TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OKDHS:2-7, Table of Contents; and 2-7-1 through 2-7-8.

EXPLANATION:

OKDHS:2-7-1 is issued to: (1) establish the process and procedures for internal affairs investigations by the Office of Inspector General (OIG); and (2) specify employee rights and responsibilities during internal affairs investigations.

OKDHS:2-7-2 is issued to: (1) establish reporting procedures for use of force incidents; (2) outline OIG agents’ reporting responsibilities; and (3) establish a process for additional review of certain use of force incidents.

OKDHS:2-7-3 is issued to establish guidelines on the possession and use of weapons by OIG agents.

OKDHS:2-7-4 is issued to establish procedures for OIG agents to follow when serving search warrants, making arrests, and serving other pieces of criminal process.

OKDHS:2-7-5 is issued to establish procedures for OIG agents to follow when conducting searches without a warrant.

OKDHS:2-7-6 is issued to establish procedures for OIG agents to follow when serving civil or administrative process documents.

OKDHS:2-7-7 is issued to: (1) specify OIG agent responsibilities while conducting interviews or interrogations; and (2) require OIG agents to follow certain procedures to ensure the rights of a person being questioned or detained.

OKDHS:2-7-8 is issued to forbid OIG agents from selecting a person for detention, arrest, or any law enforcement action based solely on a trait common to a group.
INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

REMOVE

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OKDHS:2-7, Table of Contents, 1 page only, issued 7-1-11

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OKDHS:2-7-1, pages 1-7, issued 7-1-11

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INSERT
SUBCHAPTER 7. OFFICE OF INSPECTOR GENERAL

Section
OKDHS:2-7-1. Internal affairs investigations
OKDHS:2-7-2. Use of force reporting and review
OKDHS:2-7-3. Possession and use of weapons
OKDHS:2-7-4. Search warrants, arrests, and criminal process
OKDHS:2-7-5. Searches without a warrant
OKDHS:2-7-6. Civil process
OKDHS:2-7-7. Miranda rights and consular notification
OKDHS:2-7-8. Bias based profiling
OKDHS:2-7-1. Internal affairs investigations

Issued 7-1-11

(a) **Purpose.** The Office of Inspector General (OIG) is responsible for addressing complaints of fraud, misconduct, or criminal behavior against current Oklahoma Department of Human Services (OKDHS) employees. The goal of the internal affairs function is to:

(1) identify employees who engage in fraud, misconduct, or criminal behavior;

(2) improve proficiency and efficiency through review of policies and procedures identified during an investigation; and

(3) protect employees against false allegations.

(b) **Policy.** It is the policy of OIG to investigate all complaints of alleged employee fraud, misconduct, or criminal behavior, including anonymous complaints, to determine the validity of the allegations and to take appropriate action.

(c) **Definitions.** The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

(1) "**Internal affairs investigation**" means an extensive and structured investigation conducted by OIG. An internal affairs investigation is assigned to an internal affairs investigator when there are allegations of fraud, misconduct, or criminal behavior. Such allegations may also include corruption, misuse of force, or major violations of OKDHS policy, Oklahoma Ethics Rules, Merit Rules, and the Oklahoma Personnel Act, and violations of local, state, and federal criminal statutes.

(2) "**Internal affairs investigator**" means the inspector general, supervisor, or agent assigned by the inspector general or designee to investigate an allegation of employee fraud, misconduct, or criminal behavior. One or more agents may be assigned to an individual investigation.

(3) "**Local or division administrator**" means the chief officer, division director, area director, resource center director, county director, or supervisor authorized to make investigation or discipline decisions.

(4) "**Supervisory investigation**" means an investigation of an alleged minor policy violation committed by an employee that is conducted by a local or division administrator or designee.
(d) Internal affairs referrals.

1. All complaints of alleged employee fraud, misconduct, or criminal behavior, including anonymous complaints, are documented and investigated promptly.

2. Referrals are made to OIG from any source including OKDHS divisions and offices, other state and federal agencies, all law enforcement agencies, and the general public.

3. Referrals from all sources may be made in person, by telephone, by e-mail, or in writing. OKDHS employees may also use Form 19MP001E, Referral Form. Procedures for making internal affairs referrals are available on the Infonet on the OIG Web site and are provided upon request by contacting OIG.

4. Complaints made specifically against OIG employees are immediately referred directly to the inspector general or designee.

5. Complaints are entered into the case management database, and a printed copy of the referral is given to the inspector general.

6. The inspector general initially reviews a complaint to determine if the complaint should be immediately referred to an employee’s local or division administrator for supervisory investigation.

7. The inspector general submits all referrals that pass the initial review to the Internal Investigation Review Committee (IIRC) for additional review and examination prior to assignment for investigation.

(e) Role of the IIRC.

1. The IIRC reviews and evaluates referrals relating to alleged employee fraud, misconduct, or criminal behavior and determines if the referral is assigned as an internal affairs investigation conducted by OIG or if the referral is forwarded to a local or division administrator for supervisory investigation.

2. The IIRC is composed of officers or designees from:

   (A) Office of Inspector General;

   (B) Office of Client Advocacy;

   (C) Human Resources Management Division;
(D) Legal Division; and

(E) Information Security Office.

(3) When the alleged employee fraud, misconduct, or criminal behavior is against an employee of one of the five divisions that compose the IIRC, the corresponding officer or designee abstains from voting on the final disposition of the complaint.

(f) Referrals assigned for supervisory investigation.

(1) When the decision is made to refer a complaint for supervisory investigation, the inspector general refers the complaint to the local or division administrator where the employee is assigned to duty. The local or division administrator conducts the supervisory investigation.

(2) Complaints that are generally referred for supervisory investigation are those of a less serious nature and include rudeness, tardiness, abuse of leave, insubordination, inadequate work performance, inefficiency and error, and other allegations of minor violations of OKDHS policy.

(g) Referrals assigned for internal affairs investigation.

(1) When the IIRC determines that a complaint against an employee should be referred for an internal affairs investigation, the inspector general assigns the referral to a supervisor. The supervisor may either conduct the investigation directly or assign the investigation to one or more agents.

(2) Agents to whom an investigation is assigned are authorized to report directly to the inspector general.

(3) The inspector general directs the assigned internal affairs investigator to conduct a criminal investigation if the facts of the case warrant such action. Information gathered during a criminal investigation of an OKDHS employee may be used in a subsequent administrative investigation, personnel hearing, or other personnel action.

(4) The inspector general may direct the internal affairs investigator to seek the assistance of, or work jointly with, other law enforcement agencies in any internal affairs investigation.

(5) Complaints that are generally referred for internal affairs investigation are those of a more serious nature and include fraud, criminal misconduct, misuse of force,
major violations of OKDHS policy, and violations of local, state, and federal statutes.

(h) **Internal affairs investigation procedures.**

(1) OIG notifies an employee’s local or division administrator that the employee is the subject of an internal affairs investigation. Notification may be delayed if such notification would hamper the investigation. The local administrator may temporarily relieve an employee from duty pending an investigation of disciplinary action as described in OKDHS:2-1-7.

(2) OIG notifies an employee in writing that the employee is the subject of an internal affairs investigation. Notification may be delayed if such notification would hamper the investigation. Notification includes a written statement of the allegations against the employee and information about the employee’s rights and responsibilities relative to the investigation.

(3) The assigned investigator:

   (A) makes every attempt to interview the complainant, the employee under investigation, witnesses, and any other individuals whose statements may assist in the just resolution of the investigation;

   (B) liaisons with state or federal prosecutors for legal advice and case preparation when the internal affairs investigation involves allegations of criminal behavior;

   (C) collects and examines all evidence relevant to the investigation including, but not limited to, written statements, video or audio recordings, e-mails, electronic devices, documents, test results, police reports, and photographs; and

   (D) prepares a written report to address the allegations in the complaint and to summarize the evidence obtained during the investigation.

(4) After reviewing the final report, the inspector general determines a finding on each allegation. Findings classified as:

   (A) "sustained" means the evidence tends to support the allegation of misconduct;

   (B) "not sustained" means there is insufficient evidence to either prove or disprove the allegation of misconduct;
(C) "unfounded" means the evidence tends to disprove the allegation of misconduct; or

(D) "exonerated" means the evidence tends to support factual occurrence, but conduct does not appear improper.

(5) Internal affairs investigations are completed within 60 calendar days after referral for investigation by the IIRC. Extensions beyond 60 days may be granted by the inspector general in exceptional situations.

(6) When allegations of criminal violations are sustained against an OKDHS employee, the inspector general determines if a copy of the final report is sent to the state or federal prosecutor. If the case is accepted for criminal prosecution, a report containing the findings of administrative violations is sent to the applicable local or division administrator and to OKDHS Legal Division.

(7) The inspector general advises the local or division administrator as to the status of any criminal charges filed and any requests by state or federal prosecutors for delay of administrative action until resolution of the criminal charges.

(8) The local or division administrator determines any administrative disciplinary action per OKDHS:2-1-7.

(i) **Internal affairs investigations involving criminal and administrative violations.**

(1) Complaints that allege both criminal and administrative violations require separate investigations of the allegations.

(2) A single assigned investigator conducts criminal and administrative investigations consecutively.

   (A) The assigned investigator conducts the criminal investigation and prepares a final report addressing the criminal allegations.

   (B) After the criminal investigation and report are completed, the assigned investigator conducts the administrative investigation and prepares a final report addressing the administrative allegations.

(3) Two assigned investigators conduct criminal and administrative investigations concurrently.

   (A) One investigator conducts the criminal investigation and prepares a final
(B) The other investigator conducts the administrative investigation and prepares a final report addressing the administrative allegations.

(4) Investigators assigned to administrative investigations have access to any evidence collected during criminal investigations.

(i) Employee rights and responsibilities during investigation.

(1) During the investigation process, accused employees have the right to:

(A) be advised in writing of the allegations against them;

(B) be provided a copy of the internal affairs policy, that explains the investigation process;

(C) contact the assigned investigator to be advised of the status of the investigation;

(D) be advised of and to sign the Miranda warning against self-incrimination prior to a custodial interview concerning alleged criminal violations; and

(E) request legal counsel before or during an interview concerning alleged criminal violations.

(2) During the investigation process, accused employees have the responsibility to:

(A) truthfully and fully answer questions asked by investigators;

(B) refrain from actions that interfere with the investigation, including actions that intimidate, threaten, or harass potential witnesses;

(C) comply with lawful orders to submit to the special examinations described in subsection (k) of this Section; and

(D) cooperate in the collection of evidence relevant to the investigation.

(3) During the investigation process, accused employees do not have the right to:

(A) review any part of the internal affairs investigation file; or
(B) contact the complainant unless the complainant is the employee's supervisor or local or division administrator.

(k) Special examinations.

(1) An employee under investigation for alleged administrative violations may be ordered, upon specific approval by the inspector general, to undergo special examinations at OKDHS expense to include:

(A) handwriting analysis;

(B) photographs for use in a photographic line-up; or

(C) submission of financial disclosure statements when they are relevant to a particular investigation.

(2) Allegations of drug or alcohol use and any associated testing requirements are described in OAC 340:2-1-40 through 340:2-1-46.

(3) Special examinations are specifically and narrowly related to a particular investigation. Refusal to submit to special examinations as part of an internal affairs investigation is considered employee misconduct.

(4) An employee has no expectation of privacy on property owned or leased by OKDHS. All OKDHS property is subject to inspection. Property includes, but is not limited to, buildings, vehicles, desks, electronic devices, and files.

(l) Internal affairs records. OIG maintains an electronic record of the allegations, investigator notes, and outcomes of complaints against OKDHS employees on the case management database. Hard copies of the original report and all associated evidence are secured in locked file cabinets and maintained in accordance with the applicable OKDHS records management and disposition plan.
OKDHS:2-7-2. Use of force reporting and review

Issued 7-1-11

(a) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

1) "Force" means any physical action, from officer presence to serious physical injury or death, that compels an action or overcomes resistance.

2) "Use of force" means any application of force beyond that required to properly take an unresisting subject into custody and maintain control of that subject.

3) "Serious physical injury" means injury creating substantial risk of death or causing serious disfigurement, serious impairment of health, or serious loss or impairment of function of a bodily organ.

(b) Use of force reporting procedures.

1) An Office of Inspector General (OIG) agent is required to submit a use of force report when the agent:

   A) discharges a firearm for any reason other than training or recreational purposes;

   B) applies force using lethal or less lethal weapons;

   C) applies weaponless physical force that results in a complaint of injury beyond the discomfort of the arrest and restraint procedure; or

   D) uses any level of force that results in, or is alleged to have resulted in, the serious physical injury or death of another person.

2) When a use of force report is required, the agent submits the report to his or her supervisor within two working days. A copy of the report is filed in the subject's OIG case record.

3) When an agent is the victim of an assault related to an on duty incident, the agent notifies his or her supervisor as soon as the incident is under control. The supervisor ensures that procedures outlined in OKDHS:2-15-1.1 are followed.

4) When an incident involving the use of force results in serious physical injury or
death, the agent who used force is temporarily reassigned to administrative duty pending an administrative review of the incident. The agent may also be required to participate in post-incident debriefing and counseling.

(5) The inspector general maintains original reports in a locked file cabinet.

(c) **Medical attention and reporting procedures.**

(1) Any time an agent uses force on a subject, the agent monitors the breathing and general condition of the subject to detect any changes that may require medical attention.

(2) When use of force results in an obvious serious physical injury or an apparent injury that requires medical attention beyond minor first aid, the agent either requests an ambulance or transports the subject to an appropriate medical facility for treatment.

(3) When a subject requires medical attention resulting from an agent's use of force, the agent notifies his or her supervisor as soon as the agent deems the incident to be under control and submits a use of force report within two working days.

(4) The supervisor takes detailed, written statements from any other Oklahoma Department of Human Services (OKDHS) employees with knowledge of the incident as soon as possible, and, if practicable, takes pictures of any injuries.

(d) **Administrative use of force review.**

(1) When a use of force report is submitted, the agent's supervisor reviews the information in the report and any other pertinent information available. The supervisor forwards the report to the inspector general for review.

(2) The inspector general reviews the information in the report and any other pertinent information available to determine whether the use of force was justified. If the use of force is not designated as justified, the inspector general convenes a use of force review board.

(3) A copy of the final report containing all administrative review commentary and findings is submitted to the OKDHS Director.

(e) **Use of force review board.**

(1) The use of force review board reviews the information in the report and any other
pertinent information available. At the request of the board, the affected agent appears before the board to answer questions relevant to the use of force incident or report. The affected agent may have a representative present for any questioning.

(2) The use of force review board includes:

(A) two supervisory agents;

(B) one non-supervisory agent; and

(C) one non-commissioned employee of OKDHS.

(3) The use of force review board submits a written report to the inspector general with a finding of justified or not justified. The report includes a list of any policy violations and notes any training or policy deficiencies. The inspector general determines any administrative disciplinary action per OKDHS:2-1-7.

(f) Analysis of use of force. The inspector general or designee completes an annual analysis of all reports of use of force from the previous calendar year. Both the incident review process and the annual analysis of reports identify and address any policy, training, equipment, or discipline issues.
OKDHS:2-7-3. Possession and use of weapons

Issued 7-1-11

(a) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

(1) "Force" means any physical action that compels an action or overcomes resistance.

(2) "Deadly force" means any force capable of causing death or serious physical injury.

(3) "Less lethal force" means all force other than deadly force. Less lethal force may still result in serious physical injury but is not intended to cause death.

(4) "Serious physical injury" means injury creating substantial risk of death or causing serious disfigurement, serious impairment of health, or serious loss or impairment of function of a bodily organ.

(b) Firearms.

(1) Firearms are considered deadly force weapons.

(2) Firearms may be drawn and readied for use in situations where it is anticipated that they may actually be required. However, firearms are not drawn unless their actual use in the situation would be warranted.

(3) Firearms are not discharged:

   (A) as a warning under any circumstances;

   (B) from a moving vehicle or at a moving vehicle, except when the subject poses a threat of death or serious injury to the agent or others and when all other reasonable means of defense have failed;

   (C) at a subject who is fleeing arrest except when the individual poses a threat of death or serious physical injury to either the agent or others;

   (D) when circumstances do not provide a high probability of striking the intended target; or
(E) when there is a substantial risk to the safety of innocent bystanders or other law enforcement officers.

(4) Firearms are secured as soon as practicable after determining that the use of deadly force is no longer necessary.

(c) **Batons.**

(1) Batons are considered less lethal force weapons.

(2) Batons are not designed to be used as clubs or bludgeons and are not raised above the head to strike a blow to a subject except when the individual poses a threat of death or serious physical injury to either the agent or others.

(3) Blows with an impact weapon are delivered only to the vulnerable areas of the body, that may render the subject temporarily incapacitated.

(4) No batons or other impact weapons are thrown at anyone unless the possible resulting injury would be authorized by policy.

(5) Blows with an impact weapon are used only if lesser methods have failed or their use would be impractical.

(d) **Chemical weapons.**

(1) Chemical weapons are considered less lethal force weapons and are designed to result in temporary dysfunction without causing physical injury. Chemical weapons may be used to:

   (A) repel human and animal attacks;

   (B) temporarily incapacitate violently resisting subjects;

   (C) temporarily incapacitate verbally resisting subjects when subjects also exhibit a combative posture or fighting stance;

   (D) compel barricaded subjects to leave an enclosure; and

   (E) disperse violent crowds or riots.

(2) Chemical weapons are not used on subjects who are:
(A) exhibiting only passive resistance to arrest or authority; or  

(B) under physical restraint unless the subject is still violently resisting and lesser methods of control have failed.

(3) When chemical weapons have been used on a subject, and that subject is no longer violently resisting arrest or authority, the agent assists the subject in flushing the chemicals from the eyes.

(e) **Approved types of weapons.**

(1) The inspector general of the Office of Inspector General (OIG) promulgates and distributes a list of approved firearms, batons, chemical weapons, and ammunition. The list is reviewed, as needed, to include newly approved types of weapons.

(2) Prior to being assigned for use, all weapons and ammunition are inspected and approved by a Council on Law Enforcement and Education (CLEET) certified firearms instructor.

   (A) Weapons deemed unsafe for use are not issued for duty use.

   (B) Weapons that have been repaired are inspected and tested by a CLEET certified firearms instructor and a certified armorer prior to being approved for duty use.

(3) OIG keeps a record of all firearms, batons, and chemical weapons owned by the division and a record of the agent to whom each weapon is assigned. The record is maintained by a CLEET certified firearms instructor.

(4) Unassigned weapons are stored in a locked secure room. Firearms remain unloaded while being stored.

(5) Agents are not permitted to carry any weapon that is not on the approved list without prior authorization from the inspector general.

(6) Agents are not permitted to carry any weapons, whether lethal or less lethal, for which they have not been qualified and certified by a CLEET certified firearms instructor.

(f) **Training requirements.**

(1) Agents authorized to carry lethal and less lethal weapons receive annual
instruction in OIG use of force policy and are issued copies of the policy before authorized to carry any weapons.

(2) Before carrying any approved weapon, an agent must successfully complete a course that has been specifically designed to train the agent in the proper use of the weapon. Training on the course is conducted by a CLEET certified instructor.

(3) Agents must successfully complete an annual retraining course for each approved lethal weapon carried. Retraining is conducted by a CLEET certified instructor.

(4) Agents receive biennial instruction in less lethal weapons and weaponless control techniques. Training is conducted by a CLEET certified instructor.

(5) An agent who fails to successfully complete a required weapons course is provided an opportunity for remedial training. Remedial training includes a review of policy and one-on-one instruction with a CLEET certified instructor. The agent must successfully complete the required training course before returning to duty with the weapon. An agent who fails to demonstrate proficiency with the primary duty weapon, after remedial training, is referred to his or her supervisor for possible disciplinary action.
OKDHS:2-7-4. Search warrants, arrests, and criminal process

Issued 7-1-11

(a) Policy. It is the policy of the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) to ensure that all searches with a warrant, arrests with or without a warrant, and services of other pieces of criminal process are completed in compliance with constitutional guidelines and applicable statutes and case decisions.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

1. "Criminal process" means writs, summonses, mandates, warrants, or other documents issuing from a court of law compelling a person to answer for a crime.

2. "Probable cause" means a reasonable amount of suspicion, supported by circumstances sufficiently strong enough to justify a prudent and cautious person's belief that certain facts are probably true.

(c) Search warrants.

1. An agent may obtain a search warrant by presenting a completed affidavit to a judge. The affidavit for a search warrant must contain:

   A. the subject's name and aliases, if known;
   B. a description of the area to be searched;
   C. a list of items for which the search is being made;
   D. a synopsis of why the search warrant is needed; and
   E. the probable cause for a search warrant.

2. To have a search warrant signed, there must be probable cause to believe that the items for which the search is made:

   A. have been used in the commission of a crime, are evidence of a crime, or are illegal; and
   B. are located at the place stated in the warrant.
(3) A judge may approve a search warrant by telephone under Sections 1223.1 and 1225 of Title 22 of the Oklahoma Statutes (22 O.S. §§ 1223.1 and 1225). The agent may only obtain a search warrant by telephone when an emergency situation exists and a judge is not immediately available to sign the warrant. To obtain telephone approval to make a search, the agent follows the same procedures described in this Section with some exceptions.

(A) The agent reads the affidavit verbatim to the judge by telephone.

(B) If approved by the judge, the agent writes the judge’s name and the exact time and date of approval on the search warrant.

(C) As soon as possible after service of the warrant, the agent provides the affidavit for the search warrant and the actual search warrant to the judge. The judge signs the warrant and documents the exact date and time of the verbal approval on the warrant.

(D) The telephone call in which approval is given must be recorded with the permission of the judge. If permission is not given, then no telephonic warrant may be obtained. If permission is given, then the recording of the call is later transcribed by a court reporter, and the transcription is deemed to be an affidavit under Oklahoma law.

(d) Searches.

(1) Only a commissioned agent is authorized to serve search warrants.

(2) Unless specified in the warrant, an agent must:

(A) announce that he or she is a law enforcement officer and is present to serve a search warrant;

(B) knock on the door before announcing himself or herself if the warrant is for a residence; and

(C) only serve a search warrant during the hours of 6:00 a.m. to 10:00 p.m.

(3) An agent may break open an outer or inner door or window of a house in order to serve a search warrant if the agent has knocked and announced that he or she is a law enforcement officer and his or her purpose but has been refused admittance.

(4) Once inside the area to be searched, an agent may only search for and take as
evidence items listed on both the search warrant and affidavit.

(A) Suspected stolen items in plain view may be checked with the National Crime Information Center (NCIC) or other applicable authorities and may be seized if verified as stolen.

(B) Illegal to possess items in plain view may be seized as evidence of a crime if found during the search of items listed on the search warrant.

(5) An agent must comply with all applicable legal provisions in seizing any property and must not extend a search beyond the terms authorized in the warrant.

(6) Upon completion of the search, a copy of the warrant and a list of seized items is provided to the named subject or the owner of the property. If neither is available, the copy is left in a noticeable place at the property.

(7) The agent files a return on the confiscated property with either the judge who signed the search warrant or a judge in the judicial district where the property was found and seized within ten days from the date the warrant is served. The return is signed by the agent and includes:

(A) the date and time warrant was obtained;

(B) the date and time warrant was served;

(C) a detailed list of items confiscated;

(D) the name of the subject or owner of property where items were found; and

(E) the name of the person to whom a copy of the warrant and list of seized items was provided or a description of the place where the warrant was left.

(e) Arrest warrants.

(1) An agent may obtain an arrest warrant by presenting a completed affidavit to a judge. The judge issues an arrest warrant when he or she is satisfied that an offense has been committed and the person named is the one who committed the offense.

(2) A bench warrant is initiated by a judge directly and may be served and treated as any other arrest warrant.
(3) Warrants for arrest must contain the:

(A) subject's name or reasonable descriptors when the name is unknown;

(B) offense;

(C) date issued;

(D) city, town, or county where issued;

(E) signature of a judge and the judge's office or title; and

(F) times of day when the warrant may be served, if different from times statutorily allowed.

(4) When an agent is presented with a warrant from another state for a person located in Oklahoma, the agent attempts to obtain an Oklahoma arrest warrant whenever practicable. When it is not practicable to obtain an Oklahoma arrest warrant, the agent may still make an arrest under 22 O.S. § 1141.14 when:

(A) there is reasonable information that the subject is charged in another state with a crime punishable by death or imprisonment for a term exceeding one year; and

(B) when arrested, the subject is taken before a judge with all practicable speed and a complaint is made against the subject under oath setting forth the grounds for the arrest.

(5) Before attempting to serve a warrant from another state, the agent contacts the issuing authority to confirm the other state is willing to extradite the subject if an arrest is made. If the state is not willing to extradite, then the agent does not make an arrest on a warrant from another state.

(f) Arrests.

(1) Only a commissioned agent is authorized to make arrests.

(2) An agent serving an arrest warrant must:

(A) confirm the existence of the active warrant by contacting the issuing authority, even when the agent has possession of a copy of the warrant;
(B) ensure the subject named on the warrant is the person being arrested;

(C) comply with all legal requirements for the execution of arrest warrants;

(D) inform the subject the agent is acting under the authority of the warrant; and

(E) show the warrant to the subject within a reasonable time, if requested.

(3) Unless specified on the arrest warrant, the time of day that an arrest may be made is determined by the charged offense. If the charged offense is a:

(A) felony, the arrest may be made on any day and at any time of the day or night;

(B) misdemeanor and the subject is in a public place or on a public roadway, the arrest may be made on any day and at any time of the day or night; or

(C) misdemeanor and the subject is not in a public place or on a public roadway, the arrest may be made only during the hours of 6:00 a.m. to 10:00 p.m.

(4) An agent may serve any warrant, except those issued for city ordinance violations, in any county of the state.

(5) An agent may request the assistance of private citizens when serving a warrant or making an arrest.

(6) An agent uses only the amount of force or restraint necessary for the arrest or detention of the subject.

(7) An agent may break open an outer or inner door or window of a dwelling house in order to make an arrest, with or without a warrant, if the agent has announced that he or she is a law enforcement officer and his or her purpose but has been refused admittance.

(8) When making an arrest, with or without a warrant, an agent informs the subject of his or her rights as described in OKDHS:2-7-7.

(g) **Arrests without a warrant.**

(1) An agent may arrest a subject without a warrant:

(A) for a public offense, committed or attempted in the agent's presence;
(B) when the subject has committed a felony, although not in the agent's presence;

(C) when a felony has been committed, and the agent has a reasonable cause to believe that the subject committed it; and

(D) on a charge, made upon reasonable cause, of the commission of a felony by the arrested subject.

(2) As commissioned peace officers, agents may also make arrests without a warrant in additional situations as permitted under 22 O.S. §§ 60.9 and 196, but agents are encouraged to defer to local law enforcement in such situations.

(3) An agent who makes an arrest without a warrant must notify the subject of the agent's authority to make the arrest and of the cause of the arrest, except when the subject is in actual commission of the offense or is pursued immediately after an escape.

(4) When making an arrest without a warrant, an agent may only search the subject and the immediate surrounding area from where the subject could gain control of a weapon or destroy evidence.

(h) Booking procedures.

(1) OIG facilities are not used for detention or holding purposes. Upon making an arrest, the agent remains with the subject until the subject is transported to the appropriate local law enforcement agency or correctional facility.

(2) The arresting agent adheres to the booking procedures established by the receiving agency or facility, including the completion of any reports required by the receiving agency or facility.

(3) A subject arrested for a felony offense is fingerprinted and photographed by the receiving agency or facility.

(i) Discretion and alternatives to arrest.

(1) An agent's discretion not to arrest is greatly limited because arrests are normally made for felonies and are made after issuance of an arrest warrant.

(2) An agent may delay an arrest pending grand jury action or when a delay allows the accumulation of additional evidence when the investigation warrants such
(3) An agent or other OIG employee must never promise a subject that he or she will not be arrested or prosecuted and must not make deals with a subject to avoid arrest or prosecution without prior approval from the district attorney.

(i) **Diplomatic immunity.** Certain foreign diplomatic and consular representatives are immune from arrest under certain conditions. All people entitled to privileges of immunity are issued identification cards from either the United States Department of State or by the United Nations.

1. Ambassadors and foreign ministers, their families, and certain staff are immune from arrest for any offense.
   - (A) Property and vehicles of people with immunity from arrest may not be searched, seized, or impounded.
   - (B) When an agent must not make an arrest due to a person's diplomatic immunity, the agent submits a report containing the facts of the incident and the identity of the person to the United State Department of State.

2. Foreign consular officers are immune from arrest except when the charge is a felony and an arrest warrant has been issued.
   - (A) Honorary consular officers, consular employees, and consular families and staff are not immune from arrest.
   - (B) In situations involving consular officers, employees, families, or staff, the agent submits a report containing the facts of the incident and the identity of the person to the United State Department of State.

(k) **Criminal process reporting.**

1. For each warrant or other criminal process document served by OIG, the agent includes certain information, if known, in a unique entry on the OIG control database. Such information includes the:
   - (A) date and time document was received;
   - (B) type of process;
   - (C) nature of the document;
(D) source of the document;

(E) name of the party served;

(F) name of the agent assigned to perform the service;

(G) date of the assignment;

(H) court docket number; and

(I) date service is due.

(2) When service of a warrant or other criminal process document is attempted or completed, the agent updates the original OIG control database entry. Updated information includes the:

(A) date and time service was completed or attempted;

(B) name of the agent completing or attempting service;

(C) name of the person on whom legal process was served;

(D) the method of service or the reason service was not completed; and

(E) the address where service was completed or attempted.
OKDHS:2-7-5. Searches without a warrant

Issued 7-1-11

(a) Policy. It is the policy of the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) to ensure that all searches conducted without a warrant are completed in compliance with constitutional guidelines and applicable statutes and case decisions.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

1) "Probable cause" means a reasonable amount of suspicion, supported by circumstances sufficiently strong enough to justify a prudent and cautious person's belief that certain facts are probably true.

(c) Search situations. An agent may conduct a search or seizure without a warrant in situations authorized by state and federal constitutional provisions. Such situations include, but are not limited to, those described in this Section.

1) An agent may obtain consent to search from the subject or other person with authority over the premises or property. When more than one party who has common authority over the premises or property is present, the agent must obtain consent from all parties.

   A) When practical, the agent obtains the consent to search in writing.

   B) When the subject or other person with authority over the premises or property revokes the consent to search, the agent stops searching immediately.

2) In emergency situations and when probable cause exists, the agent may make a search:

   A) to protect the life and safety of the public and other agents;

   B) in fresh pursuit of a fugitive;

   C) to prevent the escape of a subject; or

   D) to preserve evidence from being removed or destroyed.

3) An agent may make a search as part of a lawful arrest, but the agent may only
search the subject and the immediate surrounding area from where the subject could gain control of a weapon or destroy evidence.

(4) An agent may conduct a protective frisk of a subject when the agent has reason to fear for his or her safety. The agent must be able to identify why he or she reasonably inferred that the subject posed a safety risk.

(5) An agent may search a vehicle under a movable vehicle exception.

(6) When an agent has lawfully seized custody of property items, the agent conducts an inventory of the items, and a search warrant is not required. OIG agents do not seize and inventory vehicles.

(7) An agent may seize items in plain view but must have a warrant to search beyond the scope of plain view unless an emergency situation exists. Items in plain view may be seized when the:

   (A) agent is lawfully positioned when evidence is viewed;

   (B) incriminating nature of the evidence is immediately apparent; and

   (C) agent has a lawful right to access the evidence.

(8) When no emergency situation exists at the scene of a crime, an agent's authority to make a search without a warrant is limited. Without first obtaining a warrant, an agent may only:

   (A) search the premises or area at the scene of a crime when consent is given by the subject or other person with authority over the premises or property; and

   (B) seize items in plain view at the scene of a crime.
OKDHS:2-7-6. Civil process

Issued 7-1-11

(a) Policy. The Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) promptly and accurately serves civil and administrative process documents and civil arrest warrants, when such service is called for, within the course and scope of an agent's duties.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

(1) "Administrative process" means documents issuing from OKDHS supervisors, administrators, and attorneys pertaining to a cause of action related to an OKDHS employee.

(2) "Civil process" means writs, summonses, mandates, or other documents issuing from a court of law or equity pertaining to a cause of action of a civil nature.

(c) Service of civil process.

(1) Only commissioned agents are authorized to serve civil process documents and civil arrest warrants.

(2) An agent may serve all types of civil process documents in any manner authorized by Sections 2004 and 2004.1 of Title 12 of the Oklahoma Statutes. This includes personal delivery of documents to:

(A) the person named in the document;

(B) any household member over 15 years of age at the residence of the person named in the document;

(C) the person named in the document and a parent, guardian, or other person having care or control of that person when the person named in the document is under 15 years of age;

(D) an officer or specified agent of a corporation when the party named in the document is the corporation; and

(E) the warden or superintendent of a penal institution when the person named in the document is an inmate.
(d) **Service of administrative process.** At the direction of the inspector general, an agent may serve administrative process documents. Such documents are served in the manner described in paragraph (2) of subsection (c) of this Section.

(e) **Civil and administrative process reporting.**

(1) For each civil or administrative process document served by OIG, the agent includes certain information, if known, in a unique entry on the OIG control database. Such information includes the:

   (A) date and time document was received;

   (B) type of process;

   (C) nature of the document;

   (D) source of the document;

   (E) name of the party served;

   (F) name of the agent assigned to perform the service;

   (G) date of the assignment;

   (H) court docket number; and

   (I) date service is due.

(2) When service of a civil or administrative process document is attempted or completed, the agent updates the original OIG control database entry. Updated information includes the:

   (A) date and time service was completed or attempted;

   (B) name of the agent completing or attempting service;

   (C) name of the person on whom legal process was served;

   (D) the method of service or the reason service was not completed; and

   (E) the address where service was completed or attempted.
OKDHS:2-7-7. *Miranda* rights and consular notification

Issued 7-1-11

(a) **Policy.** It is the policy of the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) to ensure that agents conduct interviews and interrogations in a manner that protects the constitutional rights of the person being questioned, avoids coerced or involuntary statements, does not interfere with timely arraignment of any person, and minimizes prejudicial pre-trial publicity.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meanings, unless the text clearly indicates otherwise:

1. "**Custodial interrogation**" means an interrogation of a subject that occurs while the subject is in custody.
2. "**Custody**" means a subject is under arrest or a subject's freedom of movement or action is significantly restricted.
3. "**Foreign national**" means a citizen of a foreign country who is in the United States either legally or illegally.
4. "**Interrogation**" means a direct questioning of a person about a crime or suspected crime. This also includes any words, statements, or actions by an agent that the agent should know are reasonably likely to elicit an incriminating response from a subject.
5. "**Interview**" means a general questioning of a person to gather information.

(c) **Issuance of the *Miranda* warning.**

1. When a subject is not in custody, the subject is free to leave an interview or interrogation at any time. A *Miranda* warning is not required when a subject is not in custody or otherwise significantly deprived of freedom of movement.
2. Before an agent conducts a custodial interrogation of a subject, the agent must advise the subject of his or her *Miranda* rights.
3. After informing a subject of his or her rights, the agent may not interrogate the subject unless the subject voluntarily waives his or her rights. If the subject refuses to acknowledge an understanding of those rights, the agent must not interrogate the subject.
(4) When possible, the agent obtains a signed waiver of *Miranda* rights from the subject. When the subject does waive his or her rights but a signed waiver was not obtained, the agent documents the language or conduct through which the waiver occurred in the investigative report.

(5) When a subject is temporarily impaired by intoxication, shock, or other similar condition, the agent waits until the condition has diminished before advising the subject of his or her rights and soliciting a waiver.

(d) **Coerced or involuntary statements and confessions.** When conducting both interviews and interrogations, the agent must not:

(1) coerce a subject or offer any inducement to a subject to participate in the interview or interrogation;

(2) make any assurances to the subject regarding what will transpire during the handling of the subject's case; and

(3) take any action or use any force to induce a subject to make a statement or confession.

(e) **Invoking the right to counsel.**

(1) At any time during a custodial interrogation, if the subject asks to speak with an attorney, the interrogation stops immediately. If the agent is uncertain if the subject has invoked his or her right to counsel, the agent may ask clarifying questions.

(2) After a subject has requested an attorney, the agent does not attempt to solicit a waiver or conduct an interrogation unless the subject initiates communication with the agent or has an attorney present.

(3) The agent does not initiate conversation with the subject about a separate crime after this right has been invoked.

(4) If the subject initiates further communication with the agent after invoking the right to counsel, the agent repeats the *Miranda* warning and obtains a valid waiver of rights before an interrogation begins. The agent indicates on the waiver form that the subject had previously invoked the right to counsel but has now initiated communication and wants to be questioned.

(f) **Invoking the right to remain silent.**
(1) After a subject has invoked the right to remain silent during a custodial interrogation, the agent does not attempt to solicit a waiver of rights, including a search waiver, and conduct an interrogation unless:

(A) the subject initiates communication with the agent;

(B) the second interrogation concerns a separate and unrelated offense; and

(C) a substantial amount of time has elapsed since the initial assertion of rights.

(2) Before beginning the subsequent interrogation, the agent repeats the *Miranda* warning and secures a valid waiver.

(3) When appropriate, the agent indicates on the waiver form that the subject had previously invoked the right to remain silent but has now either initiated communication with the agent or has agreed to a waiver of rights.

(g) **Arraignment of the subject.**

(1) An agent takes no action that interferes with a subject's timely appearance before a judicial officer.

(2) After a subject is arraigned, an agent does not initiate an interrogation without the subject's counsel present regarding the offense for which the subject was arraigned.

(A) After the subject is no longer in custody on the original charge, an agent may interview or interrogate a subject about a separate and different crime.

(B) Before an agent conducts a custodial interrogation of a subject about a separate and different crime, the agent gives a separate reading of the *Miranda* warning to the subject. If the subject invokes his or her rights following that warning, then the agent observes and complies with those rights.

(h) **Consular notification on behalf of foreign nationals.**

(1) When an agent arrests or detains a foreign national for any reason, the agent must inform the subject of the right to contact his or her foreign consulate for assistance or advice as soon as practicable.

(A) If the agent has reason to believe that an arrested or detained subject may be a foreign national, the agent asks the subject about his or her citizenship and
informs the subject that the requested information is used to ensure the subject's right to consular notification and assistance.

(B) If the subject wishes to contact the consulate, the agent provides the subject with the means and opportunity to contact the consulate by phone. If necessary, the agent also assists in obtaining a phone number for the consulate.

(2) When an agent arrests or detains a foreign national who is a citizen of a country with which the United States has a treaty, the agent notifies the subject's foreign consulate regardless of the subject's desire. The United States Department of State maintains a list of countries that require mandatory notification.

(i) Pre-trial publicity. OIG employees do not act in any manner that may cause pre-trial publicity tending to prejudice a defendant's right to a fair trial.
OKDHS:2-7-8. Bias based profiling

Issued 7-1-11

The Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) does not engage in the selection of a person for detention, arrest, or any law enforcement action based solely on a trait common to a group. This includes, but is not limited to, race, ethnicity, national origin, gender, disability, sexual orientation, religion, economic status, age, cultural group, political opinion or affiliation, or any other identifiable group.

(1) Agents do not engage in such bias based profiling in any traffic contacts, field contacts, or asset seizure and forfeiture efforts.

(2) All agents receive a copy of this policy prohibiting bias based profiling. Agents also receive training in bias based profiling issues as deemed necessary by the inspector general.

(3) Agents who violate this policy are subject to disciplinary action per OKDHS:2-1-7. Agents may also face criminal charges per Section 34.3 of Title 22 of the Oklahoma Statues.

(4) The inspector general reviews all complaints of bias based profiling annually. The inspector general reviews OIG practices and makes training recommendations as part of this review.