii) confession of the perpetrator, whether a:

(I) complete confession;

(II) partial confession; or

(III) indirect admission.

(F) A specific perpetrator does not need to be identified to substantiate sexual abuse or sexual exploitation.

(G) A child's recantation of a previous account of sexual abuse or sexual exploitation is not uncommon and does not automatically indicate the previous findings were inaccurate.

(11) Threat of harm. In general, to substantiate threat of harm, the factors in (A) and (B) are present.

(A) The PRFC either intended to act, acted, omitted to act, or knew about conditions that placed the child in imminent or impending danger.

(B) The intentions, actions, omission, or conditions could have resulted in serious physical injury, sexual abuse, or serious neglect.



**340:75-6-40.4. Individualized Service Plan (ISP) ■ 1 through 11**

Revised 7-1-11

(a) **General ISP requirements.** Form 04KI012E, Individualized Service Plan (ISP), and Form 04KI013E, Individualized Service Plan (ISP) Dispositional Report, are components of the case plan. Oklahoma Department of Human Services (OKDHS) prepares and maintains a written individualized service plan per Section 1-4-704 of Title 10A of the Oklahoma Statutes, for any child that has been adjudicated a deprived child and furnishes the plan to the court within 30 days after the adjudication of the child. A copy is made available by OKDHS to counsel for the parties and any applicable tribe.

(1) The (ISP) is based upon a comprehensive assessment and evaluation of the child and family and is developed with the participation of the child, when appropriate, and the child's, parent, legal guardian, legal custodian, attorney, guardian ad litem and tribe, when applicable. The health and safety of the child is the paramount concern in the development of the ISP.

(2) When any part of the ISP is disputed or not approved by the court, an evidentiary hearing may be held and the court determines the content of the ISP in accord with the evidence presented and in the best interests of the child.

(3) The ISP is signed by:

(A) the parent or parents or legal guardian of the child;

(B) the attorney for the parent or parents or legal guardian of the child;

(C) the child's attorney;

(D) the guardian ad litem of the child, if any, that may be a court-appointed special advocate;

(E) a representative of the child's tribe;

(F) the child, if possible; and

(G) OKDHS.

(4) Every ISP is individualized and specific to each child and the family of the child.

(5) The ISP is written in simple and clear English. If English is not the principal language of the parent, legal guardian, or custodian of the child, and the person is unable to read or comprehend the English language, to the extent possible, the ISP is written in the principal language of the person.

(6) The ISP may be modified based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child or other conditions inconsistent with the health, safety, or welfare of the child.

(7) The ISP is measurable, realistic, and consistent with the requirements of other court orders.

(b) **ISP for the parent or legal guardian.** The ISP for the parent or legal guardian includes, but is not limited to:

(1) a history of the child and family, including identification of the problems or conditions leading to the deprived child adjudication and the changes the parent or parents must make in order for the child to safely remain in or return to the home;

(2) the permanency plan for the child, the reason for selection of that plan and a description of the steps being taken by OKDHS to finalize the permanency plan;

(3) identification of time-limited reunification services to be provided to the parent, legal guardian, or legal custodian, stepparent, other adult person living in the home, or other family members;

(4) a schedule of the frequency of services and the means by which delivery of the services will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services;

(5) the name of the Child Welfare worker assigned to the case;

(6) a projected date for the completion of the ISP;

(7) performance criteria that measures the progress of the child and family toward completion of the ISP including, but not limited to, time frames for achieving objectives and addressing the identified problems;

(8) the sequence and time frames for services to be provided to the parent to facilitate the child's return home.

(9) a description of any services or resources that were requested by the parent or legal guardian of the child since the date of the child's placement, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(10) efforts to be made by the parent of the child and OKDHS to enable the child to return to his or her home;

(11) a plan and schedule for regular and frequent visitation for the child and the child's parent(s) or legal guardian and siblings, unless the court has determined that visitation, even if supervised, would be harmful to the child;

(12) provisions for the safety of the child, in accordance with state and federal law, and clearly defined actions or precautions necessary to provide for the safety and protection of the child;

(13) the statement: TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU; and

(14) whenever a child in OKDHS custody or under the protective supervision of OKDHS, is committed for inpatient behavioral health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the ISP is amended as necessary and appropriate, including, but not limited to, identification of the treatment and services to be provided to the child and child's family upon discharge of the child from inpatient behavioral health or substance abuse treatment.

(c) **Permanency ISP.** In accordance with federal and state statutes, when the permanency plan is adoption or legal guardianship, OKDHS describes, at a minimum, child-specific recruitment efforts such as relative searches conducted and the use of state, regional, and national adoption exchanges to facilitate the orderly and timely placement of the child, whether in or outside of the state. ■ 8

(d) **ISP for Independent Living (IL) youth.** Federal law requires the initiation of an IL plan with every child in OKDHS custody and out-of-home placement upon reaching 16 years of age, per Part 13 of OAC 340:75-6. This plan includes a description of how the following objectives will be met:

- (1) education, vocational, or employment planning;
- (2) health care planning and medical coverage;
- (3) transportation including, where appropriate, assisting the child in obtaining a driver license;
- (4) money management;
- (5) planning for housing;
- (6) social and recreational skills; and
- (7) establishing and maintaining connections with the child's family and community.

#### **INSTRUCTIONS TO STAFF 340:75-6-40.4**

##### **Revised 10-1-11**

#### **1. Initiation of the ISP. The ISP:**

**(1) is initiated as soon as the parent is willing to begin the process. A plan is developed prior to the dispositional hearing or no later than 60 days from the child's removal or the filing of the petition, whichever comes first, so services may begin to correct the conditions that created the child safety threats.**

**(2) addresses the behaviors and conditions the parent, legal guardian, legal custodian, stepparent, or other adult person living in the home must change to alleviate the safety threats to the child and the conditions of deprivation set out in the petition;**

**(3) lists all risk-related needs and safety threats. The allegations in the deprived petition are the safety threats that must be addressed.**

#### **2. Parent or legal guardian individualized service plan (ISP). The Child Welfare (CW) specialist and family develop the initial Form 04KI012E, Individualized Service Plan (ISP), after Form 04KI028E, Family Functional Assessment, is completed.**

- 
- (1) Form 04KI013E, Individualized Service Plan (ISP) Dispositional Report, is furnished to the court within 30 days after the adjudication of the child as a deprived child or earlier when ordered by the court.**
- (2) Prior to the adjudication hearing, the ISP is initiated with the parent on a voluntary basis.**
- (3) The ISP includes documentation, when applicable, that the parent is unwilling to participate in the development or implementation of the plan.**
- (4) Refer to OAC 340:75-6-40.4(a) through (d) for ISP required information.**
- (5) An ISP is not required for the parent or legal guardian when:**
- (A) a request for immediate termination of parental rights or guardianship is filed; or**
- (B) the court finds efforts to reunite are not required.**
- 3. Age-appropriate child. Participation or input from the parent, legal guardian, child, when appropriate, child's attorney, and when applicable, the child's tribe, and guardian ad litem is utilized in the development of the ISP. An age-appropriate child is:**
- (1) ten years of age or older with the exception of a child with severe developmental disabilities; or**
- (2) a child younger than ten years of age who is intellectually capable of understanding and communicating ideas and opinions concerning the development and completion of the plan.**
- 4. Estimated completion dates. Each ISP has an estimated completion date. The parent's ISP estimated completion date is not changed when adequate time is given to the parent and the parent fails to complete the plan. The parent is informed:**
- (1) services have time constraints due to statutory requirements;**
- (2) of the psychological and emotional harm that may occur to the child in out-of-home placement; and**

**(3) the child, when age appropriate, is advised of the parent's progress on the ISP.**

**5. Modification of ISP at dispositional hearing.**

**(1) The individualized service plan is recommended to the court by the CW specialist at the first dispositional hearing on Form 04KI013E, Individualized Service Plan (ISP) Dispositional Report.**

**(2) Per Section 1-4-704 of Title 10A of the Oklahoma Statutes, when any part of the plan is disputed or not approved by the court, an evidentiary hearing may be held and at its conclusion, the court determines the content of the ISP in accordance with the evidence and the best interests of the child.**

**(3) The ISP is revised after the first dispositional hearing to conform to the court's dispositional order.**

**6. ISP signatures and distribution.**

**(1) Form 04KI013E is signed prior to submission to the court by the:**

- (A) parent;**
- (B) child, when age appropriate;**
- (C) CW specialist; and**
- (D) CW supervisor.**

**(2) Form 04KI013E, after modification by the court, if any, is:**

- (A) incorporated and made a part of the dispositional order;**
- (B) revised by OKDHS; and**
- (C) signed by and distributed to:**
  - (i) the parent, legal guardian, or custodian of the child;**

**(ii)** the attorney for the parent, legal guardian, or custodian of the child;

**(iii)** the child's attorney;

**(iv)** the guardian ad litem of the child, who may be a court-appointed special advocate, when applicable;

**(v)** the Indian Child Welfare worker, when applicable;

**(vi)** the child, when possible; and

**(vii)** the CW specialist.

**7. Updating the ISP.** The ISP is updated by utilizing Form 04KI014E, Individualized Service Plan (ISP) Progress Report, and is:

**(1)** used to document the parent's progress toward completion of the ISP every six months or prior to every review and dispositional hearing, whichever is earlier; and

**(2)** submitted to the court three judicial days prior to the hearing unless the court of jurisdiction requires a different submission requirement.

**8. Permanency ISP.**

**(1)** The CW specialist develops a permanency ISP addressing permanency for the child when a determination is made that:

**(A)** return of the child to the child's own home is no longer the permanency plan;

**(B)** reasonable efforts have been made and failed or are not required per a finding by the court; or

**(C)** a petition or motion for termination of parental rights has been or will be filed.

**(2)** The permanency ISP is developed with participation or input from the:

**(A)** placement provider;

- (B) child, when age appropriate;
  - (C) child's attorney;
  - (D) Indian Child Welfare worker, when applicable; and
  - (E) child's guardian ad litem, when applicable.
- (3) When the child is in OKDHS permanent custody, the permanency ISP is updated as necessary and used as the basis for completing Form 04KI014E, Individualized Service Plan (ISP) Progress Report.
- (4) When the permanency plan for the child is adoption or other permanent placement, the permanency ISP is updated and the information is provided to the court on Form 04KI014E regarding child-specific recruitment efforts such as:
- (A) relative searches conducted; and
  - (B) the use of state, regional, and national adoption exchanges, including electronic exchange systems to facilitate timely and orderly in-state and interstate placements.
- (5) The permanency ISP and Form 04KI014E documents the steps OKDHS takes to:
- (A) find an adoptive family or other permanent living arrangement for the child;
  - (B) place the child;
    - (i) with an adoptive family;
    - (ii) with a fit and willing kinship relation;
    - (iii) with a permanent guardian; or
    - (iv) in another planned permanent living arrangement; and
  - (C) finalize the adoption, permanent guardianship, or other permanent placement.

(6) OKDHS recommends the permanency plan and, when applicable, the concurrent permanency plan. The use of Form 04MP040E, Progressive Safe Permanency Tool, assists to determine poor prognosis indicators during the safety analysis, functional assessment, and through ongoing work with the family. OKDHS recommends the permanency plan to the court and requests the court make a judicial finding regarding "reasonable efforts."

(A) The recommendation for the permanency plan and recommendation for the judicial finding must be consistent.

(i) When OKDHS recommends the court modify the judicial finding, the recommended modification and a concise explanation supporting the reason for the modification is provided in the Recommendations section of Form 04KI009E, Court Report, and Form 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable.

(ii) The permanency plan is updated to be consistent with the modified recommendation to the court. Inconsistency between the judicial finding and the permanency plan occurs when the CW specialist requests the court enter a finding that reasonable efforts have failed, but the permanency plan is Return to Own Home.

(B) The CW specialist's recommendation regarding the permanency plan is based on the child's best interests, not on the expected response or receptivity of the court or others.

9. Child support. The parent or legal guardian's obligation to assist with the financial support of the child is addressed in the parent or legal guardian's ISP.

(1) When the court has not addressed child support, the CW specialist recommends child support be court-ordered, per OAC 340:75-13-26.

(2) When child support is court-ordered and the parent fails to comply, the CW specialist recommends the court address the matter with the parent.

(3) The amount of financial support is based on the child support guidelines, per 43 O.S. § 118 and 119, that the court follows when

entering a child support order for each parent in a deprived court action. The court may deviate from the child support guidelines when it is determined necessary for the parent to meet the obligations of a court-imposed individualized service plan or for other reasons as the court deems appropriate.

(2) The child support computation form is completed by the court, parent or legal guardian, or legal custodian's attorney, or may be referred to Oklahoma Child Support Services (OCSS) for completion. Upon a judge's signature, the computation form is incorporated as a part of the child support order enforced by OCSS.

#### 10. Court-ordered ISP modified only by court order.

(1) A court-ordered ISP or portion of an ISP may be modified only by further order of the court.

(2) Court-ordered ISP modifications are based on changing circumstances or other conditions causing the plan to be inconsistent with the health, safety, or welfare of the child.

(3) OKDHS recommended changes to the ISP are developed with the parent and child, as appropriate, and recommended to the court at the next hearing.

(4) The placement provider is informed of any change that affects the child's care.

(5) Changes are recommended by OKDHS when one of the circumstances in (A) through (C) exists.

(A) New allegations of abuse or neglect are adjudicated as a result of a post-adjudication or new petition.

(B) Discovery is made of additional underlying causes, such as substance abuse that requires treatment.

(C) An additional adult, such as the mother's new husband, becomes a part of the family home.

**(6)** When the court orders modification of the ISP, the plan is revised by OKDHS to include the modified requirements.

**(7)** The parent is informed of the court-ordered modifications and provided a copy of the modified ISP.

**11.** Minor parent in OKDHS custody who has a child in care. An ISP is developed with a minor parent in OKDHS custody, who has a child in OKDHS care, whether or not the minor's child is in OKDHS custody. Services are identified and provided to assist the minor parent in OKDHS custody with parenting his or her child, per OAC 340:75-6-85.6.

**(1)** When a child is born to a minor parent who is in OKDHS custody, the minor's child is placed in the same placement as the minor parent, when possible, and the placement is considered the child's own home.

**(2)** When voluntary placement is determined appropriate and is requested by the minor parent, the CW specialist:

**(A)** sends a written request to the CW supervisor detailing the plan and length of care. The CW supervisor approves or denies the request in writing and the documents are filed in the paper case record;

**(B)** provides the minor parent with Form 04FC007E, Authorization from Parent or Guardian for Voluntary Foster Home Placement and Medical Care of Child, for signature;

**(C)** opens a voluntary foster care case in KIDS. The minor parent in custody is designated the parent. The placement episode for the child is entered in the voluntary foster care case, but not in the permanency planning case of the minor parent in custody; and

**(D)** develops an ISP that addresses:

**(i)** safety and protection of the child without court intervention;

**(ii)** the role and responsibility of the placement provider;

**(iii)** appropriate child care plans while the minor parent is attending school, working, or involved in extracurricular activities; and

**(iv) measures for ensuring the child's basics needs are met.**

**340:75-6-40.5. Court reports ■ 1 through 9**

Revised 3-26-10

(a) **Review by the court.** Per Section 1-4-807 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-807) each case regarding a child alleged or adjudicated deprived is reviewed by the court:

(1) at a hearing no later than six months from the date of the child's removal from the home and at least once every six months thereafter until permanency is achieved or the court otherwise terminates jurisdiction;

(2) when Oklahoma Department of Human Services (OKDHS) documents a compelling reason why a petition to terminate parental rights to a child is not in the best interests of the child, based upon consideration that the child is presently not capable of functioning in a family setting. The court reevaluates the status of the child every 90 days until there is a final determination the child cannot be placed in a family setting;

(3) Per 10A O.S. 1-4-811, permanency hearings are held to determine the appropriate permanency goal for the child and to order completion of all steps necessary to finalize the permanent plan. A permanency hearing may be held concurrently with a dispositional or review hearing. The hearing is held no later than:

(A) six months after placing the child in out-of-home placement and every six months thereafter. A child is considered to have entered out-of-home placement on the earlier of the:

(B) adjudication date; or

(C) date that is 60 days after the date the child is removed from the home; and

(4) thirty days after a determination by the court that reasonable efforts to return a child to either parent are not required.

(5) A permanency hearing may be held concurrently with a dispositional or review hearing.

(b) **Purpose of review or permanency hearing reports.** Court reports are a component of the case plan. Progress review reports are based in part on OKDHS talking with and observing the family, talking with other key case participants, and

reviewing progress reports from service providers. The information gathered is reported to the court for evaluation of the efficacy of the individualized service plan and as a means for recommending changes needed as family service and intervention needs change as families make progress or face setbacks. ■ 1 & 2

(c) **Review hearing report requirements.** OKDHS prepares for each review hearing a written report concerning each child who is the subject of the review per 10A O.S. § 1-4-808. The report includes, but is not limited to:

(1) a summary of the physical, mental, and emotional condition of the child, the conditions existing in the out-of-home placement where the child has been placed, and the adjustment of the child thereto;

(2) a report on the progress of the child in school and, if the child has been placed outside the child's home, the visitation exercised by the parents of the child or other persons authorized by the court;

(3) services being provided to a child 16 years of age or older to assist in the transition from out-of-home care or other community placement to independent living;

(4) description of:

(A) progress on the part of the parent(s) to correct the conditions which caused the child to be adjudicated deprived;

(B) changes that still need to occur and the specific actions the parent(s) would take to make the changes; and

(C) services and assistance that have been offered or provided to the parent(s) since the previous hearing and the services which are needed in the future;

(5) description of the placements of the child by number and type with dates of entry and exit, reasons for the placement or change in placement, and a statement about the success or lack of success of each placement;

(6) efforts by OKDHS to locate the parents and involve them in the planning for the child if the parents are not currently communicating with OKDHS;

(7) compliance by OKDHS, as applicable, and the parent with the court's orders concerning the individualized service plans, previous court orders, and OKDHS recommendations;

(8) whether the current placement is appropriate for the child, its distance from the home of the child, and whether it is the least restrictive, most family-like placement available;

(9) a proposed timetable for the return of the child to the home or other permanent placement;

(10) specific recommendations, giving reasons whether:

(A) trial reunification should be approved by the court;

(B) trial reunification should be continued to a date certain as specified by the court;

(C) the child should remain in or be placed outside of the home of the parent or legal guardian of the child; or

(D) the child should remain in the current placement when the permanency plan is other than reunification with the parent or legal guardian of the child; and

(11) a plan for ensuring the educational stability of the child while in out-of-home placement, including:

(A) assurances the placement of the child considers the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement; and

(B) where appropriate, an assurance that OKDHS has coordinated with appropriate local educational agencies to ensure the child remains in the school in which the child was enrolled at the time of placement; or

(C) if remaining in the school in which the child was enrolled at the time of placement is not in the best interests of the child, assurances by OKDHS and the local educational agencies to provide immediate and appropriate enrollment in a new school with all of the educational records of the child provided to the school.

(d) **Social records.** Social records are defined by Section 1-6-101 of Title 10A of the Oklahoma Statutes to mean, "*family social histories, medical reports, psychological and psychiatric evaluations or assessments, clinical or other treatment reports, educational records, or home studies, even if attached to court reports prepared by the Department.*" These records are submitted to the court but are not filed in the court file unless ordered by the court. If filed in the court file, the social records are placed in confidential envelopes in

the court file by the court clerk and may only be accessed by the person who is the subject of the records, or the attorney for such person, except as provided by Section 1-6-103 of Title 10A of the Oklahoma Statutes. ■ 6

## **INSTRUCTIONS TO STAFF 340:75-6-40.5**

Revised 10-1-11

### **1. Hearing report forms.**

**(1) Hearing report forms are prepared and submitted according to judicial procedure in the county of jurisdiction, but no later than three judicial days prior to each hearing.**

**(2) A copy of the hearing report form is provided to and discussed with the child's parent.**

**(3) Reports, correspondence, and information provided by other professionals working with the family, including the foster parent, are incorporated into the applicable report to the court.**

**(4) All service provider progress reports and critical incident reports are submitted to the court, district attorney, attorney or attorneys representing the parents, child's attorney, and when applicable, guardian ad litem, and relevant tribe(s).**

**(5) Refer to OAC 340:75-6-40.5(c) for hearing report requirements.**

**(A) Form 04KI011E, Preadjudication Court Report, is submitted for any court hearing prior to the child's adjudication.**

**(B) Form 04KI013E, Individualized Service Plan (ISP) Dispositional Report, is submitted for the initial disposition hearing.**

**(C) Form 04KI014E, Individualized Service Plan (ISP) Progress Report, is submitted for review and permanency hearings.**

**(D) A letter or template developed by the CW specialist and saved in the KIDS file cabinet may be submitted to the court when:**

**(i) review or permanency hearings are held according to statutory requirements and a hearing has been set to address a specific issue; or**

**(ii) a report is required for a mental health hearing.**

**2. Permanency hearing reports. Per Section 1-4-811 of the Title 10A of the Oklahoma Statutes, at the permanency hearing, the court determines or reviews the continued appropriateness of the child's permanency plan and whether a change in the plan is necessary. The permanency report includes, but is not limited to:**

**(1) the date the goal of permanency for the child is scheduled to be achieved;**

**(2) whether the child's current placement continues to be the most suitable for the health, safety, and welfare of the child;**

**(3) the independent living plan when the child is 16 years of age or older;**

**(4) a recommendation for:**

**(A) reunification with the parent or child's legal guardian when:**

**(i) reunification is expected to occur within an established time period;**

**(ii) reunification is consistent with the child's developmental needs;  
and**

**(iii) the health and safety of the child can be adequately safeguarded if the child is returned home;**

**(B) placement for adoption after termination of parental rights or after a petition is filed to terminate parental rights;**

**(C) placement with a person who will become the child's permanent guardian and who can adequately and appropriately safeguard the health, safety, and welfare of the child; or**

- (D) a planned permanent living arrangement while the child continues in OKDHS custody, provided there are compelling reasons documented by OKDHS and presented to the court that none of the plans in (A) though (C) is appropriate for the health, safety, and welfare of the child.
- (5) whether OKDHS has made reasonable efforts to finalize the child's permanency plan and a summary of the efforts made by OKDHS; or, in the case of an Indian child, whether OKDHS has made active efforts to provide remedial services and rehabilitative programs as required by Section 1912(d) of Title 25 of the United States Code;
- (6) whether the child's out-of-home placement continues to be appropriate and in the best interests of the child, when the child's permanency plan is to remain in out-of-home care;
- (7) whether reasonable efforts, in accordance with the safety or well-being of the child, have been made to:
- (A) place siblings, who have been removed, together in the same foster care, guardianship, or adoptive placement; and
  - (B) provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.
3. OKDHS recommendations. The CW specialist makes a recommendation regarding disposition of the child's case on every Form 04KI011E, 04KI009E, 04KI013E, or 04KI014E. This recommendation includes, but is not limited to:
- (1) the child's custody arrangement;
  - (2) the child's legal status; and
  - (3) requests for court action or approval.
- (A) The recommendation regarding case disposition is:
- (i) made after consultation with the CW supervisor;
  - (ii) based on the parent's progress and child's need for permanency;

**(iii)** not based on the anticipated response or receptivity of the court.

**(B)** A concise explanation is provided to support the reasons for the recommendation.

**4. Recommended findings.** At each dispositional or review hearing, the court makes findings based on the circumstances of the case. The recommended findings in KIDS and documentation that is required on Form 04KI011E, 04KI009E, 04KI013E, or 04KI014E for the judicial finding are described in (A) through (E).

**(1) Active efforts are being made to reunite the child with his or her family.**

**(A)** This finding is used when the Indian Child Welfare Act (ICWA) applies.

**(B)** The CW specialist describes the active efforts made such as:

**(i)** involving and assisting the parent with completing the individual service plan;

**(ii)** visiting the child; or

**(iii)** the steps taken to assist and encourage the parent to change the behaviors that caused safety threats to the child.

**(2) Reasonable efforts have been made to finalize the permanency plan. The CW specialist describes efforts to:**

**(A)** refer to, arrange for, provide, or develop reasonable supportive and rehabilitative services that assist the family in the safe reunification of the child;

**(B)** obtain the parent's compliance, when the parent is not working the plan; or

**(C)** finalize the child's permanency plan, including the consideration of in-state and out-of-state placement options.

**(3) Reasonable efforts to reunite the child with the family are not required. The CW specialist describes the reasons reasonable efforts should not be**

required based on the statutorily defined reasons, per 10A O.S. § 1-4-809 and OAC 340:75-1-18.4.

(4) Independent living (IL) services are appropriate. The CW specialist describes the services provided to the youth, 16 years of age or older who is in out-of-home care, assisting in the development of IL skills needed to successfully transition into adulthood.

(5) Independent living (IL) services are not appropriate. When a youth, 16 years of age or older who is in out-of-home care, is not capable of receiving IL services, the CW specialist describes the basis for this determination.

5. Child's situation. When completing information for the Children's Situation section of the reports to the court, the CW specialist does not:

(1) identify the placement provider by proper name, but refers to the provider by title, such as relative, foster parent, or trial adoptive parent;

(2) reveal the placement provider's address, phone number, or county of residence; and

(3) provide the name or location of the school the child attends.

6. Psychological evaluation, drug or alcohol testing, treatment or referral attachments. Upon receipt of an attachment related to a psychological evaluation, drug or alcohol testing, treatment or referral, the CW specialist:

(1) does not attach to the progress report the entire psychological evaluation, drug or alcohol testing, treatment or referral that contains the statement: "This information has been disclosed to you from records protected by federal confidentiality rules (42 Code of Federal Regulations (CFR) Part 2). The federal rules prohibit you from making further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient";

(2) states in the progress report that the evaluation, testing, or treatment has occurred;

**(3) attaches a copy of the recommendations page from the psychological evaluation drug or alcohol testing, treatment or referral, when applicable;**

**(4) requests the parent sign a release of information with the provider when the court requires the entire report that complies with 42 CFR Part 2 that designates the persons entitled to have the information, including, but not limited to:**

**(A) the court;**

**(B) the district attorney;**

**(C) the child's attorney;**

**(D) the parent's attorney; and**

**(E) OKDHS;**

**(5) requests the provider supply copies to only the persons designated on the release; and**

**(6) requests the court's copy be filed under seal so the persons who have statutory access to the legal record, but were not included in the release, may not access the sealed information.**

**7. Protocol for multiple county assignments.**

**(1) The CW county of jurisdiction specialist emails all assigned CW specialists and supervisors, with the exception of facility liaisons, no later than two weeks prior to the court review and includes:**

**(A) the date of the court review;**

**(B) notification of opening the KIDS court report; and**

**(C) a request that each assigned specialist enter all applicable information by a specified date including, but not limited to:**

**(i) a recommendation regarding the child's permanency;**

**(ii) services required; and**

**(iii) visitation issues.**

**(2) When there is disagreement regarding case-related issues, the CW specialist not in agreement consults with his or her supervisor and necessary action is determined via:**

**(A) teleconference; or**

**(B) face-to-face staffing among all assigned CW staff.**

**(3) Pertinent information entered in the court report is not changed without notification to the CW specialist who entered the information.**

**8. Documentation of court hearings. The CW county of jurisdiction specialist enters complete, detailed information in the applicable KIDS Court Hearing screens no later than 15 days after a court hearing is held.**

**9. Court hearing documentation and notification protocol for multiple county assignments. The CW county of jurisdiction specialist:**

**(1) emails all assigned CW specialists and supervisors no later than one business day after a court hearing is held and reports:**

**(A) any major changes regarding visitation, custody status, placement decisions, or service provisions; and**

**(B) the date of the next court hearing; and**

**(2) provides a copy of the most recent court order to the CW county of service or placement specialist within two business days of receipt.**

**340:75-6-85.2. Diligent search for relatives and kin ■ 1**

Revised 3-26-10

(a) **Placement preference.** When Oklahoma Department of Human Services (OKDHS) determines that placement with the noncustodial parent is not in the child's best interest, preference is given to relatives and persons who have a kinship relationship with the child, who are determined suitable, capable, and willing to serve as caretakers for the child per 10A O.S. 1-7-106. OKDHS reports to the court what diligent efforts were made to secure the placement per 10A O.S. § 1-4-204. In cases where ICWA applies to the child, the placement preferences in OAC 340:75-19-14 are followed.

(b) **Due diligence to identify and notify relatives.** Per 10A O.S. § 1-4-203, within 30 days of the removal of a child, OKDHS exercises due diligence to identify relatives. Notice is provided by OKDHS to all grandparents and to other relatives as the court directs. Relatives are not notified if notification would not be in the best interests of a child due to past or current family or domestic violence. The notice advises the relatives:

- (1) the child has been or is being removed from the custody of the parent or parents of the child;
- (2) of the options under applicable law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice or become involved with the child; and
- (3) of the requirements to become a foster family home and the additional services and supports available for children placed in the home.

**INSTRUCTIONS TO STAFF 340:75-6-85.2**Revised 10-1-11

1. (a) **Relative and kinship placement consideration.** When a child cannot be placed with the custodial or noncustodial parent, relative and kinship placements are considered and preferable to other types of out-of-home placements because the placements:

- (1) are less restrictive;
- (2) allow children to maintain connection to kin, culture, and community;

and

(3) are consistent with the mission of OKDHS in helping families help themselves.

**(A) The first placement resource considered is the noncustodial parent.**

**(B) Relative and kinship placements are made only when:**

**(i) the placement meets required standards;**

**(ii) the safety and well-being of the child can be ensured;**

**(iii) the placement meets the treatment needs of the child; and**

**(iv) the placement supports the permanency plan for the child and the child's family.**

**(C) The CW specialist explores all avenues of information when conducting a diligent search for maternal and paternal relatives and kin for the child placed in OKDHS legal custody.**

**(b) Diligent search for relatives and kin.**

**(1) Gathering information regarding important people in the child's life. When gathering information regarding important people in the child's life, the Child Welfare (CW) specialist:**

**(A) obtains from each parent a list of all relatives or kin known to the parent. The comprehensive list includes relatives or kin that may or may not be appropriate or available for placement.**

**(B) reviews the affidavit the parent completes upon the court's order at the emergency custody hearing per OAC 340:75-1-16 and Section 1-4-203 of Title 10A of the Oklahoma Statutes.**

**(C) attempts to identify, locate, and contact all grandparents and other adult relatives and kin of the children. Appendix I-7, The Family Tree - Degrees of Kindred According to the Law, is a useful form to help identify possible relatives.**

**(D)** requests that the parent complete Form 04MP015E, Important People in the Child's Life;

**(E)** presumes that relative or kin placement possibilities exist even though the parent:

**(i)** indicates there are no relative or kin available or appropriate for placement; or

**(ii)** is unwilling to provide information.

**(F)** solicits information from each parent regarding the parent's placement preferences. Each parent is advised that consideration is given to the preferences, but no assurances are made regarding the placement determination;

**(G)** provides each person, identified by the court or listed by the parent on Form 04MP015E or on the affidavit, Form 04CP006E, Letter of Notification to Adult Relatives, no later than 30 days after the child's removal, unless notification would not be in the best interests of the child due to past or current family or domestic violence.

**(H)** contacts relatives in person or by telephone, to evaluate suitability for placement of, or contact with, the child. A family team meeting is utilized to help identify relatives and kin. The relative or kin is not determined inappropriate based solely on the relative or kin's failure to contact the CW specialist; and

**(I)** enters each parent as a client to the KIDS case. Any other person is documented in the Family/Kinship Connections screen in KIDS;

**(J)** documents all efforts:

**(i)** in KIDS on Form 04KI005E, Child's Individualized Service Plan (ISP);

**(ii)** in the Family/Kinship Connections screen;

**(iii)** on Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report; and

**(iv)** in the Contacts screen.

**(K)** determines that sufficient efforts were made to contact the relative or kin when:

**(i)** the the CW specialist has spoken with the relative or kin by telephone or in person;

**(ii)** the telephone number given has been disconnected and efforts to obtain a new number for the relative or kin have been unsuccessful; or

**(iii)** the letter to the relative or kin has been returned undeliverable and efforts to obtain a new address for the relative or kin were unsuccessful.

**(c)** Assessing relatives and kin for placement.

**(1)** During the contact with the relative or kin, the CW specialist assesses the person's ability and appropriateness for placement.

**(2)** When the relative or kin is interested in placement, the CW specialist completes the assessment process in accordance with OAC 340:75-7.

**(3)** When the relative or kin is not interested in placement or is determined to be inappropriate, the CW specialist attempts to obtain information about other relatives or kin that was not provided by the parent.

**(d)** Protocol for continued diligent search efforts to locate relatives or kin. When efforts to locate an appropriate relative or kin are unsuccessful based on the information provided by the parent, the diligent search continues and the CW or diligent search specialist, when available through a referral by Form 04MP009E, Diligent Search Request:

**(1)** reviews existing case records, including, but not limited to CW, Temporary Assistance to Needy Families (TANF), court, school, and child care;

**(2)** completes a search of the KIDS application, Information Management System (IMS), Juvenile Justice Information System

- (JOLTS), and Internet. A tool to assist in this search is Form 04MP010E, Relative/Kin Computer Search;
- (3)** utilizes the Oklahoma Child Support Services (OCSS) screens available in IMS and the Federal Parent Locator Service and requests assistance from OCSS to locate parents of children in the custody of OKDHS;
- (4)** obtains from the age-appropriate child, location information of any relative or kin known to the child;
- (5)** asks any known relative or kin to identify other relatives or kin. A tool to assist in this contact is Form 04MP011E, Diligent Search Contact Results; and
- (6)** attempts to contact and assess any relative or kin whose name and information is obtained during the diligent search process.
- (e)** Placement disruptions and concurrent planning for alternate relative or kin placement. During a family team meeting or other contacts with relatives or kin, the CW specialist identifies, a minimum of three appropriate relatives or kin who may be eligible to provide placement for the child in the event of a placement disruption. If a child's placement disrupts, the CW specialist:
- (1)** consults with the relative or kin designated as an alternate placement for the child; and
- (2)** coordinates the child's transition from the disrupted home to the newly approved home.
- (f)** Protocol for assessing relatives or kin who reside out-of-state.
- (1)** When a relative or kin is located out-of-state and indicates a desire to be a placement resource, the CW specialist obtains:
- (A)** affirmation that the potential placement resource is:
- (i)** interested in becoming a placement resource for the child and is able to facilitate visitation when reunification is the plan; or

(ii) interested in becoming the permanent placement resource if reunification efforts are unsuccessful; and

(iii) willing to cooperate with the ICPC process; and

(B) the name and correct address of the potential placement resource;

(C) all available telephone numbers and other contact information for the potential placement resource;

(D) the date of birth and Social Security number of each adult residing in the potential placement resource's home;

(E) a detailed description of the number and type of rooms in the potential placement resource's residence to accommodate the child under consideration;

(F) the number of people, including children, who will be residing in the potential placement resource's home;

(G) information to determine whether the potential placement resource has the financial resources or will access financial resources to feed, clothe, and care for the child;

(H) the plan for child care and how it will be paid for when required due to age or needs of the child; and

(I) acknowledgment by the potential placement resource that a criminal records and child abuse history check is completed on any person residing in the home required to be screened under the law of the receiving state and to the best knowledge of the potential resource placement, no person residing in the potential resource placement's home has a criminal history or child abuse history that would prohibit the placement.

(2) The CW specialist:

(A) advises the relative or kin, when the permanency plan is reunification, that one of the deciding factors regarding placement of the child is whether the placement will enable parent and child

**visitation.**

**(i) When the out-of-state relative or kin is able to provide sufficient visitation, placement with the relative or kin is preferable to placement with a non-relative.**

**(ii) The child remains in-state when visitation is not feasible in the out-of-state placement;**

**(B) consults with the CW supervisor to determine:**

**(i) if the ICPC referral is appropriate based upon information obtained from the potential out-of-state placement resource;**

**(ii) whether the plan is for immediate placement with the out-of-state relative or kin upon receipt of an approved home study; or**

**(iii) whether the out-of-state relative or kin is considered for permanent placement in the event reunification is unsuccessful.**

**(C) informs the potential out-of-state placement resource within two business days of consultation with the CW supervisor that an ICPC home study referral request:**

**(i) will not be made and the basis for the decision; or**

**(ii) will be initiated per OAC 340:75-1-86, for an assessment of the relative's or kin's home within 30 days of the determination that relative's or kin's request for placement is appropriate;**

**(D) when appropriate, opens an "Other Services Workload Request" to document in KIDS that an ICPC home assessment has been requested from another state. The Type of Service Request is documented as ICPC-Sending Out-of-State;**

**(E) assists to maintain the relationship between the child and relative or kin by facilitating contact between the relative or kin and the child during the ICPC home study process;**

**(F) keeps the relative or kin informed of the permanency plan progress and the feasibility of reunification;**

**(G)** advises the placement provider(s) that the permanency plan is to move the child to the out-of-state relative or kin placement if reunification is unsuccessful; and

**(H)** moves the child immediately to the out-of-state placement when:

**(i)** the relative or kin's home is approved by ICPC and sufficient visitation can be facilitated; or

**(ii)** the permanency plan is no longer reunification.