

PART 1. PURPOSE, DEFINITIONS, AND HOTLINE PROTOCOL

340:75-3-100. Child protective services purpose, philosophy, legal authority, and scope ■ 1

Issued 7-1-13

(a) **Child protective services purpose.** Child protective services (CPS) is a child welfare services provision that focuses on preventing, identifying, and treating child abuse and neglect and ensuring child safety. Efforts are made to maintain and protect the child in the child's own home when safety threats can be managed and controlled. The primary purpose of CPS intervention is to:

- (1) protect the child;
- (2) assess family strengths and needs; and
- (3) provide services to remedy the conditions and behaviors that cause abuse, neglect, or safety threats.

(b) **Child protective services philosophy.** The child welfare (CW) program emphasizes child safety and family preservation when the child is safely maintained within the family. While family reunification or rehabilitation is an optimum means for protecting the child, the right to family integrity is limited by the child's right to be protected from abuse and neglect, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102).

- (1) Consistent with federal and state requirements:
 - (A) reasonable efforts are made when possible to prevent or eliminate the need for the child's removal; or
 - (B) intervention is directed toward child and family reunification when the child will be safe in the home.
- (2) When the child cannot be safely maintained in the home, court intervention and the child's removal from the home may be necessary.
- (3) Oklahoma Department of Human Services (OKDHS) recognizes that when the child is removed from the home, timely achievement of the child's permanency plan is in the child's best interests.

(c) **Legal authority for child protective services.**

- (1) 10A O.S. §§ 1-2-101 through 1-2-110 requires that suspected abuse and neglect be reported to OKDHS. OKDHS conducts a safety analysis and forwards the assessment conclusions or investigation findings to the appropriate district attorney's (DA's) office.
- (2) 10A O.S. § 1-2-108 requires that OKDHS maintain an information system of the assessment conclusions or investigation findings in addition to other child abuse and neglect related information.
- (3) 10A O.S. § 1-4-201 sets forth methods by which custody of a child may be assumed. Law enforcement officers or designated employees of the court are authorized to assume protective custody without a court order in defined circumstances, or the court may issue an order for emergency custody after an application, supported by an affidavit, is submitted by the DA to the court.

(d) **Scope of child protective services.**

- (1) CPS intervention is mandated by 10A O.S. § 1-1-102 when a child is abused, neglected, drug-endangered, or at risk of significant harm because of willful acts,

intent to act, or omissions by the person responsible for the child's (PRFC) health, safety, or welfare. CPS addresses intra-familial abuse or neglect and assesses or investigates allegations of abuse or neglect when the perpetrator is identified as:

(A) the child's custodial or noncustodial parent;

(B) the child's legal guardian or custodian;

(C) an adult residing in the child's home including an adult who is cohabitating with the child's parent; or

(D) a person other than a PRFC when it is necessary to determine whether the PRFC's actions contributed to the child's abuse or neglect and reflects the PRFC's unwillingness or inability to protect the child.

(2) OKDHS is mandated per 10A O.S. § 1-2-105 to investigate alleged abuse or neglect by a PRFC as defined in 10A O.S. § 1-1-105 that includes:

(A) a foster parent per OAC 340:75-3-410;

(B) an owner, operator, or employee of a child care facility, child care center, or child care home, as defined in 10 O.S. § 402, whether licensed or unlicensed per OAC 340:75-3-110 and 340:75-3-420; and

(C) an agent or employee of a public or private residential home institution facility or day treatment program as defined by 10 O.S. § 175.20.

(3) Except when employed in a child care facility, school teachers and officials, OKDHS employees, and other persons providing services to the child are not PRFCs.

(4) Reports alleging child abuse or neglect in settings above the foster care level are investigated by the Office of Client Advocacy per OAC 340:2-3-32.

INSTRUCTIONS TO STAFF 340:75-3-100

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1. (a) Child safety drives each case decision during assessment or investigation, safety planning, court intervention, in a family-centered services case, visitation, and reunification. The safety needs of the child five years of age and younger is given the greatest consideration as the young child is more vulnerable to life-threatening consequences of abuse or neglect.

(1) Effective intervention requires Child Protective Services (CPS) to respond with a non-punitive approach and offer help in the least intrusive manner possible.

(2) All CPS intervention is directed toward family rehabilitation, when possible.

(3) Per Section 1-1-102 of Title 10A of the Oklahoma Statutes, it is presumed, when safety threats can be controlled within the home, that the best interests of the child is ordinarily served by leaving the child in the custody of the parents who are expected to have the strongest bond of love and affection for the child and are best able to provide the child needed qualities that make a child's life safe and secure.

(4) The child's family must be involved and participate in the casework process.

(b) Child protective services are accomplished by:

(1) assessing child safety;

- (2) controlling and managing safety threats to protect the child who is abused or neglected or who is at risk of abuse or neglect;
- (3) engaging the child's family in the identification and enhancement of the parent's protective capacities;
- (4) encouraging behavioral change in the parent or guardian;
- (5) helping the parent develop coping skills;
- (6) enhancing the parent's problem-solving capabilities and coping skills;
- (7) promoting family stability;
- (8) reducing stress for the family in crisis; and
- (9) referring the parent to available resources that can assist the parent enhance protective capacities.

340:75-3-101. [RESERVED]

340:75-3-102. [RESERVED]

340:75-3-103. [RESERVED]

340:75-3-104. [RESERVED]

340:75-3-105. [RESERVED]

340:75-3-106. [RESERVED]

340:75-3-107. [RESERVED]

340:75-3-108. [RESERVED]

340:75-3-109. [RESERVED]

340:75-3-110. Child protective services (CPS) relationship to other entities involved in child abuse and neglect investigations and deprived cases ■ 1 through 8

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(a) Other entities' responsibilities for or regarding child abuse or neglect investigations.

(1) Office of Client Advocacy (OCA).

(A) The Oklahoma Department of Human Services (OKDHS), OCA, per Section 1-9-112 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112), is responsible for:

(i) investigating allegations of abuse or neglect of the child placed in an OKDHS facility, or in a public or private residential facility including, but not limited to, jails or detention centers, hospitals, psychiatric facilities and treatment programs, day treatment programs, and licensed or unlicensed residential child care facilities; and

(ii) the investigation of alleged child abuse, neglect, sexual abuse, and sexual exploitation by a community services worker as defined by Section 1025.1 of Title 56 of the Oklahoma Statutes.

(B) Reports of suspected abuse or neglect of a child are made to the OKDHS Abuse and Neglect Hotline (Hotline) as prescribed in OAC 340:2-3-33.

(C) OCA does not investigate allegations of abuse or neglect of the child in foster homes, specialized community homes, therapeutic foster homes, or kinship home placements.

(2) **Oklahoma Child Care Services (OCCS).** OKDHS OCCS is responsible for implementing the Oklahoma Child Care Facilities Licensing Act per 10 O.S. §§ 401 through 441 designed to ensure child safety. OCCS has concurrent responsibilities with child protective services (CPS) in investigations of alleged physical abuse, sexual abuse, or serious neglect in child care centers and homes. Whenever possible, investigations are conducted jointly by OCCS and CPS. This does not include violations of licensing standards that are referred to OCCS.

(3) **Office of Juvenile Affairs (OJA).** OJA investigates allegations of child abuse or neglect in facilities operated per the Oklahoma Juvenile Code.

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

(c) **CPS role.** CPS evaluates reports of abuse or neglect, assesses child safety and risk of future maltreatment and the need for protective services, and provides and coordinates services.

(d) **Law enforcement role.** Law enforcement investigates a report of child abuse or neglect as a crime.

(1) Reports that require joint involvement by CPS and law enforcement are conducted as CPS investigations rather than assessments.

(2) Law enforcement identifies and arrests the offender, gathers court-admissible evidence, and protects the integrity of the evidence so the offender can be prosecuted in criminal court.

(3) Law enforcement may:

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

(B) place the child into protective custody and authorize immediate medical or behavioral health treatment, when necessary to protect the child's health, safety, or welfare as authorized by 10A O.S. § 1-4-201; and

(C) release the child to a person designated by the parent when the person responsible for the child has been arrested on a charge or warrant for a crime other than child endangerment or child abuse or neglect, per 10A O.S. § 1-4-201.

(e) **CWS joint response with law enforcement.** ■ 3 When law enforcement takes a child into protective custody due to abuse or neglect allegations, CWS is contacted in accordance with the joint response protocol developed per 10A O.S. § 1-4-201. When

possible, CWS responds to the scene where protective custody of the child has been assumed.

(1) CWS conducts a safety evaluation at the scene to determine whether the child faces a safety threat and, if so, whether the child can be protected through placement with relatives or others instead of in an OKDHS foster care placement.

(2) When a determination is made at the scene that the child cannot safely remain in the home, law enforcement and CWS coordinate transportation of the child to the home of a relative, kinship care home, an emergency foster care home, a shelter, or other location where OKDHS believes the child can be protected. OKDHS utilizes a shelter when other placement options are unavailable or inappropriate.

(3) When CW is unable to respond to the scene where a child has been placed in protective custody, the child is taken by law enforcement to a designated county-specific reception center that may be a shelter or other place pursuant to the county-specific joint response protocol. The child may remain in the reception center for up to 23 hours while OKDHS conducts a safety evaluation to determine whether the child faces an imminent safety threat, and if so, whether the child can be protected through placement with relatives or others, instead of placement in OKDHS foster care. ■ 3 & 4

(4) A child taken into protective custody by law enforcement is not, by virtue of a standing order, considered to be in OKDHS emergency custody upon the child's admission to a shelter. A child cannot be placed in OKDHS emergency custody until:

(A) CWS has completed a safety evaluation and concluded the child faces an imminent safety threat; and

(B) the court has issued a child-specific emergency custody order.

(f) Restoration of custody to the parent, legal guardian, or custodian when child is in protective custody. When the safety evaluation conducted by CWS indicates the child does not face an imminent safety threat, OKDHS restores the child to the custody and control of the parent, legal guardian, or custodian per 10A O.S. § 1-4-201. ■ 4
Specific county procedures are followed when a child is released from protective custody by the court.

(g) OKDHS relationship with law enforcement and Oklahoma State Bureau of Investigation (OSBI).

(1) OKDHS coordinates the child abuse and neglect investigation with law enforcement when appropriate. OKDHS does not relinquish investigative responsibility when law enforcement requests that OKDHS not interview certain persons or delay the OKDHS investigation. Instead, OKDHS develops a plan with law enforcement to ensure the OKDHS child safety responsibilities are fulfilled without interfering with the criminal investigation. ■ 2

(2) The OKDHS Director or designee has the authority to request a criminal investigation by the Oklahoma State Bureau of Investigation or other law enforcement agency, per 10A O.S. § 1-2-105 when it is reasonably believed that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred. ■ 3

(h) **District attorney's (DA) role in deprived matters.** It is the DA's responsibility to determine whether the information obtained during the CPS investigation warrants filing a petition alleging the child to be deprived. ■ 4

(i) **The DA's role in criminal prosecutions.** OKDHS makes recommendations to the DA regarding deprived proceedings but not for criminal prosecution. The DA has the responsibility to decide whether criminal charges are filed against the alleged perpetrator of child abuse and neglect. The CPS investigation recommendation is limited to the action necessary for child safety.

(j) **Child's attorney role.** In deprived proceedings, the attorney appointed for the child is independent of and not selected by the DA, the child's parent, legal guardian, or custodian per 10A O.S. § 1-4-306. In criminal actions brought under Title 21 of the Oklahoma Statutes, the child victim may be appointed an attorney per Section 843.7 of Title 21 of the Oklahoma Statutes.

(1) The child's attorney represents the child's expressed interests unless the child is very young, unable to express an interest, or incapable of judgment and meaningful communication. When the child is unable to express an interest or lacks judgment, the attorney formulates and presents a position that serves the best interests of the child using objective criteria outlined in 10A O.S. § 1-4-306, rather than relying solely on the attorney's life experience or instinct.

(2) The child's attorney meets with the child as soon as possible after appointment and, except for good cause, prior to any hearing in the deprived proceeding. OKDHS provides the child's attorney access to reports, records, information relevant to the case, and the child's parent, legal guardian, or custodian's examination reports. Per OAC 340:75-6-48.1, the attorney is advised of the child's location and how best to contact the child. ■ 5

(k) **Guardian ad litem's role.** Per 10A O.S. § 1-4-306, the court appoints, after a deprived petition is filed and upon the request of the child, child's attorney, OKDHS, or another party to the deprived action, a guardian ad litem or court-appointed special advocate (CASA) to objectively advocate for and investigate matters concerning the child's best interests. The guardian ad litem or CASA makes reports and recommendations to the court and conducts interviews with parents, foster parents, providers, CW specialists, and others with case knowledge. ■ 6

(l) **Judge's role in deprived matters.** Per 10A O.S. § 1-4-102, the judge may, upon application by the DA, issue a court order to place the child in emergency custody when the child is in need of immediate protection due to an imminent safety threat. After a deprived petition has been filed the judge hears the evidence presented during the adjudication hearing and decides whether the child is adjudicated a deprived child. When the child is adjudicated deprived, the judge decides whether the child is placed in the custody of the person responsible for the child (PRFC), a relative, OKDHS, or another agency, and may order the PRFC and child to participate in a court-ordered individualized service plan.

(m) **Judge's role in child custody or visitation proceedings.** When a judge, during a proceeding concerning child custody or visitation, determines there is evidence of abuse or neglect of the child, Section 1-4-102 of Title 10A of the Oklahoma Statutes requires the court to refer the allegations to OKDHS for an assessment or investigation. The referring court may also enter an order to have the child taken into emergency custody

when evidence indicates the child is in surroundings that endanger the health, safety, or welfare of the child. ■ 7

INSTRUCTIONS TO STAFF 340:75-3-110

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1. Law enforcement notification. Child Welfare Services (CWS) notifies law enforcement as soon as possible when the child welfare (CW) specialist determines:

(1) a child, the CW specialist, or other person needs immediate protection to prevent physical harm;

(2) a child is found in a situation dangerous to the child's health, safety, or welfare;

(3) a child's health or condition warrants medical or behavioral health evaluation, examination, or treatment and the person responsible for the child (PRFC) is unavailable or unwilling to obtain the needed care;

(4) the act of abuse or neglect caused serious injury to the child;

(5) sexual abuse appears likely to have occurred based on initial interviews or on the basis of the sexual abuse report when there are allegations of physical trauma resulting from sexual abuse; or

(6) a child who was placed in protective custody has a sibling in imminent danger.

2. (a) Coordinating investigations with law enforcement. When efforts to coordinate the investigation with law enforcement are unsuccessful:

(1) the district director is notified;

(2) assistance from the OKDHS Legal Division is requested when needed; and

(3) the coordination efforts are documented in Form 04KI003E, Report to the District Attorney.

(b) Notification to law enforcement of a crime.

(1) CW notifies law enforcement at any time during the child abuse or neglect investigation when a criminal investigation appears warranted.

(2) The CW specialist verbally notifies law enforcement of the potential crime and submits written notification using Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report.

(c) Joint response system between CWS and law enforcement. The system for joint response is utilized when a child has been taken into protective custody by law enforcement and includes:

(1) designating CWS staff to serve as contact persons for law enforcement;

(2) the CW specialist conducting a safety evaluation at the scene where law enforcement has assumed protective custody of a child to determine if the child can be protected through placement with relatives without the need for OKDHS to seek an emergency custody order to place the child in foster care; or

(3) the CW specialist conducting a safety evaluation at the designated district-specific reception center for children in protective custody when:

(A) the CW specialist is unable to respond to the scene in a reasonable

- time period;
- (B) exigent circumstances exist and law enforcement must act immediately without CWS participation; or
- (C) there are other circumstances such that it is not feasible or advisable for the CW specialist to respond to the scene;
- (4) coordination between law enforcement and CWS for transportation of the child to the home of a relative, kinship care home, an emergency foster care home, a shelter, or any other site at which OKDHS believes the child can be protected when the child cannot be safely left in the home. CW staff is authorized to provide transportation of the child when indicated. A shelter is only utilized when the home of a relative, kinship care home, or emergency foster care home is not immediately available or is inappropriate; and
- (5) a request by the CW specialist to the district attorney (DA) for application for emergency custody, if the child has not been restored to the custody of the parent, legal guardian, or custodian and the safety evaluation determines the need for emergency custody of the child;
- (d) Report of abuse or neglect by someone other than the PRFC. Refer to OAC 340:75-3-400 for reports of abuse or neglect by someone other than the PRFC protocol required per Section 1-2-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-102). Per (10A O.S. § 1-2-102, after OKDHS makes a referral to law enforcement of a non-PRFC's alleged involvement in a potential crime, OKDHS is not responsible for further investigation unless OKDHS:
- (1) has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a PRFC;
- (2) receives notice from law enforcement that the alleged perpetrator is a parent of or a PRFC of another child not the subject of the criminal investigation; or
- (3) receives a written request from law enforcement requesting OKDHS to participate in the criminal 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.
3. Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody. When, following a safety evaluation, OKDHS determines the child in protective custody does not face an imminent safety threat, the child is restored to the custody and control of only the child's parent, legal guardian, or custodian.
4. (a) When to request an Oklahoma State Bureau of Investigation (OSBI) or other law enforcement criminal investigation. A OSBI or other law enforcement criminal investigation may be warranted in an open CWS case when:
- (1) local law enforcement or the district attorney's (DA's) office does not have the available local resources to investigate the criminally injurious conduct and has not requested OSBI or other law enforcement assistance;
- (2) the physical abuse, sexual abuse, or neglect is serious, as defined in OAC 340:75-3-120;

- (3) the alleged perpetrator of the abuse, sexual abuse, or neglect is an unknown caregiver or there is more than one caregiver; and
- (4) CWS does not have the investigative resources or information to determine who abused the child and is unable to ensure the child's safety.
- (b) Procedures for requesting an OSBI criminal investigation. When an OSBI investigation appears warranted:
- (1) the CW specialist and supervisor consult with the district director who:
- (A) reviews the matter;
- (B) consults with the DA to determine whether the DA has requested or will request OSBI or other law enforcement assistance; and
- (C) notifies the deputy director for the region when the DA declines to request OSBI or other law enforcement assistance; and
- (2) the deputy director for the region notifies the Child Protective Services (CPS) Program Unit. The CPS Program Unit reviews the request and initiates the OKDHS Director request for a criminal investigation by OSBI or other law enforcement agency, when appropriate.
5. Recommendations to the DA. Consultation, coordination, and a good working relationship with the district attorney is essential to ensure effective communication regarding the child's protection needs.
- (1) The CW specialist submits the OKDHS recommendation in writing regarding the need for court intervention even if the district attorney verbally indicates a deprived petition will not or may not be filed.
- (2) The CW specialist recommends emergency custody of the child via an affidavit submitted to the DA when the child is in danger and no available resource can be activated to prevent harm.
- (3) The CW specialist uses Form 04KI003E, Report to District Attorney, to:
- (A) recommend a deprived petition and court intervention; or
- (B) to report the finding for each investigation, except when the finding is reasonable parental discipline.
6. Child's attorney. The CW specialist, as an advocate for the child, consults with the child's attorney to enhance the child's well-being, when possible.
7. Guardian ad litem or court-appointed special advocate (CASA). The CW specialist and the guardian ad litem or CASA coordinate and cooperate with each other to ensure the best services are provided for the child.
8. Child custody or visitation proceedings.
- (1) When the referring court places the child in OKDHS custody, the information is documented on Form 04KI001E, Referral Information Report, and an investigation is immediately assigned as a Priority I, per OAC 340:75-3-400.
- (2) When the referring court makes a report of abuse or neglect the information is documented on Form 04KI001E and an investigation is assigned per OAC 340:75-3-400. OKDHS submits the completed investigation to the DA and referring judge within 30 calendar days of the referral date.

340:75-3-111. [RESERVED]

340:75-3-112. [RESERVED]

340:75-3-113. [RESERVED]

340:75-3-114. [RESERVED]

340:75-3-115. [RESERVED]

340:75-3-116. [RESERVED]

340:75-3-117. [RESERVED]

340:75-3-118. [RESERVED]

340:75-3-119. [RESERVED]

340:75-3-120. Definitions and substantiation protocol ■ 1 through 45

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(a) **Legislative intent.** Legislative intent per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102) states, "...it is the purpose of the laws relating to children alleged or found to be deprived to...intervene in the family only when necessary to protect a child from harm or threatened harm."

(b) **Definitions.** Terms used by Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) not found in the Oklahoma Children's Code are defined in OAC 340:75-3-120 Instructions to Staff. The following words and terms, when used in the Oklahoma Children's Code, Sections 1-1-105 and 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-1-105 and 1-6-105) or in this Subchapter have the following meanings unless the context indicates otherwise:

"**Abandonment**" means the:

(A) willful intent by words, actions, or omissions of the person responsible for the child (PRFC) not to return for a child; or

(B) failure to maintain a significant parental relationship with a child through visitation or communication such as incidental or token visits or communication are not considered significant; or

(C) failure to respond to notice of deprived proceedings. ■ 1

"**Abuse**" means harm or threatened harm or failure to protect from harm or threatened harm to a child's health, safety, or welfare by a person responsible for the child's health, safety, or welfare, including, non-accidental physical or mental injury; or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

"**Assessment**" means a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child.

"Behavioral Health" means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment.

"Child" means any unmarried person younger than 18 years of age, including an infant born alive.

"Custodian" means an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child has been awarded by the court. As used in the Oklahoma Children's Code, the term "custodian" does not mean the Oklahoma Department of Human Services.

"Dependency" means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian.

"Drug-endangered child" means a child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled dangerous substances, or the attempt of any of these acts by a person responsible for the health, safety, or welfare of the child as defined in this Section and 10A O.S. § 1-1-105.

(1) This term includes circumstances wherein the substance abuse of the person responsible for the health, safety, or welfare of the child interferes with that person's ability to parent and provide a safe and nurturing environment for the child.

(2) The term also includes newborns who test positive for a controlled dangerous substance with the exception of those substances administered under the care of a physician.

(3) Upon receipt of a report that a child may be abused, neglected, or drug-endangered, OKDHS conducts a safety analysis, per 10A O.S. § 1-2-102.

"Emergency custody" means court-ordered custody of a child prior to adjudication of the child after the show-cause hearing.

"Failure to protect" means the PRFC:

(A) had knowledge or could have predicted that the child would be:

(i) in imminent danger or a high risk situation; or

(ii) with a person who has a history of abusive, neglectful, or violent behavior;

and

(B) failed to show regard for the child's need for safety.

"Foster parent" means any person maintaining a therapeutic, emergency, specialized community home, tribal, kinship, or foster family home, who is responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

"Harm or threatened harm" means any real or threatened physical, mental, or emotional injury or damage to the body or mind of a child that is not accidental, including but not limited to:

(A) physical abuse;

(B) sexual abuse or exploitation;

(C) neglect;

(D) failure or omission to provide protection;

(E) abandonment; or

(F) dependency.

"Heinous and shocking abuse" means any aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means, but is not limited to, injury that involves:

- (A) substantial risk of death;
- (B) extreme physical pain;
- (C) disfigurement;
- (D) loss or impairment of a function of a body member, organ, or mental faculty;
- (E) an injury to an internal or external organ or the body;
- (F) bone fractures;
- (G) sexual abuse or sexual exploitation;
- (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation that is repeated or continuing;
- (I) torture including, but not limited to, inflicting, participating in, or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child, or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person; or
- (J) any other similar aggravated circumstance. ■ 2

"Heinous and shocking neglect" means chronic neglect that includes, but is not limited to:

- (A) a persistent pattern of family functioning in which the caregiver has not met or sustained the basic needs of a child that results in harm to the child;
- (B) neglect that has resulted in a diagnosis of the child as an inorganic failure to thrive;
- (C) an act or failure to act by a parent that results in:
 - (i) serious physical or emotional harm;
 - (ii) sexual abuse or sexual exploitation;
 - (iii) death or near death of a child or sibling; or
- (D) any other similar aggravating circumstance. ■ 2

"Infant" means a child 12 months of age or younger.

"Investigation" means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child making it necessary to determine:

- (A) the current safety of the child and the risk of subsequent abuse or neglect;
and
- (B) whether child abuse or neglect occurred; and
- (C) whether the family needs prevention and intervention related services.

"Near death" means a child is in serious or critical condition as verified by a physician, a registered nurse, or other licensed health care provider. Verification of the medical condition of a child may be given in person or by telephone, mail, electronic mail, or facsimile.

"Neglect" means:

- (1) the failure of or omission by the PRFC to provide the child with adequate:
 - (A) nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education;
 - (B) medical, dental, or behavioral health care;

- (C) supervision or appropriate caretakers or;
- (D) special care made necessary by the child's physical or mental condition; or
- (2) the failure of or omission by the PRFC to protect the child from:
 - (A) the use, possession, sale, or manufacture of illegal drugs;
 - (B) illegal activities;
 - (C) sexual acts or materials that are not age-appropriate; or
 - (D) abandonment.

"Person responsible for the child's health, safety, or welfare (PRFC)" means:

- (A) the child's parent, legal guardian, custodian, or foster parent. Per 10A O.S. § 1-1-105, a custodian is an individual other than a parent, legal guardian, or Indian custodian to whom legal custody of the child has been awarded by the court;
- (B) a person 18 years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child;
- (C) an agent or employee of a public or private residential home, institution, facility, or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes;
- (D) an owner, operator, or employee of a child care facility, per 10 O.S. § 402, whether the home is licensed or unlicensed; or ■ 7
- (E) a foster parent maintaining a therapeutic, emergency, specialized community, tribal, kinship, or foster family home who is responsible for providing care, supervisions, guidance, rearing, and other foster care services to a child.

"Physical abuse" means an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even though the injury is not an accident, the PRFC may not have intended to hurt the child.

(A) The injury may result from:

- (i) extreme physical punishment that is inappropriate to the child's age or condition;
- (ii) a single episode or repeated episodes and range in severity from significant bruising to death; or
- (iii) any action including, but not limited to, hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained but the action places the child at risk of grave physical danger.

(B) Minor injury of a child older than ten years of age is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.

"Protective custody" means custody of a child taken by law enforcement or designated employee of the court, without a court order.

"Risk" means the likelihood that an incident of child abuse or neglect will occur in the future. ■ 8

"Risk factors" means family behaviors and conditions that suggest the caregivers are likely to maltreat their child in the future.

"Safety analysis" means action taken by OKDHS in response to a report of alleged child abuse or neglect that may include an assessment or investigation based upon an analysis of the information received according to priority guidelines and other criteria adopted by OKDHS;

"Safety evaluation" means evaluation of a child's situation by OKDHS, using a structured, evidence-based tool to determine if the child is subject to safety threats.

"Safety threat" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

"Sexual abuse" means any sexual activity, including sexual propositioning between the PRFC and child or any acts committed or permitted by the PRFC, including, but not limited to:

(A) rape;

(B) sodomy;

(C) incest; and

(D) lewd or indecent acts or proposals to a child. ■ 9

"Sexual exploitation" means allowing, permitting, or encouraging a child to engage in:

(A) prostitution, as defined by law, by a person responsible for the health, safety, or welfare of a child; or

(B) lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of the child in those acts by a person responsible for the health, safety, and welfare of the child.

(c) Substantiation of child abuse and neglect allegations. Specific guidelines in conjunction with definitions in this Section and OAC 340:75-3-120 are utilized in substantiating abuse or neglect.

INSTRUCTIONS TO STAFF 340:75-3-120

Issued 7-1-13

1. Definitions used by Oklahoma Department of Human Services (OKDHS) throughout Subchapter 3. Definitions used by OKDHS throughout Subchapter 3 not defined in the Oklahoma Children's Code are defined in Instructions to Staff (ITS) # 2 through # 47 of this Section. Certain definitions contain related examples and substantiation protocol.

2. (a) Abandonment definition. "Abandonment" is broadly defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) and OAC 340:75-3-120; however, subparagraphs B and C of the statute as they relate to a significant parental relationship and failure to respond to notice of deprived proceedings, do not necessarily apply when making safety decisions. For the purpose of accepting or screening out abandonment reports for assessment or investigation, a child is considered abandoned when a person responsible for the child (PRFC):

(1) leaves the child with no stated or implied plans to resume care or custody and the caregiver is unwilling or unable to provide appropriate care for the child;

(2) refuses to have the child in his or her care and custody and does not make appropriate arrangements for the child's care;

(3) arranges substitute care for the child; and

(A) fails to return for the child;

(B) efforts to locate the PRFC fail and more than 24 hours pass; and
(C) the caregiver is unwilling or unable to continue to provide appropriate care for the child.

(b) Abandonment examples. Examples of Abandonment may include, but are limited to the:

(1) PRFC refuses to pick the child up from a temporary caretaker, inpatient facility, detention facility, or school after a request to do so and does not make appropriate alternative plans for the child's care;

(2) PRFC does not return to pick up the child up from an appropriate, temporary caregiver and the caregiver is no longer able or willing to care for the child; or

(3) child is found home alone for an extended period of time with no access to an adult and the PRFC is unable to be contacted or located.

(c) Substantiating abandonment.

(1) When determining a finding of the allegation regarding abandonment, the child welfare (CW) specialist considers:

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

(B) whether mitigating circumstances exist, such as a teen parent who is in OKDHS custody and who is unable, but not unwilling to provide care for the child;

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

(D) the efforts by the caregiver to locate the PRFC; and

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

(2) In general, to substantiate abandonment one of the factors in subparagraphs (A) through (E) of this paragraph is present. The PRFC:

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

(B) arranges for a substitute caregiver and the substitute caregiver is:

(i) 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 340:75-3-120 ITS # 1; and

(ii) unable to locate the PRFC and more than 24 hours have passed;

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

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

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

3. (a) Abuse definition. The definition of "abuse" is found in OAC 340:75-3-120.

(b) Abuse examples. Examples of abuse may include, but are not limited to, circumstances when the child is:

(1) shocked by a cattle prod;

(2) shot with a BB gun or air gun as a form of discipline; or

(3) held under water or submerged in water as a form of punishment.

(c) Substantiating abuse.

(1) When determining a finding regarding the allegation of abuse, the CWS specialist considers the:

(A) impact on the child related to the child's age, physical condition, and vulnerability to the abuse;

(B) PRFC's pattern of abusive behavior; and

(C) duration of the abuse; and

(2) In general, prior to substantiating abuse not otherwise defined in the definitions of Section OAC 340:75-3-120 and OAC 340:75-3-120 Instructions to Staff (ITS) under harm or threatened harm, physical abuse, sexual abuse, or failure to protect, the factors in subparagraphs (A) and (B) of this paragraph are present.

(A) The PRFC's actions resulted in the child's death, physical or emotional harm, sexual abuse or exploitation; or

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

4. Accepting the report for assessment or investigation definition. "Accepting the report for assessment or investigation" means the screening process has been completed, the report meets the definition of abuse, neglect, or both, and is within the scope of child protective services (CPS), and will be assigned.

5. Acute traumatic events definition. "Acute traumatic events" means events that are usually short-lived but result in overwhelming feelings of terror, horror, or helplessness.

6. Administrative investigation definition. "Administrative investigation" means an internal investigation initiated by the advocate general upon receipt of a notice of the death or near death of a child known to Child Welfare Services.

7. Advocate general definition. "Advocate general" means the administrative head of OKDHS Office of Client Advocacy.

8. Chronic traumatic events definition. "Chronic traumatic events" means events that occur repeatedly over an extended period of time and result in a range of responses, including intense feelings of fear, loss of trust in others, decreased sense of personal safety, guilt, and shame.

9. Complex trauma definition. "Complex trauma" describes a child's exposure to multiple or prolonged traumatic events and the impact of this exposure on the child's development. Complex trauma occurs within the primary caregiving system and involves the chronic neglect, physical or sexual abuse of a child, psychological maltreatment, as well as domestic violence, that begins in early childhood.

10.(a) Confinement definition. "Confinement" means unreasonable restriction of the child's mobility, actions, or physical functioning by tying the child to a fixed or heavy object, tying limbs together, or forcing the child to remain in a closely confined area that restricts the child's physical movement.

(b) Confinement examples. Confinement may include, but is not limited to:

(1) locking a child in a closet or small room;

(2) tying one or more of the child's limbs to a bed, chair, or other object except as authorized by a licensed physician;

- (3) tying a child's hands behind his or her back;
- (4) putting the child in a cage or its likeness such as a crib with a cover over the top;
- (5) the child being forced to live in a small space without proper ventilation, lighting, or access to facilities; or
- (6) locking the child in inappropriate living quarters such as a basement, laundry room, storm shelter, or bathroom for extended periods of time to prevent the child from interacting or participating in daily activities with other members of the family.

(c) Substantiating confinement.

(1) When determining a finding regarding the allegation of confinement, the child welfare specialist considers the:

- (A) child's age and vulnerability;
- (B) child's development and functioning;
- (C) child's mental health;
- (D) child's physical limitations;
- (E) child's length of confinement; and
- (F) PRFC's intent behind the child's confinement.

(2) In general, to substantiate confinement one of the factors in subparagraphs (A) through (D) of this paragraph is present.

(A) The child's mobility, physical function, or limbs are restrained by the PRFC's purposeful action over a period of time.

(B) The child is forced to remain in a confined area through physical force or threat of harm of a physical nature for an unreasonable amount of time.

(C) The child is unable to remove himself or herself from confinement due to physical abilities, development, or other limitations.

(D) The PRFC restricts the child's limbs through bondage, taping, or other means and the child is unable to remove himself or herself from the confinement. Age-appropriate swaddling of an infant is not considered confinement.

11.(a) Domestic violence definition. "Domestic violence" means assaultive or coercive behaviors such as physical, sexual, and psychological attacks, or economic coercion against another adult, emancipated minor, or minor child who are family or household members or who are or were in a dating relationship.

(b) Domestic violence examples. Domestic violence may include, but is not limited to:

(1) physical assault upon a spouse, domestic partner, girlfriend, boyfriend, or other adult residing in the same household including, but not limited to:

- (A) punching;**
- (B) striking with objects;**
- (C) hitting;**
- (D) slapping;**
- (E) choking;**
- (F) kicking;**

of education;

(B) duration of the child's absence from school;

(C) reasoning for the child not being enrolled in school; and

(D) plan provided by the child, when appropriate, and the PRFC for the child's continued education.

(2) In general, to substantiate educational neglect one of the factors in subparagraphs (A) through (C) of this paragraph is present and all efforts have been exhausted by the appropriate school district.

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

(B) The PRFC does not access materials necessary for the child's education such as home schooling text books, Internet access, or tutors; or

(C) The school district exhausts all available means to compel the child's attendance and the PRFC fails to respond.

13.(a) Fabricated or induced illness definition. "Fabricated or induced illness," formerly referred to as Munchausen Syndrome by Proxy, means a type of child abuse where the PRFC fabricates or induces medical conditions in the child.

(b) Fabricated or induced illness examples. Fabricated or induced illness may include, but is not limited to the PRFC:

(1) intentionally making the child ill through the administration of medications, chemicals, or harmful substances;

(2) reporting the child has a life threatening condition without supporting medical evidence and continually seeking treatment for the condition to gain attention or sympathy;

(3) taking the child to multiple doctors and or specialists;

(4) demanding the child be placed on medications or receive treatment for an undiagnosed condition; or

(5) administering a multitude of over-the-counter medications to the child who is not officially diagnosed by a medical professional for a specific condition;

(c) Substantiating fabricated or induced illness.

(1) When determining a finding regarding the allegation of fabricated or induced illness, the CWS specialist obtains:

(A) all of the child's medical records;

(B) an opinion from a medical professional stating the PRFC fabricated or induced the child's illness; and

(C) documentation from the PRFC's mental health provider, when available.

14.(a) Failure to protect definition. The definition for "failure to protect" is found in OAC 340:75-3-120.

(b) Failure to protect examples. Failure to protect may include, but is not limited to the PRFC:

(1) leaving the child in the care of an inappropriate caretaker or with a caretaker with whom the PRFC does not have a long standing relationship;

(2) allowing the child to be left with a caretaker who previously harmed a

child and the PRFC had knowledge of the previous abuse;

(3) remaining with the child in an environment where the child is abused or neglected by another caretaker; or

(4) permitting abuse or neglect to occur at the hands of another PRFC or caretaker.

(c) Substantiating failure to protect.

(1) When determining a finding regarding the allegation of failure to protect, the CWS specialist considers:

(A) the PRFC's knowledge of a potential safety threat to the child;

(B) the PRFC's overall attitude regarding the child's needs for safety; and

(C) whether a reasonable adult could have predicted harm to the child in the situation. A reasonable person acts sensibly without serious delay, and takes proper, but not excessive precautions.

(2) In general, to substantiate failure to protect either or both of the factors in subparagraphs (A) and (B) of this paragraph are present.

(A) The PRFC had knowledge or could have predicted that the child would be:

(i) in an unsafe situation; or

(ii) with an individual who has a history of abusive, neglectful, or violent behavior.

(B) The PRFC failed to show attention, care, or consideration for the child's need for safety;

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

(A) the PRFC has protected and will continue to protect the child, a ruled out finding is made unless the CWS specialist determines services are recommended to continue to ensure the child's protection; or

(B) it appears the abuse or neglect was attributable to the willful failure on the part of the PRFC to protect the child, a finding of substantiated failure to protect is appropriate.

15. General counsel definition. "General counsel" means the administrative head of the OKDHS Legal Division.

16. (a) Heinous and Shocking Abuse definition. "Heinous and Shocking Abuse" means aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means injury that involves a substantial risk of death or extreme physical pain.

(b) Heinous and shocking abuse examples. Heinous and shocking abuse includes, but is not limited to:

(1) a substantial risk of death;

(2) extreme physical pain;

(3) disfigurement;

(4) a loss or impairment of the function of a body member, organ, or mental faculty;

(5) an injury to an internal or external organ of the body;

(6) a bone fracture;

- (7) sexual abuse or sexual exploitation;
 - (8) chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation that is repeated or continuing;
 - (9) torture such as inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child, or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person; or
 - (10) other similar aggravating circumstances.
- 17. (a) Heinous and Shocking Neglect definition. "Heinous and Shocking Neglect" is defined in OAC 340:75-3-120.**
- (b) Examples of heinous and shocking neglect include, but are not limited to:**
- (1) chronic neglect that includes, but is not limited to a persistent pattern of family functioning in which the PRFC has not met or sustained the basic needs of the child that results in harm to the child;
 - (2) neglect that results in a diagnosis of the child as inorganic failure to thrive;
 - (3) the PRFC's act or failure to act that results in the death or near-death of the child or child's sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or that presents an imminent risk of serious harm to the child; or
 - (4) other similar aggravating circumstances.
- 18. Immediate protective action plan definition. "Immediate protective action plan" means the action taken when an immediate, significant, and clearly observable family condition is presently occurring and is already endangering or threatening to endanger a child. Refer to OAC 340:75-3-300 ITS # 5.**
- 19. Impending danger definition. "Impending danger" means the presence of a threatening family condition that is:**
- (1) specific and observable;
 - (2) out of control;
 - (3) certain to happen in the next several days; and
 - (4) likely to have a severe effect on a child. Refer to OAC 340:75-3-300 ITS # 6.
- 20. Infant born alive definition. "Infant born alive" means an infant who is born alive at any stage of fetal development as certified by a physician.**
- 21. (a) Lack of supervision definition. "Lack of supervision" means the PRFC failed to provide the child with the supervision required to keep the child:**
- (1) from hurting himself, herself, or others; or
 - (2) away from dangerous objects or situations.
- (b) Examples of lack of supervision include, but are not limited to:**
- (1) leaving a young child alone without appropriate supervision or access to an appropriate caretaker;
 - (2) leaving a young child without appropriate supervision in a potentially dangerous or hazardous environment;
 - (3) not providing appropriate supervision to a young, disabled, or vulnerable child around roadways, bodies of water, or inside vehicles;

(4) allowing a young or vulnerable child to freely play at a park, playground, school, or other location without an appropriate caretaker present to supervise; or

(5) leaving a child with physical, mental, or emotional disabilities without appropriate access to an adult or responsible caretaker who is able to tend to the child's needs.

(c) Substantiating lack of supervision.

(1) When determining a finding regarding the allegation of lack of supervision, the CW specialist considers the:

(A) child's competence;

(B) environment where the child is left unsupervised;

(C) duration and frequency the child is left without supervision;

(D) child's accessibility to a capable adult;

(E) PRFC's expectations of the child while child is alone;

(F) resources available to the PRFC to improve the supervision plan;

and

(G) the PRFC's ability to make child safety-related decisions.

(2) In general, to substantiate lack of supervision the factors in subparagraphs (A) and (B) of this paragraph are present.

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

(B) 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.

22.(a) Medical neglect definition. "Medical neglect" means withholding medical treatment or prescription medication of any type and the withholding may result in significant harm to the child. Withholding medical treatment or prescriptions is medical neglect when the:

(1) medical treatment is, in the opinion of a physician, required to safeguard the child from serious medical risk;

(2) child's medical condition is an emergency or a life-threatening condition, constituting such a serious risk to the child's health, safety, or welfare that a reasonable person would procure medical attention immediately and the PRFC does not do so;

(3) withholding or refusal to administer or supply prescribed medications results in the child needing emergency medical services or results in the child suffering for a period of time which would have been prevented with proper administration of prescribed medications; or

(4) needed medical treatment is withheld from an infant born alive at any stage of fetal development or is withheld from an infant born with disabilities if the infant's life-threatening condition will most likely improve or be corrected with medical treatment, per OAC 340:75-3-430.

(b) Examples of medical neglect include, but are not limited to the PRFC failing to:

(1) seek medical attention for the child with an injury, especially when the

injury is to the child's face, head, neck, stomach, ears, or genitals;
(2) administer prescribed medications resulting in the child's prolonged suffering or needing emergency medical care;
(3) seek medical care for the child's prolonged illness; or
(4) consistently follow through with the physician's recommendations regarding the child's treatment and care.

(c) Substantiating medical neglect. In general, to substantiate medical neglect, the CW specialist consults with medical personnel and either factors in (1) and (2) are present or factor (3) is present.

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

(2) The PRFC demonstrates a consistent refusal to obtain and follow through with specified medical care, including the administration and supply of prescribed medications.

(3) The health of the child is significantly endangered by the PRFC's failure to obtain medical treatment or provide prescribed medications for the child.

23.(a) Mental injury – emotional abuse or neglect definition. "Mental injury - emotional abuse or neglect" means an injury to the child's intellectual or psychological capacity:

(1) as evidenced by observable and substantial impairment to the child's ability to function within the child's normal range of performance and behavior with regard to the child's culture; and

(2) resulting from a pattern of cruel or unconscionable acts upon the child, or statements made or permitted by the PRFC to be made to the child or within the child's environment.

(b) Mental injury – emotional abuse or neglect examples. Mental injury – emotional abuse or neglect examples include, but are not limited to:

(1) acts or repeated statements directed at the child that degrade or belittle the child;

(2) exposure to repeated violent or intimidating acts or statements that may or may not be directed at the child but have a harmful effect on the child;

(3) the PRFC ignoring or being psychologically unavailable to the child such as acts ranging from lack of sustained attention to a barrier of silence;

(4) the PRFC fails to provide minimum levels of nurturing and shows little or no attachment to the child;

(5) the PRFC regularly ignores, rejects, or curses the child when the child requires assistance from the PRFC;

(6) the PRFC confuses the child's gender identity by forcing the child to dress in clothing inappropriate for the child's gender to shame the child;

(7) the PRFC exposes the child to maladaptive and harmful influences by:

(A) engaging in serious criminal activity with the child's full

awareness;

(B) allowing or encouraging the child to engage in illegal acts; or

(C) exposing or forcing the child to participate in child trafficking;

(8) consistently refusing to permit any professional to assess the child's serious emotional or behavioral problems, which may also be considered medical neglect; or

(9) the child witnessing chronic or highly volatile domestic violence.

(c) In general, to substantiate mental injury – emotional abuse or neglect, one or more of the factors in paragraphs (1) through (3) of this subsection is present.

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

(2) 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.

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

(A) statements by the child and at least one competent witness;

(B) the PRFC's description of a typical family interaction;

(C) the PRFC's description of an attitude toward the child;

(D) collaborative evidence provided by collateral sources familiar with the family; or

(E) the CW specialist's observation and assessment of the child's behavior and demeanor.

(4) The CW specialist considers the child's age and maturity level when making a finding regarding mental injury – emotional abuse or neglect.

24. (a) Minor Injury definition. "Minor injury" means belt, slap marks, or bruises on the child's buttocks, legs, shoulders, or arms that are not extensive, deep, or located on multiple sites as a result of discipline by the PRFC to a child ten years of age and older.

(b) Minor injury examples. Minor injury examples include, but are not limited to:

(1) fingertip bruising to the child's arm; and

(2) belt, slap marks, or bruises on the child's buttocks or legs that are not extensive, deep, or located on multiple sites.

25. (a) Neglect definition. The definition for "neglect" is found in OAC 340:75-3-120.

(1) The child is neglected when the PRFC deliberately or through exceptional lack of attention to the child's basic needs causes the child to suffer emotionally or physically.

(2) Neglect involves either a chronic, long-standing problem that impacts several aspects of a child's life or is so severe that it is life-threatening.

(3) Per 10A O.S. § 1-1-105, a child is not determined to be abused or neglected for the sole reason the parent, legal guardian, or person having

custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. The court is not prevented from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

(b) Neglect examples. Examples of neglect include, but are not limited to:

- (1) dangerously, inadequate supervision for the child;
- (2) extremely, hazardous living conditions for the child;
- (3) the child's malnutrition;
- (4) the PRFC's failure to obtain or provide critically essential medical, dental, or behavioral health care for the child;
- (5) mental injury to the child;
- (6) seriously inadequate physical care of the child;
- (7) the child's exposure to sexual acts or age-inappropriate material;
- (8) the PRFC's failure to protect;
- (9) the PRFC's abandonment of the child; or
- (10) threat of harm to the child.

(b) Substantiating neglect.

(1) When determining a finding regarding the allegation of neglect, the CW specialist considers the:

- (A) impact on the child related to the child's age, physical condition, and vulnerability to the conditions;
- (B) PRFC's pattern of neglectful behavior;
- (C) duration of the neglect;
- (D) resources available to the PRFC to assist the PRFC enhance his or her protective capacities; and
- (E) factor that poverty alone does not constitute neglect unless the PRFC does not access known and readily available resources to prevent serious emotional or physical harm to the child.

(2) In general, to substantiate neglect the factors in subparagraphs (A) and (B) of this paragraph are present.

(A) 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.

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

26.(a) Physical abuse definition. The definition for "physical abuse" is found in OAC 340:75-3-120.

(b) Substantiating physical abuse.

(1) When determining a finding regarding the allegation of physical abuse, the CW specialist:

- (A) determines whether the child sustained a physical injury;

- (B) assesses the severity of the injury;
(C) obtains the PRFC and child's explanation given for the injury;
(D) determines the PRFC's intent when physically disciplining the child;
and
(E) considers that minor injury to the child 10 years of age or older is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.
- (2) In general, to substantiate physical abuse the factors in subparagraphs (A) and (B) of this paragraph are present.
(A) The child sustains a physical injury inflicted by the PRFC resulting in damage to the child's body from punching, beating, kicking, biting, burning, extreme physical punishment, or otherwise harming the child;
and
(B) The injury is inflicted non-accidentally by the PRFC.
- (3) When the PRFC does not admit inflicting the child's injury, one or more pieces of evidence in subparagraphs (A) through (C) of this paragraph is present.
(A) In the CW specialist's judgment, the injury is clearly consistent with abuse based on credible evidence gathered regarding the cause of the injury.
(B) It is the opinion of medical personnel that the injury is consistent with abuse; or
(C) A witness statement corroborates the child's statement of how the injury was inflicted.
- (4) Physical abuse may be substantiated without the presence of an injury when the PRFC admits to an action that, in the CW specialist's judgment, or based upon corroborating witness statements, constitutes the potential for substantial injury to the child such as the child was:
(A) hit in the face or head or received extreme physical punishment inconsistent with the explanation; or
(B) young and the alleged action is inappropriate for the child's age or development.
27. Physical injury definition. "Physical injury" means temporary or permanent damage or impairment to the child's body caused by the PRFC.
28. Present danger definition. "Present danger" means an immediate, significant, and clearly observable family condition that is presently occurring and currently endangering or threatening to endanger a child. Refer to OAC 340:75-3-300 ITS # 5.
29. Prevention and intervention-related services definition. "Prevention and intervention-related services" means a service referred or recommended to the family by OKDHS to change a behavior or condition that caused or resulted in a safety threat or a substantiated report of abuse or neglect.
30. Protective capacity definition. "Protective capacity" means a skill or resource that can be mobilized to contribute to the ongoing protection of a child. It refers to how a person thinks, acts, or feels.
(1) The PRFC's diminished protective capacity is a reason CPS intervenes

in a family.

(2) The PRFC's sufficiently enhanced protective capacity is a reason CPS no longer needs to be involved with a family.

31. Reasonable parental discipline definition. "Reasonable parental discipline" means parental use of ordinary force as a means of discipline including, but not limited to, spankings, switching, or paddling that does not result in bodily injury to the child.

32. Risk factors definition. "Risk factors" means family behaviors and conditions that suggest the PRFC is likely to abuse or neglect the child in the future. Refer to OAC 340:75-3-300 ITS # 1 for the six key questions related to risk factors addressed during the assessment of child safety.

33. Safe definition. "Safe" means a child is in an environment where there is no danger or a PRFC has sufficient protective capacities to prevent the child from being harmed.

34. Safety threshold definition. "Safety threshold" means the process that evaluates or measures family behavior to determine if impending danger exists.

(1) An evaluation or measurement of the safety threshold occurs when family conditions are:

(A) specific and observable;

(B) out of control and without intervention, abuse or neglect could occur in the near future;

(C) severe and imminent; and

(D) threatening to the safety of a vulnerable child due to the PRFC's behaviors.

(2) The threshold is compromised when family behaviors, conditions, or situations manifest in such a way that child safety is threatened.

(3) The safety threshold encompasses only those family conditions that are out of the control of a parent, caregiver, or others within the family. This includes situations where the parent, caregiver, or others are able to control conditions, behaviors, or situations, but are unwilling or refuse to exert control.

35. Serious abuse or neglect definition. "Serious abuse or neglect" means:

(1) abuse or neglect resulting in significant injury, such as burns, fractures, abusive head trauma, genital injuries, extensive deep bruising on multiple sites of the body, or internal injuries;

(2) abuse or neglect resulting in life-threatening consequences, such as failure-to-thrive conditions, lack of supervision resulting in significant injury or danger, extreme malnutrition or dehydration, medical neglect involving a life-threatening illness, or life-threatening conditions caused by the PRFC's impaired abilities resulting from substance abuse, mental illness, or other emotional condition; and

(3) sexual abuse or exploitation.

36. (a) Sexual abuse and sexual exploitation definition. The definition for "sexual abuse and sexual exploitation" is found in OAC 340:75-3-120.

(b) Substantiating sexual abuse or sexual exploitation.

(1) When determining a finding regarding the allegation of sexual abuse or sexual exploitation, the CW specialist considers the:

(A) child's statements and/or behaviors that indicate sexual abuse or sexual exploitation;

(B) child's ability to describe or demonstrate the specific sexual acts in the context of the sexual abuse that substantiate sexual abuse or sexual exploitation based on the child's statement and/or behavior; and

(C) witness statements consistent with the child's statement and/or behavior.

(2) The three aspects explored regarding the child's statement and behavior are listed in subparagraphs (A) through (C) of this paragraph.

(A) 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.

(B) 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 at the time of the victimization;

(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;

(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 the persons the child told.

(C) 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.

(3) 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.

(4) 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 may say the child is not lying but does not admit his or her guilt.

(5) In general, to substantiate sexual abuse one or more of the factors in subparagraphs (A) through (C) of this paragraph are present.

(A) 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.

(B) Medical evidence.

(C) Confession of the perpetrator, whether a:

(i) complete confession;

(ii) partial confession; or

(iii) indirect admission.

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

(7) 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.

(8) Sexual behaviors that cause concern may include, but are not limited to:

(A) extreme preoccupation with masturbation;

(B) sexual interaction with peers that is not within normal developmental limits;

(C) sexual aggression toward younger or more naive children;

(D) accosting older children or adults sexually;

(E) seductive behavior in younger children; and

(F) demonstration of sexual behavior, knowledge, or statements about sexual activity that indicate the child may have been exposed to adult sexuality or actual sexual molestation. Sexual knowledge beyond what would be expected for a child's normal developmental stage may signal, in young children, possible sexual abuse, repeated exposure to adult sexuality, exposure to sexually explicit materials, or pornography.

37. Substance abuse definition. "Substance abuse" means the illegal misuse of any drug, alcohol, or other substance for mood-altering purposes including the use of illicit drugs or the abuse of prescription drugs for purposes other than those for which the drug is indicated or in a manner or in quantities other than directed that incapacitates or severely limits the PRFC's ability to perform minimal basic care for the child and results in serious neglect of the child or creates the risk of serious physical danger or significant emotional consequences to the child. Refer to ITS # 25 of this Section.

38. Substance-affected infant definition. "Substance-affected infant" means the infant who was born experiencing withdrawal symptoms as a result of prenatal

drug exposure or fetal alcohol spectrum disorder as determined by the direct health care provider.

39. Substance-exposed infant definition. "Substance-exposed infant" means the newborn who tests positive for alcohol or a controlled dangerous substance with the exception of substances administered under the care of a physician. When the PRFC's substance abuse results in an infant born drug-exposed, the PRFC's home is evaluated to determine whether the infant can receive the proper nurturing, nutrition, and attention to hygiene necessary for the infant to thrive.

40. Third-party perpetrator definition. "Third party perpetrator" means a perpetrator of child abuse or neglect other than the PRFC.

41. (a) Threat of harm definition. "Threat of harm" means situations, behaviors, emotions, motives, perceptions, or capacities that can produce child maltreatment.

(b) Threat of harm examples. Threat of harm includes, but is not limited to the PRFC or caretaker:

(1) knowingly leaving the child in a potentially dangerous situation or with inappropriate caretakers;

(2) operating a vehicle while under the influence of drugs or alcohol with the child in the vehicle;

(3) has direct care of the child while under the influence of illegal drugs, prescription drugs, or alcohol that impairs the PRFC or caretaker's ability to care for the child;

(4) abusing or neglecting a child when another child is present in the home.

(c) In general, to substantiate threat of harm the factors in either (1) or (2) of this paragraph are present.

(1) The PRFC either intended to act, acted, or omitted to act, or knew about conditions that placed the child in imminent or impending danger and exhibited diminished protective capacities; or

(2) The intentions, actions, omission, or conditions could have resulted in physical injury, sexual abuse, or neglect of the child.

42. Trauma definition. "Trauma" means:

(1) a serious injury or shock to the body from violence or an accident;

(2) an event that causes lasting emotional or psychological damage or distress; or

(3) an event or situation that threatens the life or health of the victim or a loved one and overwhelms the person's ability to cope.

43. Truancy definition. "Truancy" means a child refuses to attend school despite efforts by the PRFC to encourage and assist in school attendance.

44. Unsafe definition. "Unsafe" means the child is in an environment with safety threats.

45. Vulnerable child definition. "Vulnerable child" means the child who is unable to protect himself or herself due to his or her physical or emotional development, mobility, size, dependence, or inability to communicate needs.

(1) The child five years of age and younger is considered to have a high level of vulnerability as is the child with issues such as disabilities, past

victimization, or hazardous surroundings.

(2) The vulnerable child is susceptible to, and within access of, a threatening parent or caregiver.

340:75-3-121. [RESERVED]

340:75-3-122. [RESERVED]

340:75-3-123. [RESERVED]

340:75-3-124. [RESERVED]

340:75-3-125. [RESERVED]

340:75-3-126. [RESERVED]

340:75-3-127. [RESERVED]

340:75-3-128. [RESERVED]

340:75-3-129. [RESERVED]

340:75-3-130. Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline ■1 through 18

Issued 7-1-13

(a) **OKDHS Abuse and Neglect Hotline (Hotline).** Per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101), OKDHS established a statewide centralized hotline that operates 24 hours per day to receive child abuse or neglect reports at 1-800-522-3511. An allegation of child abuse or neglect reported in any manner to an OKDHS county office is immediately referred to the Hotline.

(b) **Hotline tracking system.** Per 10A O.S. § 1-2-101, OKDHS maintains a system to track the number of calls the Hotline received and the number of:

(1) calls screened out;

(2) referrals assigned; and

(3) unsubstantiated or ruled out allegations.

(c) **Screening Hotline reports.** Each report received at the Hotline is screened to determine whether the allegations meet the definition of child abuse or neglect and are within the scope of child protective services (CPS) assessment or investigation, per Title 10A of the Oklahoma Statutes and OAC 340:75. When the allegations are not appropriate for CPS, the reporter may be provided an explanation as to why an assessment or investigation will not be conducted and when appropriate, where a referral may be made to assist the family. ■ 1 & 2

(d) **Time limitations for accepting reports for assessment or investigation.** CPS intervention is limited to current situations as the CPS focus is on identifying and protecting children who are presently at risk or will be at risk if safety measures are not put in place.

(1) When a report is received that alleges abuse or neglect that is not recent, information is obtained to determine if there is reason to believe the child or other children may presently be at risk or in present danger.

(2) When information does not indicate a child is presently at risk or in present danger, CPS intervention may not be warranted.

(e) **Disposition of the screened out report.** When a report is received that is not appropriate for CPS; however, services are needed, Oklahoma Department of Human Services (OKDHS) may make a referral to an OKDHS or outside resource for emergency food, shelter, medical services, or counseling. ■ 3 & 4

(f) **Response to reporter concerning a screened out report.** The reporter may be informed of the decision to screen out the referral and the reason for the decision. ■ 5

(g) **OKDHS response to reports of child abuse or neglect.** Per 10A O.S. § 1-2-105, OKDHS responds to an accepted report of child abuse or neglect by initiating an assessment of the family or an investigation of the report in accordance with priority guidelines. The primary purpose of the assessment or investigation is the protection of the child.

(h) **Prioritization of child abuse and neglect reports.** Per 10A O.S. § 1-2-105, OKDHS prioritizes reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child and assigns a response time. ■ 1

(1) **Priority I reports.** A Priority I report indicates the child is in present danger and at risk of serious harm injury. Allegations of abuse and neglect may be severe and conditions extreme. The situation is responded to immediately, the same day the report is received. ■ 2 & 3

(2) **Priority II reports.** Priority II is assigned to all other reports. The response time is established based on the vulnerability and risk of harm to the child. Priority II assessments or investigations are initiated within two to 10 calendar days from the date the report is accepted for assessment or investigation. ■ 2 & 4

(i) **Accepted report assigned as assessment or investigation.**

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

(2) An investigation is conducted when:

(A) a report meets the abuse or neglect guidelines and constitutes a serious and immediate threat to the safety of a child per 10A O.S. § 1-1-105;

(B) there have been three or more reports accepted for assessment or investigation regarding the family per 10A O.S. § 1-2-102; ■ 2

(C) the family has been the subject of a deprived petition per 10A O.S. § 1-2-102; or

(D) the child has been diagnosed with fetal alcohol syndrome or OKDHS determines the child meets the definition of "drug-endangered child" as defined in 10A O.S. § 1-1-105 and OAC 340:75-3-450.

INSTRUCTIONS TO STAFF 340:75-3-130

Issued 7-1-13

1. (a) Purpose of the centralized Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline (Hotline) child protective services (CPS) intake process. Assessment of safety begins at intake and continues until case closure. The Hotline CPS intake process includes:

- (1) assisting and guiding the reporter with providing information regarding alleged child abuse or neglect;
 - (2) interpreting what child abuse and neglect is to the reporter;
 - (3) identifying possible child abuse or neglect; and
 - (4) gathering sufficient information to make decisions.
- (b) CPS intake decisions. Decisions are made during CPS intake at the centralized Hotline in response to questions in paragraphs (1) and (2) of this subsection.
 - (1) Does the report meet OKDHS guidelines for child abuse or neglect or indicate safety threats to a child?
 - (2) How urgent is the report?
- 2. OKDHS Hotline functions. The Hotline phone number is provided to the public for reporting child abuse and neglect. The Hotline is not available to take messages for OKDHS employees or others. Centralized Hotline functions include:
 - (1) documenting and processing reports received at the Hotline in KIDS;
 - (2) determining whether the allegations require an emergency response and notifying district Child Welfare Services (CWS) personnel immediately when an emergency response is necessary; and
 - (3) conducting Information Management System (IMS) and KIDS searches for each person listed on the report and, when applicable, documenting on the report when the IMS or KIDS search was not completed for reasons such as KIDS down time.
- 3. District office notification of a report of child abuse or neglect. During regular business hours, the Hotline specialist enters the child abuse and neglect report in KIDS. The Hotline supervisor forwards the report via KIDS to the district where the child victim is located.
 - (1) When the referral requires an emergency response, the Hotline specialist contacts the district office by phone.
 - (2) The assigned district where the child victim is located notifies and coordinates the investigation with other counties to facilitate safety.
 - (3) Each district maintains within KIDS a current child welfare specialist on-call list that includes contact information for local law enforcement agencies per the joint response protocol.
 - (4) When there is lack of consensus regarding how the CPS report is accepted as a referral or prioritized by the Hotline, the chain of command is followed until the issue is resolved. When the original acceptance or prioritization requires change, the Hotline completes an override and enters the new designation in KIDS.
- 4. (a) Interviewing the child abuse or neglect reporter. The process of interviewing the person reporting suspected abuse or neglect is critical to child protection. The report is documented on Form 04KI001E, Referral Information Report. Gathering background information begins immediately upon receipt of a report of abuse or neglect.
 - (b) Assisting the reporter. The Hotline specialists assists the reporter by:
 - (1) responding to the reporter's fears and concerns; and

(2) discussing confidentiality.

(A) Per Section 1-6-102 of Title 10A of the Oklahoma Statutes, the disclosure of information that may serve to identify any person who has reported an allegation of known or suspected child abuse or neglect is prohibited unless the disclosure is specifically ordered by the court.

(B) When a report of abuse or neglect alleges that someone other than the person responsible for the child (PRFC) is the perpetrator, the reporter is advised that the reported information is provided to law enforcement and, if law enforcement requests, the identity of the reporter is also provided;

(3) explaining the importance of reporting;

(4) explaining the role of CPS;

(5) explaining what information may be disclosed upon completion of the assessment or investigation to the reporter who properly identifies himself or herself; and

(6) providing the identified reporter with the KIDS referral number.

(c) Gathering information. The focus of the interview with the reporter is to obtain information that relates to harm or threatened harm to the child.

Information obtained focuses on, but is not limited to:

(1) the alleged abuse or neglect;

(2) each child in the home;

(3) each PRFC; and

(4) family functioning, strengths, and support systems.

5. Documenting the child abuse or neglect report.

(1) The Hotline specialist makes diligent efforts to obtain and document:

(A) the reporter's name, address, and phone number;

(B) the reporter's relationship to the child and child's family and how well the reporter knows the child and child's family;

(C) whether the reporter knows of previous abuse or neglect;

(D) the reason for reporting;

(E) the reporter's source of information such as personal knowledge or other sources;

(F) the names of any collateral persons who may have relevant information regarding the report of child abuse or neglect;

(G) the family's response to the reporter's safety concerns, if the reporter has shared the concerns with the family;

(H) the identity and location of the child and PRFC;

(I) whether the reporter knows of any unsafe conditions in the home, such as:

(i) loaded firearms or other weapons;

(ii) persons who are volatile or mentally ill; and

(iii) use and types of illegal substances or any known manufacturing or distribution of illegal substances;

(J) the seriousness of the situation and the urgency of response; and

(K) the family's primary language.

(2) The Hotline specialist gathers background information by:

(A) searching for each person listed in the report:
(i) the Child Abuse and Neglect Information System (KIDS) for protective services alerts or previous child welfare reports; and
(ii) Information Management System (IMS), including an X-mail address search;

(B) contacting CPS Section immediately for additional information when a child protective services alert is found;

(C) reviewing OKDHS history when a person listed in the report has received services.

(i) All OKDHS records sources are checked including:

(I) medical services;

(II) Adult and Family Services;

(III) Oklahoma Child Support Services;

(IV) OKDHS adoption records, when applicable;

(V) foster care resource and pre-resource records; and

(VI) Juvenile On-Line Tracking System (JOLTS), when applicable.

(ii) When the CW case record is stored in the Adoption Services Section, in restricted status on KIDS, or stored in archives, the CPS Section is contacted for assistance in obtaining necessary case information;

6. Exceptions to records and background information search. Prior to accepting the report, an OKDHS records and background search is conducted regarding each person listed in the report unless it is not possible to access KIDS or IMS.

7. Previous report with unable to locate finding is assigned with new report. Any allegation previously made that resulted in a finding of unable to locate is documented on Form 04KI001E, Referral Information Report, and assigned for assessment or investigation with the new report.

8. Criteria for screening reports.

(1) Great care is taken when making screening decisions. The Hotline supervisor considers the potential risk factors and safety threats described by the reporter and the age and vulnerability of the child.

(A) When the reporter does not report specific allegations of abuse or neglect, the child's age and vulnerability are considered during the screening process.

(B) Reports regarding children five years of age and younger are screened with extreme caution due to the young child's vulnerability to serious and life-threatening consequences resulting from abuse or neglect.

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

(D) Child welfare history is considered when making screening decisions.

(2) Reports appropriate for screening out that are not accepted for assessment or investigation are reports:

(A) that clearly fall outside definitions of abuse and neglect per OAC

340:75-3-120, including minor injury to a child ten years of age and older who has no significant child abuse and neglect history or history of neglect that would be harmful to a young child but poses less of a threat to a child ten years of age and older;

(B) concerning a victim 18 years of age or older unless the victim is in voluntary placement with OKDHS;

(C) where there is insufficient information to locate the family and child;

(D) where there is an indication that the family needs assistance from a social service agency but there is no indication of child abuse or neglect;

(E) a child six years of age or older is spanked on the buttocks by a foster or trial adoptive parent with no unreasonable force used or injuries observed per OAC 340:75-3-410; and

(F) that indicate the alleged perpetrator of child abuse or neglect is not a PRFC, there is no indication the PRFC failed to protect the child, and the report is referred to local law enforcement.

(3) Reports that meet the definition of abuse or neglect and have sufficient information to conduct an assessment or investigation are assigned, including:

(A) anonymous reports;

(B) custody or visitation disputes where abuse or neglect is alleged even when there are numerous reports; or

(C) reports concerning a family with a history of previous reports. There may be a legitimate explanation why previous assessments or investigations did not reveal enough information to substantiate the previous report.

(4) When a CW specialist responds to a report by interviewing or observing the alleged child victim, the report cannot be screened out and CPS assessment or investigation protocol is followed per OAC 340:75-3-200 or 340:75-3-210.

9. Collateral, reporter, or other contact during the screening process. Contact with the reporter, collaterals, or family may be necessary during the screening process when:

(1) a report concerns a child who was raped but the perpetrator is unknown. The Hotline specialist or supervisor contacts law enforcement to determine whether the perpetrator is a PRFC or a third party;

(2) a reporter does not provide critical information to make an informed decision regarding the disposition of a report or only has secondhand information but supplies the name of someone who has more direct information. The Hotline specialist or district personnel may contact the another person to obtain first-hand or better information.

(i) Good judgment is used when deciding what person may supply clarifying or additional information without that person notifying the family of the report.

(ii) Great care is taken not to provide details of the child abuse and neglect report when contacting collaterals for additional information; or

(3) the Hotline specialist has reason to believe the collateral will notify the family of the screened out report. The Hotline specialist contacts the family by phone or in writing to advise a report was received but the allegations did not meet the definitions of abuse or neglect, per Title 10A of the Oklahoma Statutes and OAC 340:75-3-120.

10. Preliminary inquiry conducted when reports of abuse, neglect, or injury of a child is received in an open permanency planning, trial reunification, Interstate Compact on the Placement of Children (ICPC), or family-centered services (FCS) case.

(1) When the child, who is a party to an open permanency planning, trial reunification, ICPC, or FCS case is reported to have a physical injury and the cause of the injury is unknown, the report may be managed as a preliminary inquiry.

(2) The Hotline refers the report to the CW specialist responsible for the child for a preliminary inquiry.

(A) The CW specialist conducts and completes a preliminary inquiry within 23 hours of receipt of the report. 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) When an injury is unexplained, however the injury appears to be consistent with normal childhood play or development, the CW specialist may utilize critical thinking skills and determine, with supervisory consultation, that a medical examination is not required. The supervisory consultation must be entered into the KIDS case contact screen explaining the decision not to seek medical examination.

(C) The preliminary inquiry may include seeking a professional medical opinion, when the explanation is implausible or is unexplained and is not consistent with normal childhood play or development as provided in (B) of this section. A medical examination or consultation with a medical professional is required when:

(i) a child five years of age or younger has any unexplained injury that does not meet the criteria provided in (B) of this section or any implausibly explained bruise or injury to the head, face, neck, stomach, or genitals; and

(ii) a non-ambulatory child has a bruise, burn, or fracture.

(D) Injuries are photographed and stored in the case file by scanning into the KIDS File Cabinet in the child's case.

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

(F) 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.

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

11. Documenting screened out and information and referral (I&R) files. The Hotline supervisor documents screen out reasons on Form 04KI001E, Referral Information Report. Each report not assigned for assessment or investigation, including I&R files, are documented in the KIDS system. I&R information is documented when the reported information is clearly not child abuse or neglect but there is:

(1) an indication the family may benefit from a referral to other services such as the Supplemental Nutrition Assistance Program (SNAP), immunizations or services at the local health department, or a local food closet;

(2) no open investigation; and

(3) no existing KK case.

12. Duplicate reports of child abuse or neglect. Allegations concerning the same incident received from the same or a different reporter, are considered duplicate reports. When a duplicate report is received and the initial report is assigned for assessment or investigation, the duplicate report may be screened out and associated with the assigned assessment or investigation.

13. Response to reporter concerning a screened out report. When a report does not meet the criteria for acceptance, the reporter is advised that the information he or she provided is kept in an electronic file and that future reported allegations of child abuse or neglect that meet the criteria will be accepted for assessment or investigation.

14. Guidelines for assignment of the accepted report as an assessment or investigation. The guidelines outlined in this Instruction assist the Hotline specialist and supervisor decide whether a report is assigned as an assessment or investigation and in establishing response times for initiation. The guidelines are not all-inclusive and do not replace critical thinking and sound judgment when assessing risk factors and safety threats.

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

(A) child's vulnerability. The alleged child victim's ability to self-protect is a critical risk factor based on the child's age and developmental stage. Allegations concerning the 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. An older child may be vulnerable due to disability, past victimization, surroundings, or other factors;

(B) previous reports regarding the family;

(C) severity of the allegations and alleged injury;

(D) alleged perpetrator's access to the child; and

(E) alleged victim's location.

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

15. Assessing prior CW and other background history.

(1) 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.

(2) When a family has three or more previous CW reports, the CW specialist and supervisor:

(A) review and discuss each previous report and the information contained in the entire case record;

(B) determine whether there is a pattern of behavior that contributes to safety threats within the family;

(C) decide if additional information is needed to determine whether there are significant problems within the family; and

(D) consider all information when screening and determining response times

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

16. Accepted report assignment.

(1) Investigations. An investigation is conducted when the allegations in the report indicate there is serious abuse or neglect resulting in an immediate threat to the child's safety. The report assigned as an investigation is responded to in a shorter time period than a report assigned as an assessment. An investigation is initiated in no less than five calendar days of acceptance unless a special circumstance exists that prevents the initiation. Examples of reports responded to as investigations include:

(A) child sexual abuse by a PRFC;

(B) a child death or near-death;

(C) a child placed in 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) a child five years of age or younger 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 an immediate 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) an infant born exposed to alcohol or a controlled dangerous substance;

(I) a drug-endangered child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled dangerous substances, or the attempt of any of these acts by the PRFC;

(J) reports regarding a family with previously confirmed or substantiated reports of serious abuse or neglect or sexual abuse within the last two years;

(K) reports regarding children previously adjudicated deprived;

(L) allegations of serious abuse or neglect in an open permanency planning or family-centered services case;

(M) allegations that the PRFC is violent, out of control, or psychotic;

(N) allegations that a child five years of age or younger was physically disciplined by a foster or trial adoptive parent. Refer to OAC 340:75-3-410 ITS;

(O) a child placed in a foster or trial adoptive home is exhibiting sexual behavior that is outside the normal range of development or inconsistent with case history. Refer to OAC 340:75-3-410 ITS;

(P) allegations that a child is having sexual contact with another child placed in a foster or trial adoptive home. Refer to OAC 340:75-3-410, ITS; and

(Q) a child born to a PRFC who is a party to 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 to terminate the PRFC's parental rights.

(2) Assessments. An assessment is conducted when the allegations in the report do not indicate a serious and immediate threat to a child but do indicate inadequate parenting or life management. The first contact during an assessment may be made with the non-offending parent to arrange a time to interview and observe the alleged child victim. The report assigned as an assessment is responded to in 10 calendar days or less after acceptance. Examples of reports responded to as assessments include:

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

(B) untreated minor physical injuries, illnesses, or impairments that within a short time period will not place the child in danger of significant harm;

(C) after the school has fulfilled the school's statutory responsibility and exhausted all legal remedies:

(i) a child has a pattern of unexplained absences from school;

(ii) the pattern of absences appears to be caused by the parent's failure to enforce school attendance; and

(iii) the absences are not due to the child's truancy or home-schooling;

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

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

(i) the history of prior reports 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;

(F) 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;

17. New referral of abuse or neglect received when previous report pending completion. When an assessment or investigation is not completed and a subsequent report of abuse or neglect is accepted and assigned, the CW supervisor reviews the documentation in KIDS and considers the pending reports when establishing the response time.

(1) When there have been three reports accepted for assessment or investigation or a deprived petition has been previously filed on the child, any subsequent accepted report is assigned as an investigation per OAC 340:75-3-400 and Section 1-2-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-102).

(2) When three or more reports are pending concerning the same child and family, completion of all the reports is expedited and the most recent report is assigned as an investigation per OAC 340:75-3-400.

18. Response time for initiation of assessment or investigation. The assignment type and response time required to evaluate safety for the alleged child victim is determined at the time the report is accepted. Generally, the reported allegations that necessitate an investigation require a shorter response time than an assessment.

(1) Priority one reports indicate the child is in present danger and are typically the result of the initiation of the joint response protocol. Exceptions to the priority assignment may be made when:

(A) the report is not received in time to respond on the same day;

(B) the report indicates the need to interview the alleged victim in a neutral setting and an initiation delay facilitates the need; and
(C) the alleged victim's current location is a barrier to timely initiation of the investigation.

340:75-3-131. [RESERVED]

340:75-3-132. [RESERVED]

340:75-3-133. [RESERVED]

340:75-3-134. [RESERVED]

340:75-3-135. [RESERVED]

340:75-3-136. [RESERVED]

340:75-3-137. [RESERVED]

340:75-3-138. [RESERVED]

340:75-3-139. [RESERVED]

340:75-3-140. Child Abuse and Neglect Information System also known as KIDS

Issued 7-1-13

Legal Base for KIDS. The Child Abuse and Neglect Information System, also known as KIDS, is a permanent, computerized record-keeping system maintained by Child Welfare Services (CWS), pursuant to Section 1-2-108 of Title 10A of the Oklahoma Statutes that requires *the maintenance of all reports of child abuse, sexual abuse, and neglect made pursuant to the provisions of the Oklahoma Children's Code.* Only authorized Oklahoma Department of Human Services (OKDHS) staff may inquire and report to the information system. ■ 1 through 3

INSTRUCTIONS TO STAFF 340:75-3-140

Issued 7-1-13

1. Purpose of KIDS. The purpose of the KIDS system is to:

(1) provide central storage of information pertaining to reports of child abuse and neglect in Oklahoma;

(2) serve as a tracking system for reports of child abuse and neglect; and

(3) provide raw data for statistical analysis of child abuse and neglect reports.

2. (a) Inquiring and reporting to KIDS. Only authorized Oklahoma Department of Human Services (OKDHS) staff may inquire and report to the information system. Authorized staff and functions are listed in (1) through (4) of this paragraph.

(1) CW staff, assessing or investigating reports of suspected child abuse and neglect, must inquire and make reports to the information system.

(2) OKDHS foster and adoptive home staff must inquire into the information system to determine if any persons in the household, applying to become a foster or adoptive home, were involved in any child abuse or neglect situations assessed or investigated by OKDHS.

(3) Reasons CW staff may inquire into the information system are:

(A) for internal administrative purposes;

(B) to respond to inquiries from persons who, as a part of their official duties, have responsibilities directly connected with child abuse laws, prosecution, or delivery of services, such as the district attorney, law enforcement, or another state's child protective services (CPS) agency;
or

(C) to respond to an absent parent's inquiry about a child abuse assessment or investigation involving his or her child. The inquiring parent must provide verification of his or her identity and that he or she is the child's parent. Verification is in the form of a written, notarized statement or other proof, including the child's birth certificate, court order, or other such document.

(i) When there is a pending investigation or other current CW involvement with the parent's child, the parent is referred to the assigned CW worker and supervisor.

(ii) When the parent is aware that he or she was the subject of a previous assessment or investigation for which the parent did not receive notification of the assessment conclusions or investigative findings, the appropriate letter of conclusions or findings, per OAC 340:75-3-520(b), is sent to the parent.

(iii) The parent is advised that a court order is required to release any other confidential CW information except in the circumstances in this instruction.

(4) Oklahoma Child Care Services (OCCS) licensing staff may inquire into the information system to determine if any person who signs the application for family child care home license or the owner of a child care center has had a previous report of child abuse, neglect, or both. OCCS staff may inquire only when the applicant submits a signed:

(A) Form 07LC042E, Request for License – Family Child Care Home and Large Child Care Home; or

(B) Form 07LC004E, Request for License – Child Care Facility.

(5) Office of Client Advocacy has access to KIDS to document reports of abuse and neglect in above-foster care settings.

(b) Assessment or investigation inquiry and reporting. CW staff involved in child abuse assessments or investigations follow the procedures outlined in (A) through (C) for inquiring and reporting to the information system.

(1) CW staff must inquire into the information system on each report of suspected child abuse, neglect, or both, as soon as possible after receiving

the report. CW staff or authorized clerical personnel access this information by checking KIDS.

(2) The CW worker enters a record of all child abuse and neglect assessments or investigations on KIDS. Assessments or investigations conclusions or findings that are determined to be the result of an exercise of reasonable parental discipline are not maintained as a permanent record in the information system, per OAC 340:75-3-140 Instructions to Staff # 2(b)(3). All other assessments or investigations are permanently maintained. When there is an existing or ongoing assessment or investigation and a new report regarding the family is received, the report is entered into KIDS.

(3) When a finding or conclusion of reasonable parental discipline is made, the CPS Program Unit is notified via KIDS. A review of the assessment or investigation is conducted by the CPS programs staff. If CPS programs staff determine the finding or conclusion was made in accordance with CPS guidelines, the district office is notified through KIDS that the referral and investigation information will be expunged. Arrangement for the expunction is made by the CPS programs staff.

(c) All entries on KIDS related to the documentation of the assessment or investigation, particularly in the KIDS Abuse/Neglect Information and Investigation Findings screens, are considered the information system pursuant to the Oklahoma Children's Code.

3. Inquiries from non-OKDHS entities and out-of-state CPS agencies. All inquiries and requests for child abuse and neglect background searches or placement assessment for safety planning purposes from non-OKDHS entities within Oklahoma and from out-of state district attorney offices, law enforcement agencies, CPS agencies, or other entities are referred to the CWS CPS programs office for search purposes and response.

PART 2. INVESTIGATIVE PROTOCOLS

340:75-3-200. General protocols for Child Protective Services (CPS) assessments and investigations ■ 1 through 25

Issued 7-1-13

(a) Assessment and investigation process. The CPS safety assessment and investigation process allows Child Welfare Services (CWS) 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), the 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) regarding the reported allegations and family dynamics that jeopardize the child's safety; and

(2) to assess the PRFC's protective capacities. ■ 1

(b) Assessment and investigation protocols. Protocols provide:

- (1) continuity when addressing allegations of abuse or neglect;
- (2) family functioning assessment of possible safety threats; and
- (3) continuity related to CWS contact with the family. ■ 2

(c) **Multidisciplinary investigation protocol.** Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible per OAC 340:75-3-440. Each child sexual abuse, physical abuse, or neglect investigation and child victim interviews are conducted 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 the 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 the 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 child's home, unless:

- (i) there is reason to believe there is an extreme safety risk to the child or OKDHS employee; 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, that OKDHS notify the person responsible for the child's health, safety, and welfare (PRFC) that the child was interviewed at 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 child's parents or any other person responsible for the child's health, safety, or welfare.

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

(f) **Description of the investigation process provided to the PRFC.** Per 10A O.S. § 1-2-106, OKDHS provides a brief and easily understood written description of the investigation process. The notice includes a statement:

(1) OKDHS is undertaking the investigation 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 or neglect is confidential and may not even be known to OKDHS since the report may have been made anonymously;

(3) the investigation is required by law to be conducted to enable OKDHS to identify incidents of abuse or neglect to provide social services to the family in need of protective or preventive 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;
- (5) the procedures OKDHS uses to conduct an investigation of alleged child abuse or neglect, include:
 - (A) a description of the circumstances that would cause OKDHS to seek judicial approval to remove the child from the home; and
 - (B) 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;
- (6) the procedures to follow when:
 - (A) there is a complaint regarding OKDHS actions; or
 - (B) requesting a review of the findings made by OKDHS during or at the conclusion of an investigation;
- (7) the PRFC has a right to review unsealed records filed with the court in the event an action is filed;
- (8) the PRFC has a right to seek legal counsel;
- (9) the PRFC may obtain copies of the statutory and regulatory provisions governing child abuse and neglect and how to obtain the copies of the provisions;
- (10) the PRFC may request visitation and the process to use to acquire visitation with the child if the child is removed from the home; and
- (11) 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 PRFC; 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 PRFC 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, OKDHS may request that the district attorney make application, per 10A O.S. § 1-2-105 for a court order to compel access or examination of the child. It is the PRFC's responsibility to secure medical examinations that may be necessary due to abuse or neglect of the 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 PRFC 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 that 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 child's removal from Oklahoma.** Pursuant to 10A O.S. § 1-2-105, when OKDHS has reason to believe the PRFC may remove the child from Oklahoma 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 Oklahoma pending completion of the assessment or investigation.

INSTRUCTIONS TO STAFF 340:75-3-200

Revised 7-1-13

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 behaviors of the person responsible for the child (PRFC) to determine protective capacities;
 - (6) assess presence or absence of safety threats to each child in the home;
 - (7) determine what safety response is indicated;
 - (8) reduce trauma to each child;
 - (9) intervene for child safety; and
 - (10) identify services appropriate for the family.
2. Safety precautions when conducting an assessment or investigation. Safety precautions during an assessment or investigation 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 history of violence;
 - (B) firearms or other weapons are present or reported to be present;
 - (C) illegal substance manufacturing or distribution is reported to be present. Refer to OAC 340:75-3-450; or
 - (D) the family's geographic location is isolated or dangerous.
3. 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, the CW supervisor reviews each report any all information known about the family with the CW specialist.
- (1) The most recent report is assigned as an investigation.
 - (2) The CW supervisor sets specific time requirements for completion of the safety determination within no more than five calendar days from receipt of the most recent report for completion of the investigation.
4. Assessing background information.
- (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) The CW specialist contacts the CPS Section immediately for additional

- information when a child protective services alert is found during a search;
- (4) When there is an open CW case regarding the family, the assigned CW specialist obtains the name of any current OKDHS employee involved with the family. Contact with the currently assigned OKDHS employee in any division 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;
- (5) When it is determined the family may have had CPS involvement in another state, the CW specialist contacts CPS in the other state and:
- (A) makes a verbal request for records;
 - (B) follows up with a written request for the records;
 - (C) 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
 - (D) ensures the new report is properly case connected to the history in KIDS; and
- (6) The CW specialist contacts law enforcement and obtains police records when the report alleges domestic violence, substance abuse, or sexual abuse.

5. Assessment and investigation requirements.

- (1) The report assigned as an investigation has a response time of five calendar 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 within the time requirements.
- (3) Priority 1 investigations 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;
 - (ii) a decision is made that diligent efforts were made and failed to locate the child and family per OAC 340:75-3-200 Instructions To Staff (ITS) # 20; or
 - (iii) after the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, a decision is made regarding the continued face-to-face efforts to locate the alleged child victim based on the current information. The requirement may be modified and documented in the Victim Interview screen in KIDS.
- (4) Priority 2 investigations or assessments 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;
(ii) a decision is made that diligent efforts were made and failed to locate the child and family per OAC 340:75-3-200 ITS # 20; or
(iii) after the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, a decision is made regarding the continued face-to-face efforts to locate the alleged child victim based on the current information. The requirement may be modified and documented in the Victim Interview screen in KIDS.

(5) After three calendar days 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 340:75-3-200 ITS # 20.

(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. After the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, a decision is made regarding the continued face-to-face efforts to locate the alleged child victim based on the current information. The requirement may be modified and documented in the Victim Interview screen in KIDS.

(7) Assessment and investigation reports submitted to the district attorney are completed per OAC 340:75-3-510.

(8) Child victim and person responsible for the child (PRFC) interviews are documented in KIDS within 10 business days.

6. 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 340:75-3-510 ITS. Exceptions to time requirements requires supervisor approval and are documented in the Extension screen in KIDS;

7. 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.

8. Gathering information during the assessment or investigation. The primary methods used in gathering information during the assessment or investigation 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, unless an exception is granted per ITS # 17.

(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;
 - (F) photographs; and
 - (G) public information from sources such as Oklahoma State Courts Network (OSCN).
9. Contact protocol. Talking to the alleged child victim is the most critical step in the safety determination 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 per 10A O.S. § 1-2-105. It may be necessary to talk to the child in a neutral setting first due to the nature of the allegations.
 - (3) The child's age, developmental level, and emotional state guide the CW specialist's approach to gathering information. It may be necessary with some children, to have an older sibling or another significant person present to obtain information. The use of collaterals is critical in assessing the safety and well-being of the child is not able to verbalize his or her circumstances.
 - (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) Family members are observed interacting together.
10. 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 per 10A O.S. § 1-2-105.
- (3) The PRFC is given Oklahoma Department of Human Services (OKDHS) Publication No. 87-02, Questions and Answers for Parents about Child Protective Services.
- (4) During the assessment or investigation the CW specialist gathers, per OAC 340:75-1-26 Instructions to Staff and OAC 340:75-19-8, demographic information for each family member that includes the person's:
- (A) accurate birth date;
 - (B) full legal name including any other names or nicknames used;
 - (C) Social Security number; and
 - (D) race and ethnicity.
- (5) 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.
- (6) The CW specialist asks to observe or interview each child and family member in the home.
- (7) 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.
- (8) When ordered out of the home, the CW specialist leaves immediately.
11. Attempted home visit. When a home visit is attempted during the assessment or investigation, the alleged child victim has not been located and the family is not home, the CW specialist and supervisor determine what diligent efforts are needed to determine child safety.
12. 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.
13. 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 non-accidental injuries are alleged, the CW specialist, after obtaining permission, conducts:

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

(B) an informal inspection of the child six years of age and older rather than a full body inspection by rearranging the child's clothing.

(i) When injuries or alleged injuries are not observable 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 OAC 340:75-3-200 ITS # 15.

(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.

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

(1) 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;

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

(3) does not enhance or alter and stores the digital photographs; and

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

15. Medical or behavioral health examination. Information gathered during the assessment or investigation 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.

(1) 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).

(2) When a medical examination is required, the CW specialist assists the PRFC with the arrangements, 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. 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 injuries on a child younger than two years of age that do not appear to be caused by normal play or toddling;

(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) the child's observable injury, when 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.

(3) When the PRFC refuses to secure needed medical attention for the child, the CW specialist evaluates the level of risk to the child and determines whether a request is 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.

(4) 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 CPS Section is available.

(5) 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.

(6) 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.

16. 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.

17. Modifying assessment or investigation protocol. Assessment and investigation 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 CW 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.

18. Documenting the assessment or investigation. The CW specialist documents in KIDS:

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

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

(3) all completed contacts in the appropriate screens.

19. 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;
or

(C) 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:

(I) 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.

20. Unable to locate protocol. When the CW specialist is unable to locate the child and family, diligent efforts are made to locate the family through additional sources of information.

(1) When all known collaterals have been contacted and the alleged victim is not located, 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 OKDHS services.

(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 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 of whether the completion time was exceeded.

(3) 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 and the address is unknown, a statewide or nationwide protective service alert may be initiated by contacting CPS Section. Refer to OAC 340:75-3-300 ITS # 11.

(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.

(4) 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 referral along with any new information about the family.

(B) The new referral is prioritized and assigned for assessment or investigation, per OAC 340:75-3-140.

(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.

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

21. 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.

22. 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.

When multiple jurisdictions are involved, the report is provided to each appropriate district attorney's office.

23. 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.

24. 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.

25. Requests to assist law enforcement on non-OKDHS related investigations. When a law enforcement agency submits a written request request for OKDHS to participate in an investigation, the CPS Section is contacted for guidance.

340:75-3-201. [RESERVED]

340:75-3-202. [RESERVED]

340:75-3-203. [RESERVED]

340:75-3-204. [RESERVED]

340:75-3-205. [RESERVED]

340:75-3-206. [RESERVED]

340:75-3-207. [RESERVED]

340:75-3-208. [RESERVED]

340:75-3-209. [RESERVED]

340:75-3-210. Assessment protocol ■ 1 through 4
Issued 7-1-13

Assessment protocol. An assessment is a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in

response to a child abuse or neglect report that does not allege a serious and immediate safety threat to a child.

INSTRUCTIONS TO STAFF 340:75-3-210

Issued 7-1-13

1. Assessment protocol.

(1) The assessment, like an investigation:

(A) addresses allegations, resulting from a report of abuse or neglect;

(B) identifies behaviors and conditions in the home that lead to risk factors; and

(C) evaluates the person responsible for the child's (PRFC) protective capacities to address the safety needs of each child in the family.

(2) The child welfare (CW) specialist explains to the family that the assessment includes separate and joint discussions with all family members and may include information gained from other sources to determine what actions or interventions, if any, are needed to address identified concerns.

(3) Form 04KI030E, Assessment of Child Safety, (AOCS) is utilized for assessments.

2. Assessment of the six key questions. The purpose of the safety assessment is to determine whether CPS intervention is required. Form 04KI030E, Assessment of Child Safety, (AOCS) is a tool used to guide the CW specialist with gathering information in an effective, organized manner to draw conclusions regarding present or impending danger. The information compiled for each of the six key questions provides an indication of how the family functions and assists with making child safety determinations.

(1) Maltreatment. The CW specialist assesses the extent of the alleged maltreatment to determine if the child has been abused or neglected. The CW specialist considers what is occurring or has occurred, such as hitting or injuries. Information gathered in this Section provides evidence to support or rule out the allegations regarding child maltreatment. The information gathered includes:

(A) the type of maltreatment;

(B) the severity of the maltreatment;

(C) the history or duration of the maltreatment;

(D) a description of specific events;

(E) a description of emotional and physical symptoms; and

(F) identification of the child and the maltreating PRFC.

(2) Circumstances. The CW specialist assesses the circumstances surrounding the alleged maltreatment and considers the nature of what behaviors or conditions surround the maltreatment. This key question addresses what was or is occurring at the time the incident of maltreatment occurs or occurred and includes:

(A) PRFC's intent concerning the maltreatment;

(B) PRFC's explanation for the maltreatment and family conditions;

(C) PRFC's acknowledgement and attitude about the maltreatment;

- (D) history or pattern of maltreatment of the subject child or others by the PRFC;
 - (E) PRFC's criminal history; and
 - (F) presence of other problems occurring in association with the maltreatment.
- (3) Child functioning. The CW specialist assesses child's well-being, how the child functions or behaves on a daily basis, and the child's role in the family. The CW specialist considers the child's general behavior, emotions, temperament, and physical capacity.
- (A) This key question determines:
 - (i) if the child's individual needs are being met;
 - (ii) if there are any unusual child behaviors;
 - (iii) the child's sense of security;
 - (iv) the child's physical health;
 - (v) the child's vulnerability; and
 - (vi) signs of positive interaction with PRFCs.
 - (B) Information gathered in this phase of the safety assessment includes the child's:
 - (i) capacity for attachment;
 - (ii) general mood and temperament;
 - (iii) intellectual functioning;
 - (iv) communication and social skills;
 - (v) expressions of emotions and feelings;
 - (vi) behavior;
 - (vii) peer relations;
 - (viii) school performance;
 - (ix) motor skills;
 - (x) physical and behavioral health; and
 - (xi) functioning within cultural norms.
- (4) Parenting – discipline. The CW specialist assesses disciplinary approaches from the child's perspective and each adult's view of his or her own disciplinary experiences as a child. The manner in which the PRFC approaches discipline and child guidance and the PRFC's emotional state while disciplining the child is considered. Information gathered in this phase of the safety assessment includes:
- (A) disciplinary methods;
 - (B) concept and purpose of discipline;
 - (C) context in which discipline occurs; and
 - (D) how discipline is influenced by culture.
- (5) Parenting - general. The CW specialist gathers information to evaluate the overall family values and cultural influences within the family.
- (A) The CW specialist assesses parenting practices used by the PRFC determining if the:
 - (i) PRFC's primary parenting practices are developmentally appropriate;
 - (ii) PRFC expresses empathy for the child; and

assessment in KIDS to an investigation.

4. Assessment report. The CPS Assessment Report is provided to the applicable District Attorney's office.

340:75-3-211. [RESERVED]

340:75-3-212. [RESERVED]

340:75-3-213. [RESERVED]

340:75-3-214. [RESERVED]

340:75-3-215. [RESERVED]

340:75-3-216. [RESERVED]

340:75-3-217. [RESERVED]

340:75-3-218. [RESERVED]

340:75-3-219. [RESERVED]

340:75-3-220. Investigation protocol ■ 1 through 7

Revised 7-1-13

Purpose of investigation. The purpose of Child Protective Services (CPS) is to protect children and provide services to the family, as opposed to a focus on criminal prosecution and punishment. The CPS investigation provides for direct involvement with the family, problem identification, service provision, and the development of a helping relationship. 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 investigation of the report per OKDHS priority guidelines. The investigation process includes gathering information:

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

INSTRUCTIONS TO STAFF 340:75-3-220

Revised 7-1-13

1. Investigation protocol. The investigation protocol is followed closely and sequentially during each investigation, unless a modification for good cause is approved and documented by the child welfare (CW) supervisor.

(1) Persons interviewed in order are:

(A) each alleged victim;

(B) each sibling;

(C) each person responsible for the child (PRFC), including the

- custodial and noncustodial parent;
(D) collaterals; and
(E) professional consultants, when appropriate.
- (2) Diligent attempts are made to first conduct interviews privately and separately.
- 2. Purpose of the interviews. The main purpose of the interview is to:**
- (1) obtain information to determine whether the child has been abused or neglected;
(2) assess family functioning to determine safety;
(3) determine the PRFC's protective capacities;
(4) provide information regarding the steps that will be taken and what the family can expect; and
(5) express interest in helping the family resolve problems identified as safety threats.
- 3. Alleged child victim interviews.**
- (1) When there is more than one alleged victim, the CW specialist attempts to interview each child individually and apart from the siblings or parent. It may be necessary to have an older sibling or other significant person present to obtain information from some children. If so, that person is reminded of the confidential nature of the interview and asked to remain as unobtrusive as possible.
- (2) The interview purpose is to obtain information regarding the alleged abuse or neglect and child, parent, and family functioning including:
- (A) what happened;
(B) when and where the alleged abuse or neglect occurred;
(C) the child's current condition;
(D) other effects of abuse or neglect;
(E) the PRFC and family's behaviors that indicate the presence of absence of protective capacities; and
(F) information and knowledge from persons who have contact with the family regarding family dynamics and alleged abuse or neglect.
- 4. Interviewing siblings. When one child in the family is at risk, any sibling may be at risk. When not at risk of physical harm, the sibling remains adversely affected by family conditions. The sibling often has important information regarding the reported allegations and the dynamics of the family.**
- (1) All siblings are observed and an attempt is made to talk to each verbal sibling. Interaction is initiated with non-verbal siblings to determine each child's functional level.
- (2) The CW specialist's discussion with the siblings, as with the alleged child victim, is directed at determining whether the siblings have been victims of abuse or neglect.
- (3) Corroboration of the child victim's statements is also an objective of the discussion with the siblings.
- (4) The same principles for interviewing the child victim applies to interviewing the siblings. Refer to Instructions to ITS # 3 of this Section.
- 5. Interviewing the PRFC. When the perpetrator of abuse or neglect is unclear, it**

is important to evaluate each custodial and non-custodial parent and anyone performing a parenting role in the household.

(1) The relationship between the adults in the household and any parent living outside the household is evaluated.

(2) It is critical to determine the PRFC's willingness and ability to protect the child.

(3) The presence of any stress factors in the home, such as financial difficulties or lack of support systems is evaluated with each PRFC to determine if there are contributing factors to risk in the home. Contributing factors include:

(A) domestic violence;

(B) substance abuse;

(C) poverty; and

(D) health issues.

(4) The nature of the report and the concern for each child is discussed with each PRFC.

(5) The noncustodial parent is entitled to the same information as the custodial parent and diligent efforts are made to locate and interview the noncustodial parent during the initial stages of the investigation. Exceptions may be made when the non-custodial parent poses a threat.

(6) The CW specialist:

(A) informs the noncustodial parent of the situation and gathers any critical information; and

(B) when the noncustodial parent denies paternity or has never seen the child, verifies that there is no record of child support, per OAC 340:75-6-31.5.

(7) The interview with the PRFC is directed toward assessing the PRFC's capacity to protect the child related to the alleged abuse or neglect and includes:

(A) the PRFC's description of what happened;

(B) the PRFC's response to the incident and CPS intervention;

(C) the PRFC's capacity to protect the child;

(D) exploration of the presence of violence in the home, including violence between adult household members; and

(E) exploration of the presence of stress factors in the home, such as financial difficulties or lack of support systems.

(8) When the PRFC's identity or whereabouts is unknown, the CW specialist prepares an interview page for the PRFC on Form 04KI003E, Report to DA, detailing:

(A) why the PRFC's identity or whereabouts is unknown; and

(B) the efforts made to identify or locate the PRFC.

6. Interviewing the perpetrator responsible for the child. The alleged perpetrator is interviewed last, as this allows the CW specialist to question the perpetrator with the facts and information obtained.

(1) The same information is obtained from the perpetrator as from the non-perpetrating PRFC as it relates to the alleged abuse or neglect.

(2) Additional information obtained from the perpetrator includes the prospect for acknowledging the problem and accepting responsibility to resolve the problem.

7. Interviewing collaterals. Families may not always provide factual information during the investigation because of fear of the assessment process or lack of awareness about family concerns. Medical reports, information from school personnel or other persons closely involved with the family, psychological evaluations, police reports, photographs, and other similar material provide the CW specialist with a means for balancing the subjective aspects of information gathering and observing.

(1) Collaterals are interviewed to ensure thorough investigation and assessment of risk to the child.

(2) Collaterals who are minors are not interviewed without first obtaining the minor's parental consent.

(3) The CW specialist seeks collateral sources who know the family best and contacts a minimum of two collaterals who have pertinent, unbiased information regarding the family.

(4) The specific nature of the alleged abuse or neglect or details of the allegations are not given to persons outside the immediate family.

(5) The CW specialist documents the information on each collateral interview page of Form 04KI003E indicating the relationship of the collateral to the subject child.

PART 3. CHILD SAFETY EVALUATION CRITERIA AND PROCEDURE

340:75-3-300. Child safety evaluation ■ 1 through 14

Issued 7-1-13

(a) Evaluating child safety. Evaluating child safety is a primary child protective services (CPS) function. Safety refers to the child's present security and well-being when the child is assessed to be at risk of abuse or neglect. The safety evaluation is an adaptable and continuous process that is not complete until the child is safe and the case is closed.

(b) Determining the need for protective or emergency custody. Oklahoma Department of Human Services (OKDHS) evaluates whether to recommend protective custody or emergency OKDHS custody of a child based on the seriousness of the child's abuse or neglect and whether the child is in need of immediate protection due to an imminent safety threat. A child taken into protective custody by law enforcement is not, by virtue of a standing order considered in OKDHS emergency custody upon the child's admission to a shelter. A child cannot be placed in OKDHS emergency custody per Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) until:

(1) OKDHS has completed a safety evaluation and concluded the child faces an imminent safety threat; and

(2) the court has issued a child-specific emergency custody order.

(c) Alternatives to protective or emergency custody and safety planning in cases of serious abuse or neglect. When an alternative to protective or emergency custody is determined appropriate in circumstances where serious neglect or physical harm is

documented, Form 04MP054, Immediate Protective Action Plan/ Voluntary Safety Plan, is completed and implemented when the person responsible for the child (PRFC) agrees to cooperate with OKDHS efforts to ensure the child's safety. The safety plan describes the present or impending danger identified by the Child Welfare specialist and addresses actions to be taken to control or eliminate any identified safety threat. The PRFC and any identified monitors, sign the safety plan, agreeing to cooperate with OKDHS oversight to ensure the child's safety.

(d) **Safety planning without court involvement.** The voluntary safety plan is developed and implemented by agreement without court intervention. The implementation of a short-term voluntary safety plan does not preclude OKDHS from recommending court involvement.

(e) **Removal of a child from the home.** A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, a determination is made that:

(1) no in-home safety responses are available or acceptable;

(2) the parent appears unable or unwilling to protect the child;

(3) an emergency exists that prohibits the arrangements of timely resources or services to reduce risk and threats of abuse or neglect are unavailable; or

(4) continued placement in the home is contrary to the child's health, safety, and welfare.

(f) **Placement considerations when the child is removed from the home.** When a child is removed from his or her home, placement preference is given to relatives and persons who have a kinship relationship with the child per 10A O.S. § 1-4-204.

(1) Siblings are placed together in the same home when appropriate and possible.

(2) Placement decisions are made with the long-term best interests of the child in mind.

(g) **Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody.** When the OKDHS safety evaluation indicates the child does not face an imminent safety threat, OKDHS restores the child to the custody and control of the parent, legal guardian, or custodian per 10A O.S. § 1-4-201. Specific county procedures are followed when a child is released from protective custody by the court.

(h) **Pre-petition removal of a child not in OKDHS custody.**

(1) Reasonable efforts are made to prevent the pre-petition removal of a child from the home unless a documented emergency exists that requires immediate removal. Per 10A O.S. § 1-4-201 and Section 671 of Title 42 of the United States Code (42 U.S.C. § 671), a child is removed from the home prior to the filing of a petition only when there is reasonable suspicion:

(A) the child is in need of immediate protection due to an imminent safety threat;

or

(B) the child's circumstances or surroundings are such that continuation of the child in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child and is contrary to the child's welfare.

(2) A child who is in surroundings that pose an immediate threat to the child may be removed from the home by law enforcement without a court order. When law enforcement declines to remove the child or when OKDHS is responding to a

referral without law enforcement involvement and the child is believed to be in need of immediate protection due to an imminent safety threat, OKDHS prepares an affidavit to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10A O.S. § 1-4-201.

(i) **Pre-petition removal of a foreign national child.** The pre-petition removal of a child from the home, a PRFC, or other caretaker is based on safety considerations related to the child and without regard to the child's citizenship or immigration status.

(j) **OKDHS authority to execute a pre-petition emergency custody order.** Per 10A O.S. § 1-4-201, when the district court issues a pre-petition order placing the child in OKDHS emergency custody pending further hearing, an OKDHS employee may execute the emergency order and physically take the child into custody, in limited circumstances when:

(1) the child is located in a hospital, school, or day care facility; and

(2) it is believed assumption of custody of the child from the facility can occur without risk to the child or the OKDHS employee.

(k) **Medical care for child in protective custody.**

(1) When the child in protective custody is in need of emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize such treatment as necessary to safeguard the child's health or life when:

(A) the treatment is related to the suspected abuse or neglect; or

(B) the parent or legal guardian is unavailable or unwilling to consent to treatment recommended by a physician. Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence to locate the parent or guardian, if known, per 10A O.S. § 1-3-102.

(2) When law enforcement, the parent, or guardian is unwilling to consent to emergency medical care, the DA is contacted to obtain a court order for the child's treatment.

(l) **Notification, disposition, and release of the child in pre-petition emergency custody.**

(1) The court may provide, in an administrative order or rule issued pursuant to 10A O.S. § 1-4-201, for the disposition of the child taken into custody and notification to the court of the assumption of custody. The administrative order or rule may include a process for release of the child prior to an emergency custody hearing. Specific county procedures are followed when the child is released from emergency custody prior to the emergency hearing.

(2) The court may order the child released to the parent, legal guardian, custodian, or to any responsible adult without conditions or under conditions the court finds necessary to ensure the child's safety, health, or well-being.

(m) **Post-petition removal of the child in OKDHS custody.** Following the filing of a deprived petition, OKDHS may remove the child directly from the child's home when continued placement in the home is contrary to the child's health, safety, or welfare and the child is in OKDHS legal custody, unless ordered placed in the home by the court.

(1) To ensure the safety of the child and the OKDHS employee, law enforcement assistance is requested in these situations.

(2) Refer to 10A O.S. § 1-4-806 when the child is in trial reunification status.

(n) Child who has left Oklahoma. When the child who is the subject of an emergency custody or a pick-up order, has left Oklahoma prior to execution of the order, enforcement of the emergency custody or pick-up order and recognition of Oklahoma's jurisdiction by the another state must occur to have the child returned to Oklahoma. Each circumstance is managed according to the laws and procedures in the state where the child is located.

INSTRUCTIONS TO STAFF 340:75-3-300

Issued 7-1-13

1. (a) Evaluating child safety.

(1) Form 04KI030E, Assessment of Child Safety, is the tool used to document the safety evaluation by focusing on six key questions when gathering information regarding family functioning to determine whether a child is safe or unsafe.

(2) Critical thinking is used when applying the safety threshold and evaluating protective capacities of the person responsible for the child (PRFC).

(3) The safety threshold is compromised when family behaviors, conditions, or situations are manifested in a way that is not controlled or managed.

(4) Child protective services (CPS) history is considered when determining safety.

(5) When present danger exists, an immediate protective action plan is implemented to remove the child from harm while the evidence-based safety assessment, Form 04KI030E, is completed.

(i) The CW specialist completes Section IV of Form 04KI030E, Assessment of Child Safety, applying the safety threshold to identify safety threats that are:

(A) specific;

(B) severe;

(C) observable;

(D) occurring now or likely to occur within the next few days;

(E) out-of-control; and

(F) applicable to a vulnerable child.

(ii) When a child is found unsafe, the CW specialist completes:

(I) Section VI of Form 04KI030E, entitled Protective capacities of the PRFC;

(II) Section VII of Form 04KI030E, entitled Safety Intervention; and

(III) Section VIII of Form 04KI030E, entitled Voluntary Safety Plan, in conjunction with Form 04MP054E, Immediate Protective Action Plan/Voluntary Safety Plan.

(iii) The CW specialist documents all information gathered during the assessment of child safety on Form 04KI030E.

2. Review of a substantiated finding with a safe determination. The CPS supervisor reviews the substantiated finding of abuse or neglect when the child has been determined safe. The determination may be made when:

 - (1) a assessment of child safety has been completed and no safety threats are identified;
 - (2) patterns and the safety threshold were correctly applied;
 - (3) the PRFC demonstrates adequate protective capacities to keep the child safe;
 - (4) an assessment was properly upgraded to an investigation, when applicable; and
 - (5) the proper substantiation protocol was applied.
3. Present danger.

 - (1) Present danger means an immediate, significant, and clearly observable family condition that is presently occurring and already endangering or threatening to endanger a child.
 - (A) When present danger exists, steps are taken to protect the child through the implementation of a short-term immediate protective action plan.
 - (B) The immediate protective action plan is designed to protect the child while the safety evaluation is completed, and may be utilized for up to seven business days.
 - (C) Present danger and potential immediate protective action plans include, but are not limited to circumstances such as when a child found in:
 - (i) the street may require an immediate protective action plan to remove the child from the street and identify adequate supervision for the child; or
 - (ii) a home containing a working methamphetamine lab may require an immediate protective action plan for the PRFC to voluntarily place the child in a safe location with relatives for short-term care.
 - (2) When present danger exists and the immediate protective action plan requires a child's temporary placement outside the child's home, the out-of-home safety planning protocol found in OAC 340:75-3-300 ITS # 10 is followed.
 - (3) When the child's safety is secured, the safety evaluation is completed to determine if impending danger exists.
4. Impending danger.

 - (1) Impending danger means the presence of a threatening family condition that is:
 - (A) specific and observable;
 - (B) out-of-control;
 - (C) certain to happen in the next several days; and
 - (D) likely to have a severe effect on a vulnerable child.
 - (2) Impending danger includes specific threats to the child's safety that:
 - (A) are harmful but are not immediate, obvious, or active at the onset of CPS intervention;

(B) are identified and understood after evaluating individual and family conditions and functioning;

(C) will result in severe harm if safety intervention does not occur and is not sustained; and

(D) require the development of a safety plan implemented through voluntary services to the family or court intervention monitored by CPS until the impending danger is under control.

5. Evaluating need for protective or emergency custody.

(1) Law enforcement may place a child in protective custody. When emergency custody is indicated, OKDHS prepares and presents an affidavit to the district attorney documenting:

(A) the imminent safety threat;

(B) why continuation of the child in the home is contrary to the welfare of the child; and

(C) a request for emergency custody of the child.

(2) The CW specialist consults with the CW supervisor throughout the evaluation process and documents the decision in the case record. The immediate protective action plan or voluntary safety plan is documented on Form 04MP054E, Immediate Protective Action Plan/Voluntary Safety Plan.

(3) Cases of serious abuse or neglect described in subparagraphs (A) through (P) of this paragraph may pose an imminent safety threat to a child and require a recommendation for placement of the child in protective or emergency custody.

(A) The child was assaulted, hit, poisoned, or burned so severely that serious injury resulted or could have resulted. For example, the parent threw an infant against a wall, but the infant was not seriously injured.

(B) An infant has bruising or burns on any part of the body.

(C) The child is 5 years of age or younger and the PRFC demonstrates no attachment to the child and has dangerously inappropriate parenting skills.

(D) The child was systematically tortured or inhumanely punished. For example, the child was locked in a closet for long periods, forced to eat unpalatable substances, or forced to squat, stand, or perform other unreasonable acts as a means of torture.

(E) The PRFC's reckless disregard for the child's safety caused or could have caused serious injury. For example, the PRFC left a young child in the care of an obviously irresponsible or dangerous person.

(F) The physical condition of the home is dangerous and poses an immediate threat of serious injury to the child. For example, exposed electrical wiring or other materials create an extreme danger of fire or there are gas leaks in the home.

(G) The child was sexually abused or sexually exploited and the perpetrator has access to the child.

(H) The PRFC purposefully or systematically withheld essential food or nourishment from the child. For example, the child was denied food for

extended periods as a form of punishment for real or imagined misbehavior.

(I) The PRFC refuses to obtain or consent to medical or psychiatric care for the child that is immediately required, as documented by medical evaluation, to prevent or treat a serious injury or disease. The child's physical condition shows signs of severe deterioration and the PRFC seems unwilling or unable to respond.

(J) The PRFC appears to suffer from mental illness, intellectual disability, or substance abuse so severe that he or she does not provide for the child's basic needs such as the PRFC who is demonstrably out of touch with reality or significantly intoxicated.

(K) The PRFC has abandoned the child.

(L) There is reason to suspect, based on a history of frequent moves or of hiding the child from outsiders, the PRFC may flee with the child and the child is in danger.

(M) There is specific evidence that the PRFC's anger and discomfort about the report and subsequent investigation will result in serious retaliation against the child. The information is gained through:

(i) a review of the PRFC'S past behavior;

(ii) the PRFC'S statements and behaviors during the investigative interview; or

(iii) reports from others who know the PRFC and family.

(N) A baby is born to the PRFC who is currently involved in an open permanency planning case and has not successfully completed the court-ordered individualized service plan or there is a pending motion to terminate parental rights.

(O) The PRFC's parental rights were terminated to other children and there is harm or significant threat of harm to the child in the PRFC's home.

(P) Any situation that involves the child in a family for which the criteria for the determination that reasonable efforts are not required per OAC 340:75-1-18 are met.

6. Voluntary safety plan.

(1) When a child is determined unsafe, the CW specialist evaluates the PRFC's protective capacities, available supports such as relatives or community resources, and willingness to collaborate with OKDHS to keep the child safe.

(A) When safety threats cannot be managed through a voluntary safety plan or the PRFC does not agree to comply with the voluntary safety plan, protective or emergency custody of the child and court intervention is requested.

(B) A voluntary safety plan does not preclude a recommendation for court intervention and supervision by OKDHS to formalize the voluntary service agreement through a court-ordered individualized service plan.

(C) The voluntary safety plan:

(i) is utilized when the child is determined unsafe and court-ordered removal of the child from the home is not requested;

- (ii) may replace the immediate protective action plan when the safety evaluation is completed and impending danger is identified;
- (iii) is completed when the family has agreed to collaborate with OKDHS to control and manage identified safety threats;
- (iv) may be utilized with or without court involvement; and
- (v) is documented on Form 04KI030E, Assessment of Child Safety, and detailed on Form 04MP054E, Immediate Protective Action Plan/Voluntary Safety Plan.

(D) A voluntary safety plan is developed to control and manage the safety threats while the child remains in the home or while the child temporarily stays in an alternative location outside the home. When OKDHS and the PRFC agree to utilize a voluntary safety plan:

- (i) safety plan monitors are identified;
- (ii) Form 04MP025E, Voluntary Service Agreement, is completed; and
- (iii) protocols for determining service needs are followed per OAC 340:75-4-12.1.

(2) The purpose of a voluntary safety plan is to control safety threats immediately. The safety plan:

(A) specifies what safety threats exist to establish what must be controlled;

(B) identifies how the safety threat will be managed and controlled including:

(i) by whom;

(ii) under what circumstances and agreements;

(iii) within what time frame; and

(iv) the availability, accessibility, and suitability of those involved; and

(C) includes how CPS or others monitor and oversee the plan.

(3) Engaging kin in safety planning creates more options for support and safety planning. The CW specialist:

(A) identifies as many kin as possible to support the family;

(B) engages those who know the child best;

(C) facilitates a family team meeting; and

(D) makes timely decisions, with input from the team, regarding the child's safety, physical, and emotional well-being.

(4) Following the guidelines of OAC 340:75-4-12.1 and related OAC 340:75-4-12.1 ITS, the CW specialist:

(A) assesses the PRFC's reliability, willingness to cooperate, commitment, and alliance to the voluntary safety plan;

(B) ensures all necessary arrangements for the safety plan are made and agreed to by each participant;

(C) contacts, no less than weekly, persons responsible for the safety plan until the safety threats in the family are significantly reduced.

7. Safety plan factors. Questions (1) through (7) are considered when evaluating the relative or non-perpetrator PRFC's protective capacities for adequately protecting the child from the perpetrator.

(1) Does the relative, kin, or PRFC believe that abuse or neglect occurred? If not, has the relative, kin, or PRFC demonstrated behaviors related to protective capacities? If not, adequate protection may not be provided.

(2) Is the non-perpetrator PRFC strongly dependent on the perpetrator for financial or emotional support or both? If so, it may initially be difficult for the non-perpetrator PRFC to overcome his or her own needs and protect the child.

(3) Is the non-perpetrator PRFC a victim of domestic violence or emotional abuse by the perpetrator? If so, the non-perpetrator PRFC may be fearful of the perpetrator and unable to protect the child until services begin.

(4) Did the relative, kin, or non-perpetrator PRFC fail to protect the child from abuse or neglect or fail to heed serious warning signs that abuse occurred? If so, the relative or non-perpetrator PRFC may not see a threat to the child if the perpetrator wants unauthorized contact with the child.

(5) Does the relative, kin, or non-perpetrator PRFC display a willingness to control and manage the safety threats or is the person's agreement to participate in the safety plan only to avoid the child's removal? When there is no willingness to seek help to alleviate the concerns that led to the abuse or neglect, relying on the relative or non-perpetrator PRFC is not an adequate safety plan.

(6) Is the non-perpetrator PRFC planning to seek action in divorce court to change custody? If so, it must be evaluated whether this will adequately protect the child. It is likely that visitation will continue even with a change in custody. An action in divorce court does not ensure that all information regarding the abuse or neglect is heard and considered in custody and visitation decisions.

(7) Does the non-perpetrator PRFC have difficulties due to substance or alcohol abuse? If so, these difficulties may prevent the non-perpetrator PRFC from adequately protecting the child.

8. Assessing voluntary safety plan participants.

(1) Prior to engaging individuals as safety plan monitors or caregivers, the CW specialist assesses the individual's:

(A) protective capacities;

(B) willingness to collaborate with OKDHS to ensure the child's safety;

and

(C) alignment with the safety plan.

(2) When the safety plan includes an arrangement by the PRFC for the child to temporarily stay outside the home, the CW specialist:

(A) reviews Child Welfare Services records to determine if the prospective voluntary safety plan caregiver or any adult residing in the prospective caregiver's home has a history of child abuse or neglect;

(B) completes and submits Form 04AF007E, Records Check Documentation Form, for the prospective voluntary safety plan caregiver and each adult household member;

(C) determines if the prospective voluntary safety plan caregiver or any adult household member:

- (i) is subject to the Oklahoma Sex Offender Registration Act and the Mary Rippy Violent Crime Offender Registration Act. Refer to OAC 340:75-7-15 ITS # 1(6) for instructions to access the free website; or
(ii) has convictions for felony offenses involving violence. Refer to OAC 340:75-7-15;
- (D) uses Form 04AF004E, House Assessment, as a guide when determining the physical safety of the home;
- (E) when the child is under 5 years of age, completes Section One, Physical Environment, of:
- (i) Form 04MP004E, Contact Guide Addendum for Face-to-Face Visit with Newborn(s) and Infant(s) – Age 0 to 12 Months, as applicable; or
(ii) Form 04MP006E, Contact Guide Addendum for Face-to-Face Visit with Toddler(s) – Age 13 through 36 Months, as applicable; and
- (F) completes and submits Form 04AD003E, Request for Background Check, for the prospective voluntary safety plan caregiver and each adult household members; or
- (G) when needed afterhours, requests a National Crime Information Center (NCIC) check for the prospective voluntary safety plan caregiver and each adult household member;
- (H) ensures the voluntary safety plan caregiver and each adult household members submit fingerprints within five business days for submission to the Background Checks Program Unit, when an NCIC check is completed prior to the child's placement;
- (I) contacts, no later than the next business day, other states in which the voluntary safety plan caregiver or adult household members have resided and requests child welfare history for each adult in the household. When emergency custody of the child is requested, procedures in OAC 340:75-7-15 are followed prior to placement; and
- (J) does not utilize individuals convicted of the felony offenses of:
- (i) physical assault, battery, or a drug-related offense within the preceding five-year period;
(ii) child abuse or neglect;
(iii) domestic abuse;
(iv) a crime against a child, including, but not limited to, child pornography; or
(v) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault, battery, or a drug-related offense within the preceding five-year period. Homicide includes manslaughter. A crime involving violence means an offense that:
- (I) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or
(II) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

(L) reviews the CW and criminal history of the prospective voluntary safety plan caregiver and each adult household member with the CW supervisor or district director. The district director may grant exceptions for certain felony convictions but does not grant exceptions for felony convictions or relevant misdemeanors listed in OAC 340:75-7-15(i)(1); and

(M) documents information obtained regarding the assessment of the voluntary safety plan caregiver and household members and other safety plan participants as a Contact in KIDS and files copies of the completed forms in the KK case associated with the CPS investigation.

(3) When a child is placed in protective or emergency custody, the guidelines in OAC 340:75-7-15 are followed prior to the child's placement in a kinship home.

9. Foreign nationals. A child's removal from the home is based on safety considerations without regard to citizenship or immigration status. When the child who is a foreign national is removed from the home, the CW specialist notifies the foreign consul by completing Form 04MP016E, Notice to Foreign Consul of Child Welfare Proceedings, per OAC 340:75-1-31 Instructions to Staff.

10. OKDHS authority to execute emergency custody order. An order issued by the district court placing a child in OKDHS emergency custody is executed and the child taken into custody by a peace officer or employee of the court, except a child may be removed from a hospital, educational, or child care facility by a CW specialist when the criteria in paragraphs (1) through (5) this subsection are met prior to removal.

(1) The CW specialist and supervisor establish that the removal is necessary to protect the child from safety threats resulting in a serious abuse or neglect situation.

(2) The CW specialist prepares and submits an affidavit to the DA who obtains a written emergency custody court order that includes a statement that the child may be removed from the hospital, educational, or child care facility by the CW specialist to protect the child from safety threats.

(3) A determination is made by the CW supervisor and district director that the child's removal from the facility can occur without disruption to the facility, hostility, or risks or threats to the child or CW specialist.

(4) A copy of the written emergency custody court order is provided by the CW specialist to the hospital, educational, or child care facility at the time of the removal.

(5) The CW specialist notifies the PRFC of the removal the same day and provides the PRFC with a copy of the written emergency custody order immediately, if the PRFC is present, or as soon as possible. If the notification will place the specialist in danger, law enforcement assistance is requested.

11. Protective services alert. A protective services alert is requested by contacting the CPS Program Unit when:

(1) a report indicates the child's safety is or will be at risk;

- (2) it appears the family has relocated within Oklahoma or to another state; and
- (3) the child and family's address and whereabouts is unknown; or
- (4) the child has been abducted from OKDHS custody; or
- (5) the CW specialist is aware of a pregnancy involving a mother or father who is a party to an open permanency planning case and the whereabouts of the mother or father is unknown.

12. Child who has left Oklahoma. When a child, for whom emergency custody or a pick-up order has been requested, has left Oklahoma prior to execution of the order, enforcement of the custody order and recognition of Oklahoma's jurisdiction by the other state must occur to have the child returned. Each situation is treated according to the laws and procedures in the state where the child is located.

(1) When the child's location is unknown, the CW specialist contacts the CPS Program Unit to issue a protective service alert.

(2) When the child's location is known, the CW specialist with the information about the allegations and investigation contacts the CPS agency in that county or state and sends a copy of the pick-up or emergency custody order to the CPS agency along with any other requested written documentation. Information may be shared with another CPS agency under these circumstances.

(3) Some CPS agencies, based on the information received, enforce Oklahoma's order by taking the child who is in danger into custody.

(4) When the child is taken into custody, the court of jurisdiction in Oklahoma is notified that, based on the information and order from Oklahoma, the child was taken into custody in the other state or jurisdiction. Oklahoma CW staff secures a court order from the other state or jurisdiction releasing the child to OKDHS custody to return to Oklahoma.

(5) When a CPS agency is unwilling or unable to assist, law enforcement in Oklahoma is contacted and the Oklahoma court order is faxed to the local law enforcement entity where the child is located.

(6) The Oklahoma judge and DA are notified when the CPS agency or law enforcement in the other state or jurisdiction is unwilling or unable to assist. In some circumstances, the judge or DA may contact the court or law enforcement in the other state or jurisdiction for assistance.

13. Preparation for removal. When the decision is made to remove a child from the child's home, the CW specialist makes efforts to reduce the trauma and stress for the child and family by properly preparing all persons involved. Preparing the family as well as the child is crucial when removal occurs.

(1) Preparing the family is facilitated by the CW specialist:

(A) explaining the reasons for the child's removal and placement;

(B) answering questions about court procedures;

(C) making clear the intent to reunify the child with the family, when appropriate, as soon as the home is safe for the child;

(D) encouraging the parent, once he or she understands and accepts the reasons for the placement, to help explain the reasons for the

placement to the child. This may comfort and reassure the child that the parent will work with the CW specialist to facilitate the child's return to the home;

(E) asking the parent to provide in-depth information regarding the child's schedule, routines, likes and dislikes, and medical needs to help the placement provider maintain continuity for the child. The CW specialist:

(i) completes Form 04MP012E, Receipt and Release of Prescription and Over-the-Counter Medication(s), with the parent when the child takes medication or has medical needs or allergies;

(ii) completes Form VS 151, Application for Search and Certified Copy of Birth Certificate, to obtain a full-certified copy of the child's birth certificate, per OAC 340:75-13-9; and

(iii) asks the parent to complete Form 04MP015E, Important People in the Child's Life, to document and maintain the child's ongoing relationships;

(F) acknowledging the parent's anger and grief in response to the loss of his or her child, and expecting the parent to be initially resistant;

(G) encouraging the parent's involvement in all aspects of the planning and placement process;

(H) encouraging the parent, when appropriate, to make recommendations of potential homes in which the child may be placed;

(I) providing to the parent OKDHS Publication No. 99-27, Away From Home, A Parent's Guide to Out-of-Home Placement; and

(J) arranging the initial meeting between the parent and the resource parent.

(2) Adequately preparing the child for the placement serves several important purposes.

(A) The CW specialist alleviates many of the child's anxieties and reduces the child's stress by providing the child with information regarding the need for placement and by familiarizing the child with aspects of the setting where the child is moving.

(B) When the CW specialist does not know the child well, the CW specialist uses the preparation period to better assess the child's strengths and needs. The information is communicated to the placement provider to assist with the provider receiving the child and making the child's transition into the new setting easier.

(C) Working with the child during the preparation phase helps the child establish a supportive relationship with the CW specialist.

14.(a) Placement considerations. Placement with the non-offending parent, relatives or kin is considered and siblings are placed together in the same home when appropriate and possible. Relative or kinship placements are assessed in terms of the child's safety, per ITS # 8 of this Section, and long-term needs. Relatives or kin are only considered when:

- (1) the child will be safe with the relative or kin. The history of the family is explored extensively with the child's PRFC and the relative or kin considered for placement;
- (2) a relative or kin can provide a home that does not pose an obstacle to reunification plans as demonstrated by the relative's or kin's willingness to work with OKDHS and the family toward reunification;
- (3) a relative or kin is willing to accept placement of a sibling so that the siblings are not separated or the relative or kin is willing to facilitate contact between the siblings; and
- (4) a relative or kin could potentially provide long-term care for the child. The CW specialist considers the relative or kin's abilities and willingness to meet the day-to-day and individual needs of the child should the placement become long-term.
- (b) Family history. When a child has been seriously abused or neglected, the perpetrator may have been a victim of abuse or neglect within his or her own family. The perpetrator's relative may also have been a victim of abuse or neglect or impacted by the abuse or neglect within the family. This kind of family history may place the child in an unsafe situation in the relative's or kin's home.
- (c) Placement in foster family care. When a foster family placement is made as an emergency, the placement is evaluated quickly and arrangements are made to make a more appropriate placement as soon as possible. When it is determined that foster family care is the best placement option for the child, considerations include, but are not limited to whether:
- (1) the foster parent has the ability and willingness to meet the day-to-day and individual needs of the child, such as providing a stimulating environment and ensuring the child the opportunity to participate in extracurricular activities; and
- (2) the other children placed in the foster family home do not pose a safety threat to the child considered for placement; and
- (3) the foster family is able to accept placement for siblings or facilitate contact between the siblings.
- (d) Initial placement. The placement made at the time of the child's initial removal from the home has a significant impact on the child's safety and ultimately the possibility for successful reunification with the family or alternative permanent plans for the child.
- (e) Sibling placement. Every reasonable attempt is made to place siblings together when appropriate and possible. When it is not possible to initially place siblings together, efforts begin the next business day and actively continue to place the siblings in the same home.
- (f) Adoption dissolution notification. The CW specialist notifies the adoption specialist and the Post Adoption Services Program Unit of the child's placement in out-of-home care when the child:
- (1) receives adoption assistance; or
- (2) is placed in, or returned to OKDHS custody due to the dissolution of an OKDHS or other type of adoption.

(g) Placement of the infant who is medically fragile or disabled.

(1) Factors that determine whether an infant in OKDHS custody is medically fragile or disabled include:

(A) prematurity;

(B) history of respiratory distress;

(C) oxygen dependency;

(D) a diagnosis requiring special care beyond routine infant care;

(E) six weeks of age or younger; and

(F) medical conditions or illnesses that may result in increased episodes of illness, prolonged hospitalization, and increased cost for care.

(2) An appropriate placement for an infant who is medically fragile or disabled includes an approved foster or kinship family home, health care facility, or children's shelter that meets the criteria in subparagraph (A) through (C) of this paragraph. The placement:

(A) provider for the infant has undergone all necessary training required to meet the infant's medical needs;

(B) setting has all of the necessary equipment required to meet the infant's medical needs, the placement provider knows how to use the equipment, and the equipment is in operating condition; and

(C) provider is willing and able to:

(i) follow all medical requirements and orders as given by the infant's physician;

(ii) transport the infant to all medical appointments; and

(iii) keep the infant's CW specialist fully apprised of the infant's condition.

(3) The CW specialist provides to the placement provide, at the time of placement, all medical and other related information about the condition of the infant and updates the placement provider concerning any new information as it occurs.

PART 4. SPECIALIZED INVESTIGATIVE PROTOCOLS, CHILD DEATH OR NEAR-DEATH REPORTING PROTOCOLS

340:75-3-400. Reports of child abuse and neglect with specialized protocols

Revised 7-1-13

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

(1) Child Protective Services (CPS) reports regarding an Oklahoma Department of Human Services (OKDHS) employee; ■ 1

(2) reports of abuse or neglect of a child in an active permanency planning or family-centered services (FCS) case; ■ 2

(3) 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); ■ 3

(4) reports regarding Indian children; ■ 4

- (5) reports regarding children in out-of-home care; ■ 5
- (6) reports of abuse or neglect in child care center or home; ■ 6
- (7) reports of abuse or neglect by someone other than the person responsible for the child (PRFC) per 10A O.S. § 1-2-102. ■ 7
- (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 the:
- (i) alleged perpetrator is someone other than a person responsible for the child's (PRFC) 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;
- (8) 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 10A O.S. § 1-4-102 are followed. The assessment or investigation is completed within 30 days of the referral date. Upon completion, OKDHS:
- (1) submits an assessment or investigation report to the office of the district attorney;
- (2) provides a copy of the report to the referring court; and
- (3) notifies the parties to the proceeding of the submission of the report to the court.
- (B) When the evidence in a court proceeding concerning child custody or visitation results in placing the child into OKDHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.
- (C) Per 22 O.S. § 20, when a judge finds a defendant subject to incarceration is the sole custodian of a minor child and has not made safe and appropriate arrangements for the care of the child, the court makes a referral to OKDHS. The report is assigned for assessment or investigation. ■ 8
- (9) 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. At the parent's request, OKDHS respects the parent's desire to remain anonymous; and

(ii) provide the parent with printed information relating to the parent's rights with respect to reunification with the child and sources of counseling for the parents.

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

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

(ii) immediately checks with law enforcement authorities to determine if a child was reported missing and whether the missing child could be the relinquished child. ■ 9

INSTRUCTIONS TO STAFF 340:75-3-400

Revised 7-1-13

1. Child protective services (CPS) reports regarding an Oklahoma Department of Human Services (OKDHS) employee. Specific procedures are followed when a report of child abuse or neglect 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 Child Welfare Services (CWS) specialist from another district or region is assigned the assessment or investigation:

(A) to avoid potential conflicts of interest when there is close proximity between the CWS office and work location of the OKDHS employee; or

(B) when the CWS specialist is acquainted with the OKDHS employee or the employee's family.

(2) When a report alleges serious physical or sexual abuse by a CWS staff person the local district attorney is consulted to determine the most objective course of investigation.

(3) Hotline personnel contacts the deputy director for the region regarding assignment of the accepted report.

(4) All case information related to the assessment or investigation is restricted in KIDS.

2. Reports of abuse, neglect, or injury of a child in an open permanency planning, trial reunification, or Family-Centered Services (FCS) case.

(1) When abuse or neglect of a child, who is part of an open permanency planning, trial reunification, or FCS case, is suspected, or when the child has evidence of any abuse or neglect per OAC 340:75-130, 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 OKDHS Abuse and Neglect Hotline and documented on Form 04KI001E, Referral Information Report.

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

3. Reports regarding a child whose address is confidential per the Address Confidentiality Program. 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.

4. Reports regarding 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.

5. Reports of child abuse or neglect or a violation of OKDHS rules in out-of-home care.

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

(2) When information in the report indicates that a rules violation has occurred, the report is screened out and notification is sent to the resource unit to address the violation.

(3) Reports that meet criteria for acceptance involving the child in an above foster care setting is directed to the Office of Client Advocacy Unit inbox for assignment.

(4) 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.

6. Reports of abuse or neglect 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 a CWS CPS specialist.

(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 investigation initiation 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).

7. Reports of child 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) 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.

(B) A separate referral is completed and assigned for CPS assessment or investigation when information indicates a child is at risk of harm.

(2) 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, Referral Information Report;

(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, Referral Information Report, and 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report, to law enforcement; and

(F) assigning the report for assessment or investigation.

(3) 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 determine:

(i) if the PRFC failed to protect the child; and

(ii) 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:

(i) if the PRFC failed to protect the child; and

(ii) whether there will be ongoing protection for the child.

8. Reports resulting from judicial proceedings.

(1) When a report of child 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 the 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 OKDHS Abuse and Neglect 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.

9. 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 abandoned newborn's name and birth date 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 birth month.

340:75-3-401. [RESERVED]

340:75-3-402. [RESERVED]

340:75-3-403. [RESERVED]

340:75-3-404. [RESERVED]

340:75-3-405. [RESERVED]

340:75-3-406. [RESERVED]

340:75-3-407. [RESERVED]

340:75-3-408. [RESERVED]

340:75-3-409. [RESERVED]

340:75-3-410. Investigation protocol for reports of abuse or neglect of a child in Oklahoma Department of Human Services (OKDHS) custody in a foster or trial adoptive home ■ 1 through 14

Issued 7-1-13

(a) Purpose of foster or trial adoptive home investigations. A child in OKDHS care or custody requires ongoing protection from subsequent abuse or neglect while in therapeutic, specialized community home, emergency, Developmental Disabilities Services Division (DDSD), tribal, kinship, and foster family care or trial adoptive placement.

(b) Foster or trial adoptive home investigation protocol. The investigation protocol used during a foster or trial adoptive home investigation is the same protocol used when an investigation in the child's own home is conducted, but includes additional interviews and the evaluation of case records relating to the foster or trial adoptive home. ■ 3

(c) Abuse or neglect investigation when the child is in OKDHS custody in a tribal foster home. The protocols used during a tribal foster home investigation are the same used when an investigation is conducted in the child's own home and the protocol regarding the Indian child, per OAC 340:75-19-10. ■ 4

(d) Contracted therapeutic, specialized community, emergency foster, or trial adoptive home investigation protocol. The protocol used during a contracted therapeutic, specialized community, emergency foster, or trial adoptive home investigation is the same protocol used when an investigation is conducted in the child's own home, but includes additional interviews and evaluation of case records relating to the placement. ■ 3

(e) Foster or trial adoptive home investigation findings. Upon completion of the foster or trial adoptive home investigation, a finding is made per OAC 340:75-3-500. ■ 11

(f) Evaluation to determine continued use or closure of the foster or trial adoptive home. The results of the foster or trial adoptive home investigation are evaluated to determine whether to continue to use or close the foster or trial adoptive home. ■ 14

(g) Office of Client Advocacy (OCA) investigates allegations of abuse or neglect in above foster care level settings. OCA investigates reports of child abuse or neglect of a child in OKDHS custody when the child is placed in an above foster care level setting.

INSTRUCTIONS TO STAFF 340:75-3-410

Issued 7-1-13

1. Reports of abuse or neglect in out-of-home care.

(1) All reports of alleged abuse and neglect in out-of-home care are reported to the Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline (Hotline) for screening.

(A) An investigation is conducted that addresses each reported

allegation that meets the definition of abuse or neglect, including all non-accidental physical or mental injuries to a child of any age, neglect, sexual abuse, and any practices 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.

(B) The investigation is assigned to a child protective service specialist who conducts an objective and unbiased investigation. When necessary, out-of-county Child Welfare Services (CWS) staff may be used.

(2) Accepted reports of child abuse or neglect in a child's out-of-home placement are immediately reported by the child protective services specialist to the child welfare (CW) specialist assigned to the child, CW supervisor, district director, and appropriate programs staff. Reports involving:

(A) OKDHS foster homes, contracted emergency foster homes, and kinship homes are reported to the Foster Care Program Unit;

(B) trial adoptive homes are reported to the Adoption Services Program Unit;

(C) contracted therapeutic foster homes and Developmental Disabilities Services Division (DDSD) homes are reported to the Therapeutic Foster Care (TFC) Program Unit;

(D) contracted specialized community homes and above foster care settings are reported to the Community-Based Residential Services Program Unit; and

(E) tribal foster homes are reported to the Tribal Program Unit.

2. Foster or trial adoptive home investigation protocol.

(1) In addition to those persons identified in the investigation protocol, per OAC 340:75-3-200 Instructions to Staff (ITS), other persons interviewed in foster or trial adoptive homes include:

(A) all children living in the home regardless of relationship to the child victim;

(B) other children who previously lived in the home who may have experienced abuse or neglect or may be aware of abuse or neglect that occurred in the resource home;

(C) the CW specialist assigned to the child;

(D) the resource specialist; and

(E) other CWS staff and contract agency staff who were or are frequently in the home.

(2) A review of case records, including the child's case and the foster home, therapeutic foster home, emergency foster home, DDSD specialized community home, tribal, or trial adoptive home case record, is also completed by the child protective services (CPS) specialist to gather information pertinent to the investigation.

(3) During the investigation, the Bridge resource parent is provided a copy of a pamphlet that describes the resource parent's rights and responsibilities.

- (4) The assigned resource specialist may accompany the CPS specialist during the investigation process to assist the Bridge resource family with understanding the process.
- 3. Tribal foster home investigation protocol. Additional protocols used during the tribal foster home investigation are described in paragraphs (1) through (3) of this subsection.**
- (1) The CW specialist notifies the tribal representative of the report of abuse or neglect of the child in OKDHS custody placed in the tribal foster home and requests cooperation with the investigation.
- (2) The decision to remove the child from the home, pending completion of the investigation, is based upon the same guidelines used when making a decision regarding a child in an OKDHS approved foster home.
- (A) The decision whether to remove the child is discussed with the tribal representative and the tribal representative is asked to assist in explaining the decision to the tribal foster family.
- (B) When the tribal representative does not cooperate with OKDHS and the foster family to remove the child, the Tribal Section is notified.
- (C) When the tribe's cooperation cannot be acquired through the Tribal Section tribal coordinator, CWS staff has the authority, with the assistance of law enforcement when necessary, to remove the child from the tribal foster home unless the foster home is located on tribal land.
- (3) When the tribal foster home is located on tribal land, the tribe removes the child and places the child in OKDHS physical custody as provided for in the terms of the state/tribal agreement.
- 4. When the alleged perpetrator of abuse or neglect is a child. When the alleged perpetrator is a child and there is potential for criminal charges, the interview with the minor perpetrator is conducted only to determine the family dynamics and whether the PRFC protected the alleged child victim and will continue to protect the child victim from the minor perpetrator.**
- (1) The CPS specialist evaluates the situation carefully while collaborating with CWS staff responsible the child and the Bridge resource parent to determine the child's need for protection and plan of supervision.
- (2) The evaluation includes assessing the foster or trial adoptive parent's willingness and appropriateness to protect the child.
- 5. Determining safety of the child in a foster or trial adoptive home.**
- (1) The CPS specialist determines whether abuse or neglect occurred to the child in the out-of-home setting.
- (2) Safety refers to the child's present security and well-being.
- (3) Per OAC 340:75-3-120, the determination regarding whether a child can safely remain in a foster or trial adoptive home is based upon the:
- (A) urgency;
- (B) severity of the allegations; and
- (C) level of risk.
- (4) Safety is determined at the time the child abuse or neglect report is received and throughout the investigation.

(5) Anytime the child's safety cannot be ensured, the child and any other child who is in OKDHS custody or voluntary care is removed from the foster or trial adoptive home.

(6) When children in the household include the foster or trial adoptive parent's own child, the decision to recommend the child's removal is based on safety, per OCA 340:75-3-300.

(7) When possible, the decision to recommend removal is made by the CPS specialist, CW supervisor, and district director in collaboration with other persons involved with the child.

(8) When the child is in present danger and prior collaboration is not feasible an immediate protective action plan is initiated that may include the child's removal or continued removal from the foster or trial adoptive home and may include a plan such as taking the child to the OKDHS office or placing the child in respite care.

(9) Persons promptly notified when the child in a foster or trial adoptive home is removed from the home due to suspected child abuse or neglect include the:

(A) Bridge resource parent. Procedures for notifying the foster or trial adoptive parent of the child's removal are followed, per OAC 340:75-7-94;

(B) permanency planning specialist assigned to the child;

(C) CW supervisor;

(C) district director;

(K) resource specialist; and

(L) appropriate TFC, DDSD, Community-Based Residential Services, Tribal, Foster Care, or Adoption program units.

(7) Alternatives to the child's removal from the foster or trial adoptive home are appropriate when the child's safety is reasonably ensured.

(A) The Foster Care, Adoption, DDSD, Community-Based Residential Services, Tribal, TFC, and CPS program units are available for consultation when considering the child's removal from the foster or trial adoptive placement.

(B) Each assigned CW specialist collaborates and participates in the ten-day staffing to assure the child is safe in the out-of-home placement when the child is not removed.

6. Notification to parent regarding child's injury. The parent of the child in OKDHS emergency or temporary custody is notified by the assigned CW specialist when the child is injured or removed from the placement due to abuse or neglect.

(1) The notification occurs immediately after the child's condition is determined through interview and observation.

(2) When contacting the child's family immediately is not possible, contact is made the next business day.

(3) Upon contact, the CPS specialist discusses:

(A) the abuse or neglect allegations;

(B) the investigative process; and

(C) any investigative concerns.

7. Completion requirements for the foster or trial adoptive home investigation.

(1) Investigative interviews with the child victim and PRFC are completed and documented within five business days from the date the report is received.

(2) Within 10 business days of receipt of the report, the CPS specialist arranges a staffing to determine whether it is safe for the child to remain in or return to the foster or trial adoptive home. The staffing includes the:

(A) CPS specialist;

(B) CW specialist assigned to the child;

(C) CW supervisors;

(D) district director; and

(E) foster care or adoption specialist.

(3) The CPS specialist documents the staffing results in:

(A) Form 04KI003E, Report to DA;

(B) the KIDS Assessment of Child Safety Ten Day Staffing investigation screen; and

(4) The resource specialist documents the staffing results in the resource case.

(5) Each investigative interview is completed and documented and the investigation is closed within 30 calendar days from the date the abuse or neglect report is received.

8. Foster or trial adoptive home investigation completion extensions. The investigation findings and recommendations are documented on Form 04KI003E, Report to DA. The CPS, Foster Care, Adoption, Community-Based Residential Services, Tribal, or TFC program units, as appropriate, are notified by email of the investigation findings and recommendations.

(1) The appropriate DDSD, Foster Care, Adoption, Community-Based Residential Services, Tribal, or TFC program units is contacted when an extension is necessary beyond:

(A) five business days to complete and document the child victim and PRFC interviews; or

(B) 30 calendar days to complete, document, and close the investigation when key information is not available or due to the serious nature of the investigation.

(2) Examples of circumstances necessitating extensions are outlined in subparagraphs (A) through (D) of this paragraph.

(A) There are numerous allegations of sexual abuse and interviews are needed with numerous children previously placed in the foster home.

(B) Medical, lab, or autopsy reports are not available within the five business days completion requirement.

(C) There are serious abuse and neglect allegations and a criminal investigation is pending.

(D) Key individuals such as the child victim or alleged perpetrators are unavailable.

9. Investigation findings related to foster or trial adoptive home investigations.

(1) Form 04KI003E, Report to District Attorney, is used to document all investigation findings.

(2) The CPS specialist verbally advises the foster or trial adoptive parent of the investigation findings and mails Form 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, to each foster or trial adoptive parent.

(3) When the investigation involves a contracted foster or trial adoptive home, the CPS specialist advises the contractor of the investigation findings.

(4) The CPS specialist advises the foster or trial adoptive parent that any action regarding policy violations and continued use of the home is addressed by the resource specialist or appropriate programs staff, per OAC 340:75-3-410.

(5) At the conclusion of the investigation, notification, via email, is provided to the CPS Program Unit, and the Foster Care, Adoption, Community-Based Residential Services, Tribal, or TFC program units, as appropriate. Other relevant written reports and recommendations for continued use of the home are submitted.

(6) Copies of Form 04KI003E, Report to DA, are provided to the CW specialist assigned to the child and the resource specialist to address any needed action such as a written plan of compliance for, or closure of, the OKDHS foster or trial adoptive home.

10. Investigation of the contracted foster or trial adoptive home.

(1) When a report of abuse or neglect of a child in OKDHS custody involves a contracted foster or trial adoptive home, notification of the report is provided to the:

(A) contracting agency;

(B) appropriate OKDHS contract liaison;

(C) district director; and

(D) Foster Care, TFC, Community-Based Residential Services, or Adoption Services program units.

(2) The contracting agency is informed that no information regarding the referral is discussed with the foster or trial adoptive parent prior to the investigation initiation.

(3) When the investigation is completed, Form 04KI003E, Report to District Attorney, is prepared and routed, per OAC 340:75-3-510 ITS.

(4) The CPS specialist notifies the contract resource parent of the investigation finding(s).

(5) Form 04KI003E, Report to DA, is not provided to the contract agency.

(6) The appropriate Foster Care, DDSD, TFC, Community-Based Residential Services, Tribal, or Adoption Section program unit discusses the investigation findings, concerns, and issues with the contract agency regarding continued use of the home for the child in OKDHS custody.

(7) Other relevant written reports and information pertaining to continued use of the home that are not appropriate to include in Form 04KI003E are submitted by the CW specialist to the appropriate Foster Care, DDSD, TFC,

Community-Based Residential Services, Tribal, or Adoption Services program unit.

(8) The designated program person for the respective section:

(1) completes the protective capacities section of Form 04KI030E;

(2) communicates with the contracting agency regarding the safety issues related to the home; and

(3) is available for consultation during the out-of-home investigation.

11. Review process for suspected abuse or neglect in foster or trial adoptive homes.

(1) The CPS specialist notifies, via email, the CPS Section programs staff and appropriate Foster Care, Adoption, Tribal, Community-Based Residential Services, or TFC Section programs staff when an investigation is completed.

(2) CPS Section and other appropriate programs staff may review Form 04KI003E, Report to DA, for compliance with current protocols and procedures. Refer to OAC 340:75-3-460 ITS # 5 for information regarding the final determination process.

12. Decision-making process regarding the continued use or closure of the foster or trial adoptive home.

(1) The CPS specialist determines the investigation finding regarding the allegations of abuse or neglect.

(2) The decision-making process from the time the allegations are reported until the investigation is completed includes the:

(A) CPS specialist;

(B) CW specialist assigned to the child;

(C) resource specialist;

(D) family's permanency planning specialist; and

(E) all applicable CW supervisors.

(3) A determination is made as to whether the resource parent can safely care for the child in OKDHS custody by considering:

(A) whether abuse or neglect occurred;

(B) what protective capacities the resource parent exhibits; and

(C) whether the resource home should remain open.

(4) When the report of child abuse or neglect is substantiated, the persons listed in (2) (A) – (E) of this instruction provide input regarding continued use of the home. The district director and Foster Care, Adoption, TFC, Tribal, Community-Based Residential Services, DDS, and CPS Section programs staff are available for consultation.

(5) Decisions or other actions regarding the continued use or closure of the foster or trial adoptive home are made and discussed with the resource parent by the resource specialist and supervisor.

(6) Findings regarding the occurrence or presence of violations in the foster or trial adoptive home, per OAC 340:75-7-37, are addressed per OAC 340:75-7-94.

(7) When abuse, neglect, or OKDHS discipline or other policy violations are identified in a tribal foster home, the tribe works with the foster home to

correct the conditions when the foster parent wishes to continue to care for children in OKDHS custody.

(A) The tribal foster home case reflects whether the conditions are corrected.

(B) The Child Welfare Services tribal coordinator monitors the case for corrective action before additional children in OKDHS custody are placed in the foster home.

13. Ten-day staffing purpose and process.

(1) The ten-day staffing is a process designed to utilize the perspective of each specialist involved with the child in OKDHS custody and the resource family to make informed decisions concerning:

(A) dynamics in the home;

(B) maltreatment in the home;

(C) protective capacities of the resource parent; and

(D) possible trauma triggers for the child.

(2) During the ten-day staffing a discussion occurs concerning the:

(A) safety of the home;

(B) placement of each affected child;

(C) companion referrals pending;

(D) establishment of roles and responsibilities, upon the conclusion of the investigation, for follow-up required by each CW specialist.

14. Out-of-home assessment of child safety. Form 04KI030E, Assessment of Child Safety, is completed in part by the CPS and resource specialist as a component of each out-of-home investigation.

(1) The CPS specialist completes the six key questions and safety decision portions of Form 04KI030E.

(2) The resource specialist assigned to the home completes the protective capacities section of Form 04KI030E, using information:

(A) gathered during the investigation;

(B) gathered during the ten-day staffing; and

(C) previous knowledge gained through working with the Bridge resource family.

340:75-3-411. [RESERVED]

340:75-3-412. [RESERVED]

340:75-3-413. [RESERVED]

340:75-3-414. [RESERVED]

340:75-3-415. [RESERVED]

340:75-3-416. [RESERVED]

340:75-3-417. [RESERVED]

340:75-3-418. [RESERVED]

340:75-3-419. [RESERVED]

340:75-3-420. Protocol for investigating reports of abuse or neglect in child care centers or homes ■ 1 & 2

Issued 7-1-13

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

(b) Allegations of general neglect and violations of licensing laws and regulations such as dirty facility, children unsupervised, or other similar situations, are referred to and addressed by Oklahoma Child Care Services (OCCS).

INSTRUCTIONS TO STAFF 340:75-3-420

Issued 7-1-13

1. Protocol for investigating reports of abuse or neglect in child care centers or homes.

(1) The Child Welfare Services (CWS) child protective services (CPS) specialist notifies and coordinates with Oklahoma Child Care Services (OCCS) personnel when a child abuse or neglect report related to a child care center or home is assigned. When possible, the OCCS licensing specialist accompanies the CPS specialist and assists with conducting the investigation.

(2) The CPS Section is available for consultation as needed. The CPS specialist coordinates with the district attorney and law enforcement officials when appropriate.

(3) While the general investigative time requirements and protocols apply, there are sequential differences and additional protocols applied in the child care investigation.

(A) The time requirement for initiation of the investigation pertaining to the child care center depends on whether the alleged perpetrator is still employed and continues to care for or have access to children.

(i) Assigned reports pertaining to child care are assigned a Priority 1 initiation time requirement as generally the owner/operator is also an employee and thus continues to have access to children.

(ii) An exception may be granted to assign the child care investigation as a Priority 2 with a two-day response time in limited circumstances such as when the report is received after normal business hours.

(B) The CPS specialist reviews all OCCS records pertaining to the child care center or home to obtain background information.

(i) The CWS supervisor, CPS specialist, or both contacts the current OCCS licensing specialist assigned to the center or home to confer regarding the most appropriate way to conduct the investigation.

- (ii) The investigation protocol may be modified to allow the CPS specialist to first interview other individuals or witnesses who may have additional identifying information.
- (C) The alleged child victim's parent is interviewed first, usually in the parent's home.
- (i) The CPS specialist interviews the:
- (I) alleged child victim's parent: and
- (II) parents of other children in the child care center who are subsequently named as victims or witnesses.
- (ii) The parent of each child in the child care home is interviewed as each child in the child care home is considered a potential victim.
- (D) Interviews with each child victim and child witness is conducted after obtaining the parent's permission.
- (I) Each alleged victim and witness is interviewed privately unless it is in the child's best interests for the parent to remain in the room with the child during the interview. When the parent is present during the child's interview, the parent is asked to say as little as possible and allow the CPS specialist to direct the interview. Other than officials conducting the investigation, no one else is present during the interview.
- (E) When injuries are alleged or apparent, the child is visually inspected by the CPS specialist with the consent of the child's parent. A medical examination for injury documentation is needed when the injury appears serious or when sexual abuse is alleged. The CPS specialist assists the parent arrange the examination.
- (F) An unannounced visit is made to the child care center or home and the child care operator is advised of the nature of the allegation.
- (G) Administrative staff, employees, and the alleged perpetrator are interviewed privately and separately. Other persons are interviewed as appropriate.
- (H) The physical premises where the alleged incident occurred is viewed or examined.
- (I) While no child victim or child witness is interviewed without parental permission, in the event that inadvertent contact with a child victim or child witness is made by the CPS specialist at the child care center or home, the child's parent is contacted the same day.
- (J) Investigation of allegations of abuse or neglect is necessary even when there is no identified alleged victim such as when the reporter does not name a specific child but states the alleged victim is a child attending the child care center or home or that several children may be victims.
- (K) OCCS staff may be advised of the status of the investigation prior to completion.
- (L) The CPS specialist determines the abuse or neglect finding.
- (i) When there are allegations of abuse by a child care center or home employee, the allegations regarding the operator and owner pertain to

- whether the owner and operator knew or should have known the employee could harm the child.
- (ii) The operator and owner are individually notified verbally and in writing of their individual findings.
- (iii) Each employee is individually notified verbally and in writing of their individual findings. The finding letter is mailed to the employee's home address and not to the child care center or home.
- (iv) The operator and owner are notified of the employee's findings so they can determine what action may be taken regarding continued employment.
- (v) The investigative report is reviewed by the Child Care Restricted Registry committee.
- (M) After completion of the investigation, the CPS specialist provides the investigation findings to:
- (i) OCCS;
- (ii) the child care owner and operator; and
- (iii) the parent of each child victim.
- (I) Questions regarding the child abuse or neglect are answered.
- (II) Parents of the child who attends the child care center or home who were not alleged victims are referred to OCCS staff.
- (N) Issues related to licensing are addressed with the child care owner and operator by the OCCS licensing specialist.
- (O) Form 04KI003E, Report to District Attorney:
- (i) is expedited when OCCS requires the report to initiate court action to close or revoke the child care center or home license;
- (ii) does not contain recommendations as to the child care center or home's closure or license revocation but does include in the Summary/Recommendation the statement "This matter is referred to Oklahoma Child Care Services in regard to related licensing issues";
- (iii) may be submitted to OCCS after CWS supervisor signature prior to district attorney review; and
- (iv) regardless of the finding, is forwarded to the district attorney per OAC 340:75-3-510.
- (P) A copy of Form 04KI003E is provided to the OCCS licensing specialist.
- (i) Other case information is provided to the licensing specialist including Form CWS-KIDS-6, Case Contacts, Form 04KI001E, Referral Information Report, and all other CW records regarding the child care center or home.
- (ii) To ensure confidentiality, all documents provided by CWS to the OCCS licensing specialist have a cover sheet with the notation "Confidential per Section 1-6-107 of Title 10A of the Oklahoma Statutes."
- (iii) Licensing files are open to the public but OCCS maintains a separate section for CWS case information as CWS case material is confidential and not available for public inspection.
- (Q) The CWS specialist completes:

(i) Form 04CP004E, Child Welfare Investigative Summary - Notification to Oklahoma Child Care Services. The original is provided to the OCCS licensing specialist for placement in the public file and a copy is maintained in the CWS case record; and

(ii) when a substantiated finding of abuse or neglect is appealed and reversed by the Appeals Section, new Form 04CP004E with the new finding is forwarded to OCCS.

(R) The CPS Section is notified by email of completion of the child care center or home investigation.

2. Sharing Child Welfare (CW) records. Other than as specified in previous subsections of this Section, OCCS is not authorized to receive CWS information or records pertaining to:

(1) individual child care center employees and the employees' children; or

(2) child care home employees who are not members of the household and the employee's children.

340:75-3-421. [RESERVED]

340:75-3-422. [RESERVED]

340:75-3-423. [RESERVED]

340:75-3-424. [RESERVED]

340:75-3-425. [RESERVED]

340:75-3-426. [RESERVED]

340:75-3-427. [RESERVED]

340:75-3-428. [RESERVED]

340:75-3-429. [RESERVED]

340:75-3-430. Protocol for investigating alleged medical neglect of infants born alive and infants born with disabilities

Issued 7-1-13

Withholding needed medical treatment from an infant born alive at any stage of development or an infant born with disabilities is prohibited by state and federal statutes and regulations. Withholding medical treatment is the failure to respond in any manner to an infant born alive and failure to respond to the infant's life-threatening conditions by providing treatment that, in the treating physician's reasonable medical judgment, will most likely improve or correct such conditions.

(1) When treatment is not required. Providing treatment to the infant born with disabilities is not required when, in the physician's reasonable medical judgment, any of the following circumstances exist:

- (A) the infant is chronically and irreversibly comatose;
- (B) provision of treatment would merely prolong dying; or
- (C) provision of treatment would be virtually futile in terms of the infant's survival and the treatment itself would be inhumane.

(2) Reports of medical neglect of the infant born alive and of the infant born with disabilities. Reports alleging the person responsible for the child (PRFC) has denied the infant born alive or the infant with disabilities medically beneficial treatment, including nutrition and hydration are investigated by OKDHS.

(3) Reports of medical neglect of the infant born alive or of the infant born with disabilities by a medical provider. Reports alleging the medical provider has denied medically beneficial treatment to a child or infant born alive or an infant born with disabilities is investigated by the Office of Client Advocacy. ■ 1

(4) Protocol for investigating alleged medical neglect of infants born alive and infants with disabilities. The protocol for investigating reports of alleged medical neglect of an infant born alive or an infant born with disabilities is the same as other investigations of reported child abuse or neglect by a person responsible for the child. ■ 2

INSTRUCTIONS TO STAFF 340:75-3-430

Revised 7-1-13

1. Reports of medical neglect of an infant born alive or an infant born with disabilities. The Child Protective Services (CPS) Section and the appropriate district director are notified immediately when a report alleges medical neglect by a medical provider. CPS programs personnel refer the report to the Office of Client Advocacy for disposition.

2. Investigative protocol. Investigations alleging medical neglect by a person responsible for the child (PRFC) of an infant born alive or born with disabilities is expeditiously investigated utilizing investigative protocol, when possible.

The child welfare (CW) specialist:

(1) 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) interviews the person who made the report to review the concerns or allegations and obtain additional information;

(3) immediately phones the designated hospital liaison to coordinate the investigation. When no liaison is designated or the liaison is unavailable, the CW specialist contacts the hospital administrator to determine what information is available regarding the infant's status;

(4) arranges interviews, when needed, with the responsible physician and others involved in the treatment as quickly as possible;

(5) determines if an Infant Care Review Committee (ICRC) exists and whether a review was or will be conducted and interviews the ICRC chairperson or designee as appropriate;

(6) obtains information regarding the diagnosis, prognosis, and recommended treatment from appropriate medical personnel by:

- (A) interviewing the ICRC chairperson, treating physician, specialist, and other medical personnel;
- (B) attending an ICRC meeting or medical staffing;
- (C) reviewing medical records; and
- (D) obtaining independent medical advice or examinations by non-treating physicians to determine if exemptions to treatment exist;
- (7) when there is difficulty accessing hospital or pertinent records, requests the district attorney seek a court order directing access;
- (8) interviews each parent and others to obtain relevant information, including treatment decisions and the reasons for the decision;
- (9) when medically indicated treatment is or will be withheld from the infant, attempts to resolve the situation by discussing the concerns with the parent.
- (A) When medically indicated treatment is withheld, the infant's condition requires an urgent response, and efforts to obtain parental consent for treatment have failed, procedures in OAC 340:75-3-300 are followed.
- (B) When a court order for emergency medical treatment is necessary, the parent and responsible physician are promptly notified of the court's decision; and
- (10) when there is difficulty obtaining an emergency order or deprived petition, promptly contacts the CPS Section to obtain Legal Division assistance.

340:75-3-431. [RESERVED]

340:75-3-432. [RESERVED]

340:75-3-433. [RESERVED]

340:75-3-434. [RESERVED]

340:75-3-435. [RESERVED]

340:75-3-436. [RESERVED]

340:75-3-437. [RESERVED]

340:75-3-438. [RESERVED]

340:75-3-439. [RESERVED]

340:75-3-440. Multidisciplinary child abuse team

Issued 7-1-13

(a) Multidisciplinary child abuse team purpose. It is the primary responsibility of the district attorney (DA) to develop a multidisciplinary child abuse team (MDT) in the DA's

county or contiguous group of counties, per Section 1-9-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-102). The MDT approach is:

(1) used whenever feasible for investigations and service planning involving cases of child sexual abuse, serious physical abuse, and serious neglect;

(2) used to enhance the investigative process and maximize services provided to the affected children and families; and

(3) not required when there is reasonable cause to believe that a delay in investigation or interview of a child victim could place the child at risk of harm or threatened harm.

(b) Multidisciplinary child abuse team members. The MDT members include, but are not limited to:

(1) mental health professionals;

(2) law enforcement;

(3) medical personnel;

(4) Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) personnel; ■ 1

(5) MDT coordinators or child advocacy centers personnel; and

(6) the county DA or assistant DA.

(c) Multidisciplinary child abuse team functions. The function of the MDT is dependent upon available resources and includes, but is not limited to:

(1) joint investigations of child abuse reports by law enforcement and CWS personnel whenever possible; ■ 2

(2) development of written protocol for investigations and for interviewing children; ■ 3

(3) identification, improvement, and delivery of services to the child victim and the child's family;

(4) training in the multidisciplinary team approach; and

(5) formalized case reviews.

(d) Child abuse multidisciplinary team account (CAMA). Monies appropriated and funds collected from criminal cases filed in Oklahoma district courts are deposited with OKDHS and designated as CAMA monies, per 10A O.S. §§ 1-9-103 and 1-9-104.

(1) OKDHS distributes CAMA monies to functioning freestanding MDTs approved by the Child Abuse Training and Coordination Council (CATCC) and to child advocacy centers (CACs) accredited by the National Children's Alliance (NCA).

(2) CAMA monies are:

(A) provided for the maintenance of eligible MDTs and CACs;

(B) distributed each calendar year to MDTs and CACs by a weighted formula;

(C) made available to:

(i) one functioning MDT per county;

(ii) one hospital team; and

(iii) one accredited CAC per DA's district.

(3) After the NCA's five-year accreditation, the CAC must secure a third-year interim review to continue eligibility for CAMA monies.

(A) The Children's Advocacy Centers of Oklahoma, Inc. (CACO) administers the review by procuring an NCA site reviewer who resides outside of Oklahoma and

has no conflict of interest. The CAC submits to the reviewer, 60 calendar days prior to the on-site review:

- (i) the current interagency agreement;
- (ii) the current MDT Protocol;
- (iii) the current financial audit;
- (iv) the current program budget;
- (v) proof of general and professional liability coverage for the CAC board of directors and officers;
- (vi) the Internal Revenue Service letter of 501(c)(3) status or government affiliation statement letter;
- (vii) demographic information for the community;
- (viii) statistical data; and
- (ix) NCA accreditation standards certifying documents.

(B) The site reviewer makes one half-day on-site visit to the CAC and administers the review in accordance with the NCA accreditation process.

(C) The CAC demonstrates performance of the essential components of the NCA accreditation process with full cooperation and availability of requested personnel.

(4) Failure of the third-year review requires a fourth-year review, but does not make the CAC ineligible for CAMA monies. If the CAC fails the fourth-year review:

(A) the CAC may submit, within ten business days from the site reviewer's written notice of failure:

- (i) a written request for further review by the CACO board of directors; and
- (ii) documents pertaining only to the CAC's understanding of the compliance issues. Information for the purposes of improvement or change of practice is not considered; and

(B) the CACO board of directors secures three additional NCA site reviewers from outside of Oklahoma to review the written findings.

(5) When the review failure is upheld or when the CAC does not request further review of a failure notice, the CAC is no longer eligible for CAMA monies until reaccredited by the NCA.

INSTRUCTIONS TO STAFF 340:75-3-440

Issued 7-1-13

1. Child Welfare Services (CWS) personnel participation in the multidisciplinary child abuse team process. Child Welfare Services personnel participate as members of the multidisciplinary team (MDT), in joint investigations and attend meetings and case reviews pertaining to child sexual abuse, serious physical abuse, and serious neglect by the person responsible for the child (PRFC). The MDT team process includes the free exchange of confidential information among team members.

(1) Although not required, CWS personnel may attend case reviews involving non-CWS investigations and cases when invited and there:

- (A) are no conflicting workload demands; and**
- (B) is reason to believe that CWS has pertinent information to contribute.**

- (2) The Child Protective Services Section is available when there is a concern as to whether a team meets MDT criteria.
- 2. Law enforcement and CWS joint child abuse or neglect investigations.**
- (1) The CWS specialist is involved in joint investigations with law enforcement only when the alleged perpetrator of the child abuse or neglect is the PRFC. CWS personnel do not have authority to investigate child abuse or neglect by a non-PRFC.
- (2) The CWS specialist is present during a forensic interview with the child victim to consider the interview face-to-face. The CWS specialist views the forensic interview via a two-way mirror or technology that allows communication with the interviewer but does not require the CW specialist to be present in the room with the child.
- 3. Oklahoma Department of Human Services (OKDHS) policy and procedures supersede MDT written protocol. The MDT written protocol does not override the role of CWS personnel adhering to OKDHS policy.**

340:75-3-441. [RESERVED]

340:75-3-442. [RESERVED]

340:75-3-443. [RESERVED]

340:75-3-444. [RESERVED]

340:75-3-445. [RESERVED]

340:75-3-446. [RESERVED]

340:75-3-447. [RESERVED]

340:75-3-448. [RESERVED]

340:75-3-449. [RESERVED]

340:75-3-450. Drug-endangered child ■ 1 through 7

Issued 7-1-13

(a) Substance abuse considered during safety determination and family intervention strategy. Addiction to and misuse of alcohol and controlled dangerous substances, including prescription medication may impact the person responsible for the child's (PRFC's) ability to provide child safety. Substance use alone does not directly determine child abuse or neglect; however, it is a factor considered when safety determinations and intervention strategies are considered.

(b) Investigation instead of assessment conducted when report alleges child is drug-endangered. Per Section 1-2-102 of Title 10A of the Oklahoma Statutes, when the Oklahoma Department of Human Services (OKDHS) determines a child meets the definition of a "drug-endangered child," as defined in 10A O.S. § 1-1-105, or a child

diagnosed with fetal alcohol syndrome, OKDHS conducts an investigation of the allegation and does not limit the evaluation of the circumstances to an assessment.

(c) Law enforcement assistance required to initiate investigation of child abuse or neglect alleging methamphetamine production or use. The OKDHS child abuse or neglect investigation involving allegations of methamphetamine production or use is initiated only with the assistance of law enforcement.

(d) Records regarding infants born exposed to alcohol or other harmful substances. Per Section 1-550.3 of Title 63 of the Oklahoma Statutes (63 O.S. § 1-550.3), OKDHS maintains up-to-date records of infants born exposed to alcohol or other harmful substances.

(1) "Harmful substances" means an intoxicating liquor or a controlled dangerous substance.

(2) The records detailed in 63 O.S. § 1-550.3 include data necessary for surveys and scientific research and other data that is necessary and proper to further the recognition, prevention, and treatment of infants born addicted to or prenatally exposed to harmful substances.

(3) OKDHS compiles and evaluates information received from the reports into a report distributed on or before January 1, of each year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and such other persons as OKDHS deems advisable or necessary.

INSTRUCTIONS TO STAFF 340:75-3-450

Issued 7-1-13

1. Employee safety when use or production of methamphetamine is alleged. The investigation alleging the use or production of methamphetamine is initiated only with law enforcement assistance. Each Oklahoma Department of Human Services (OKDHS) employee assigned to the investigation takes precautions to ensure personal safety and the safety of others during the investigation.

2. Drug abuse trends and indicators. Child Welfare Services (CWS) maintains regular contact with law enforcement to stay informed about the most current illegal substance abuse trends and indicators of methamphetamine use and production.

(1) Prescription medication misuse can be a factor in alleged child abuse and neglect cases.

(2) The Oklahoma Bureau of Narcotics is available to assist child welfare specialists in cases involving the drug-endangered child.

(3) The Oklahoma Prescription Monitoring Program (PMP) was enacted into law by the Oklahoma Anti-Drug Diversion Act found at Section 2-309 of Title 63 of the Oklahoma Statutes to reduce prescription fraud, substance abuse, "doctor shopping," and other illegal activity related to pharmaceutical drug diversion.

3. Common methamphetamine production locations. Outbuildings, vehicles, hotel and motel rooms, apartments, storage sheds, garages, and vacant buildings are common places where methamphetamine is produced.

4. Safety precautions when investigating allegations of use or production of methamphetamine.

(1) When initiating an investigation alleging use or production of methamphetamine, the CWS specialist:

(A) requests that law enforcement accompany the specialist to the home;

(B) remains in the car until law enforcement determines the residence is safe to enter; and

(C) does not enter the residence under any circumstance when there is evidence of a methamphetamine laboratory.

(2) When there is evidence of a methamphetamine laboratory either outside or inside the residence, the CWS specialist:

(A) does not enter the residence when there is any evidence of methamphetamine laboratory materials or chemicals on the property;

(B) discreetly but immediately leaves the residence when he or she unknowingly enters a home that has evidence of a methamphetamine laboratory and drives to a safe location to contact law enforcement; and

(C) follows decontamination procedures as described in subparagraph (3) of this subsection.

(3) When the CWS specialist has any exposure to a methamphetamine laboratory, the CWS specialist:

(A) covers car seats and floorboards with plastic covering and washes hands with soap and water before touching the steering wheel;

(B) goes to a safe location to change clothes and places the contaminated clothes in a plastic trash sack. All exposed skin surfaces and any items carried into the home are washed with soap and water; and

(C) makes every effort not to touch any surface until the skin and items have been washed with soap and water.

5. Safety precautions for the child exposed to methamphetamine. Each district office follows safety precautions for the child likely exposed to a methamphetamine laboratory.

(1) Each district office develops and maintains agreements with law enforcement to manage decontamination procedures for the exposed child.

(2) Law enforcement transports the contaminated child.

(3) When possible, the contaminated child is taken immediately the same day or as soon as possible for a medical exam.

6. Infant alleged to be born substance exposed.

(1) When an infant is alleged to be born substance exposed, the CWS specialist obtains the results of the infant's testing. Meconium is the preferred testing method.

(2) An infant who tests positive is referred to services to alleviate the effects of the substance on the child's development.

(3) The CWS specialist evaluates the impact of the:

(A) substance use on the PRFC's ability to provide care for the infant; and

(B) PRFC's drug of choice and how it affects the PRFC's overall functioning, cognitive ability, and safety decisions.

(4) The PRFC who uses methamphetamines or other stimulants is viewed as unable to provide minimal basic care for the infant or child.

(5) When other adults reside in the substance-abusing PRFC's home, the same evaluation is conducted of each adult.

7. Records regarding infants born exposed to alcohol or other harmful substances. The Child Protective Services Section programs manager compiles the annual report regarding the number of children born substance exposed using information collected from KIDS. The OKDHS Abuse and Neglect Hotline specialist completes the Med/Drug screen when a report is received alleging an infant is substance exposed.

340:75-3-451. [RESERVED]

340:75-3-452. [RESERVED]

340:75-3-453. [RESERVED]

340:75-3-454. [RESERVED]

340:75-3-455. [RESERVED]

340:75-3-456. [RESERVED]

340:75-3-457. [RESERVED]

340:75-3-458. [RESERVED]

340:75-3-459. [RESERVED]

340:75-3-460. Child death or near-death and critical incidents review ■ 1 through

11

Issued 7-1-13

(a) Child death or near-death definitions. Per Section 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-105), the following terms apply when Oklahoma Department of Human Services (OKDHS) investigates a child death or near-death or is required to disclose certain information after a child death or near-death that does not meet criteria for investigation by OKDHS.

(1) "Abuse" means harm or threatened harm or failure to protect from harm or threatened harm to the child's health, safety, or welfare by a person responsible for the child, including but not limited to, non-accidental physical or mental injury, sexual abuse, or sexual exploitation. Provided; however, nothing contained in this Section prohibits any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

(2) "Near-death" means a child is in serious or critical condition as verified by a physician, registered nurse, or other licensed health care provider. Verification of

the child's medical condition may be provided in person, by telephone, mail, email, or facsimile.

(3) "Person responsible for a child" means for the purposes of this statute only:

(A) "person responsible for a child's health, safety, or welfare" as provided in 10A O.S. § 1-1-105; and

(B) any person who voluntarily accepted the duty of supervising a child; or

(C) any person who has been directed or authorized to supervise a child by the person responsible for the child's health, safety, or welfare.

(b) **Child death or near death investigation protocol.** The child death or near-death investigation requires a multidisciplinary approach. The protocol used during the child death or near-death investigation is the same protocol used in other in-home and out-of-home investigations but includes additional interviews, coordination with law enforcement and medical professionals, and evaluation of case records per OAC 340:75-3-200.

(c) **Child death and near-death investigations subject to program, administrative, or committee review.** The child death or near-death resulting from suspected abuse or neglect investigated by OKDHS are subject to evaluation by program, administrative review, or by the OKDHS Critical Incidents Review Committee.

(d) **Public disclosure of OKDHS child death and near-death information.** Requests for the release of information concerning the OKDHS-investigated child death and near-death are processed according to OAC 340:75-1-44.

(e) **Notice of death or near-death provided to Governor and Legislature.** Per 10A O.S. § 1-6-105, when OKDHS has reasonable cause to suspect the child death or near-death is the result of abuse or neglect, OKDHS notifies the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives of the initial investigative findings of the child protective services review. Notice is communicated securely no later than 24 hours after the reasonable determination of suspicion.

INSTRUCTIONS TO STAFF 340:75-3-460

Issued 7-1-13

1. Child death or near-death investigation consultation. The Child Protective Services (CPS) Program Unit provides:

(1) consultation regarding whether the death or near-death falls within the scope of Child Welfare Services (CWS); 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 the CPS Section.

(1) When the abuse or neglect is suspected in connection with the child death or near-death report, the Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline (Hotline) contacts the 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 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 CWS history regarding the child;
 - (H) the KIDS report number;
 - (I) the assigned district; and
 - (J) the child's OKDHS custody status, when applicable.
- 3. Initial child death or near-death report prepared by the CPS Section.**
- (1) After Hotline receipt of the death or near-death notice, the CPS Section prepares an account of known circumstances of the child death or near-death including current and previous OKDHS and CWS history.
 - (2) The initial report is sent to the:
 - (A) applicable district director and deputy directors;
 - (B) OKDHS Legal Division;
 - (C) applicable programs staff;
 - (D) OKDHS Office of Communications;
 - (E) State Child Death Review Board; and
 - (F) Oklahoma Commission on Children and Youth.
- 4. Notice of death or near-death provided to Governor and Legislature. The CPS Section provides the death or near-death notice to the Governor and Legislature.**
- 5. Preliminary staffing required following the investigation of death, near-death, or critical incident.**
- (1) A preliminary staffing is held within two business days following of the child death, near-death, or other critical incident investigation when:
 - (A) the child was in OKDHS custody when the event occurred;
 - (B) there was an open CWS family-centered services, assessment, investigation, or permanency planning case when the event occurred;
 - or
 - (C) there is recent CWS history or history that warrants immediate and extensive review by CWS administrators.
 - (2) The district director sets the preliminary staffing, when possible, to begin at 11:00 am.
 - (3) Mandatory participation in the preliminary staffing includes the:
 - (A) applicable deputy directors;
 - (B) applicable district managers;
 - (C) CPS programs administrator; and
 - (D) OKDHS Abuse and Neglect Hotline director, as appropriate
 - (4) The issues addressed during the preliminary staffing include:
 - (A) the steps taken to address the surviving siblings' safety;
 - (B) a review of CWS involvement including screened out referrals, assessments, investigations, family-centered services, or permanency planning cases and related actions;
 - (C) media involvement and what CWS may do to assist OKDHS Office of

- Communications; and
(D) the steps taken to reduce the impact of secondary trauma to CWS personnel and what supports, if any, are needed.
6. Public inquiries from persons without an official need to know. Media, public, or other inquiry about a specific case by persons without an official need to know is directed to the OKDHS Office of Communications.
(1) CWS 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 OKDHS Office of Communications authorized personnel or by a designated CWS programs spokesperson.
7. 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 the CPS Section, per OAC 340:75-3-500.
8. Critical Incidents Review Committee (CIRC).
(1) The Critical Incidents Review Committee may schedule reviews of reports alleging abuse or neglect involving:
(A) a child death;
(B) a child near-death;
(C) critical incidents for which a review is requested by CWS 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 when:
(A) there is an ongoing permanency planning or Family-Centered Services (FCS) 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 FCS case;
(C) a report of suspected child abuse or neglect was received within the previous two years;
(D) there is 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 family-centered services case.
(3) CIRC is composed of OKDHS employees from:
(A) section programs staff;
(B) CWS field staff;
(C) Adult and Family Services;
(D) Office of Client Advocacy; and
(E) Office of Information and Referral.
(4) CIRC members receive a copy of the applicable portions of the CWS case record and read it prior to the scheduled review.
(5) Notice of the critical incidents review is provided to the appropriate deputy director for the region, district director, and CWS staff at least 30 calendar days prior to the scheduled review.
(6) Mandatory attendance at the CIRC includes the:

- (A) CWS case supervisor;
 - (B) CPS specialist; and
 - (C) permanency planning or family-centered services specialist.
 - (7) One staff person presents the circumstances of the investigation and answer questions posed by the CIRC.
 - (8) Information regarding ongoing services is provided by the permanency planning or family-centered services specialist.
 - (9) The district director may present identified training needs or recommend revisions to district protocols or procedures identified as a result of the case review that may improve future practice, when applicable.
- 9. Administrative review of child death or near-death of a child known to CWS.**
Upon receipt of the notice of the death or near-death of the child known to CWS, the CPS Section reviews the case and notifies the CWS director who determines whether an administrative review occurs per OKDHS:2-3-2. A child known to CWS 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 the CPS Section 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 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.
- 10. Program review of child death and near-death investigation. A program review is completed for each child death or near-death investigation conducted by OKDHS by the CPS Section.** The review includes:
- (1) a review of the case record. The district provides the CPS Section a copy of the complete case that includes:
 - (A) Form 04KI003E, Report to District Attorney, and attachments;
 - (B) law enforcement reports;
 - (C) the medical examiner's Report of Autopsy;
 - (D) medical records pertaining to the death or near-death incident and previous records, when applicable; and
 - (E) all pertinent case information.
 - (2) an assessment of compliance of findings with CPS standards, per OAC 340:75-3-120 and OAC 340:75-3-130; and

(3) requesting additional information from the CWS specialist when determined necessary by the CPS Section.

11. Completion of the child death or near-death investigation.

(1) When a near-death occurs, the CWS specialist sends a copy of the entire case record to the CPS Section within 90 calendar days after the child's near-death. The CPS Section contacts the CWS specialist for additional information, as needed.

(2) When a child death occurs, the CWS specialist sends a copy of the entire case record to the CPS Section within 30 calendar days after receiving notice from the CPS Section of receipt of the medical examiner's Report of Autopsy.

(3) When it appears the investigative process will not be completed within the time requirements, an extension for completion of the investigation or an extension to receive related paperwork may be granted per OAC 340:75-3-510 Instructions to Staff.

PART 5. INVESTIGATIVE FINDINGS AND APPEALS

340:75-3-500. Child Protective Services investigation findings ■ 1 through 9
Issued 7-1-13

After completion of the child protective services (CPS) investigation, a finding is made regarding whether there was some credible evidence to constitute child abuse or neglect, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) and OAC 340:75.

(1) **Ruled out.** A finding of ruled out means the Oklahoma Department of Human Services (OKDHS), after an investigation of a report of child abuse or neglect, determined that no child abuse or neglect occurred.

(2) **Unsubstantiated.** A finding of unsubstantiated means OKDHS, after an investigation of a report of child abuse or neglect, determined insufficient evidence exists to fully determine whether child abuse or neglect occurred. When child abuse or neglect is unsubstantiated, OKDHS may recommend, when determined necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention and intervention-related services.

(3) **Substantiated.** A finding of substantiated means OKDHS, after an investigation of a report of child abuse or neglect and based upon some credible evidence, determined that child abuse or neglect occurred. When child abuse or neglect is substantiated, OKDHS may recommend:

(A) court intervention if OKDHS finds the child's health, safety, or welfare is threatened; or

(B) child abuse and neglect prevention and intervention-related services for the child, parents, or persons responsible for the care of the child if court intervention is not determined necessary.

(4) **Reasonable exercise of parental discipline.** Per 10A O.S. § 1-2-105, if an OKDHS assessment or investigation conducted in response to any report of child abuse or neglect determines 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 proceeds no further and all records regarding the incident are expunged.

INSTRUCTIONS TO STAFF 340:75-3-500

Issued 7-1-13

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 340:75-3-500 paragraphs (1) through (4) are made only in CPS investigations and not in CPS assessments according to OAC 340:75-3-130 guidelines.

(2) Documentation. Form 04KI003E is initially used to document all investigative findings, including a finding of reasonable exercise of parental discipline. Procedures in OAC 340:75-3-140 Instructions to Staff (ITS) are followed to document findings in KIDS.

(3) Circumstances that prevent an investigation finding. The CPS investigation that cannot be completed due to special circumstances has a determination, but no finding that may be used under specific circumstances that include:

(A) an unable to locate determination. The unable to locate determination may be used when diligent efforts were made but failed to locate the child victim and family per OAC 340:75-3-200 ITS # 20; or

(B) a failure to cooperate determination. The failure to cooperate determination may be used 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 340:75-3-200 ITS # 19.

2. Ruled out investigation finding. 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. Unsubstantiated investigation finding. When insufficient evidence exists to fully determine whether child abuse or neglect occurred, the Child Welfare Services (CWS) specialist may recommend, when necessary, that the parents or PRFCs obtain child abuse and neglect prevention and intervention-related services. This finding is not used when a safety threat exists.

4. Substantiated investigation finding. A substantiated 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. When child abuse or neglect is substantiated, the CWS specialist assures the safety of the child. Intervention strategies include:

(1) securing the PRFC's cooperation 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;

(2) securing the PRFC's agreement to participate in family-centered services; and

(3) keeping the OKDHS case open to monitor the safety plan;

- (4) determining if the PRFC:
(A) is taking action to control or manage the safety threats; an; or
(B) has adequate protective capacities; or
(5) requesting court intervention by recommending a deprived petition.
The CWS specialist documents in a KIDS case contact the DA comments on Form 04KI003E, Report to District Attorney, when court intervention is requested.
5. Documenting attempts to provide, refer, or arrange services. Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record per OAC 340:75-3-520.
6. SoonerStart referrals for the child three years of age and younger when substantiated finding made. The child three years of age and younger who is the victim of substantiated child abuse or neglect is referred to SoonerStart per OAC 340:75-4-12.1.
7. Child care center and child care home investigations. Court intervention via a deprived petition is not necessary for the child care center and child care home investigations. When there is concern the PRFC for the child victim is not protecting the child from the child care center or child care home perpetrator, a separate referral is made regarding the PRFC's alleged failure to protect the child and an assessment or investigation is conducted when indicated.
8. Reasonable exercise of parental discipline. A finding of reasonable exercise of parental discipline is made when circumstances indicate the 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 the CPS Section for review, per OAC 340:75-3-140 ITS # 2.
9. **(a) Final determination review processes.**
(1) When the proposed substantiated finding is in compliance with OAC 340:75-3-120, no action is taken and the review is documented in the appeals screen in KIDS.
(2) When the proposed substantiated out of home, child death, near death, or critical incident investigative finding is not in compliance with OAC 340:75-3-120, the CPS Section may:
(A) recommend mentors for the CW specialist and supervisor;
(B) request additional information or an investigation as necessary; or
(C) revise the finding when appropriate.
(3) When the proposed substantiated finding is not in compliance with OAC 340:75-3-120:
(A) the CPS Section contacts the appropriate district director or deputy director for the region to assure all relevant information is considered prior to the final determination;
(B) the CPS Section marks improper entry on a particular allegation and enters the revised allegation and appropriate finding;
(C) the CPS Section amends the finding, when appropriate, and notifies the appropriate district director or deputy director for the region of the

change within five business days; and

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

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

(A) reviews the proposed finding for compliance with OAC 340:75-3-120; and

(B) documents the final determination review in the appeals screen in KIDS per OAC 340:75-3-530.

(5) After review by the CPS or Appeals Section and the exchange of information between district and program staff, the finding becomes final.

(b) Re-opening the out of home, child death, near death, or critical incident investigation pending final determination. During the final determination review process, the investigation may be re-opened to add additional information or conduct additional interviews. When a referral is reopened information may be obtained for fifteen calendar days. Reopened referral requirements:

(1) collateral contacts may be interviewed to gather additional information, when the Appeals or CPS Programs Section requests the referral be reopened based on a lack of supporting documentation.

(2) the CW specialist will not reinterview any identified PRFCs, alleged perpetrators, siblings, or victims;

(3) information obtained during this period may be entered as an addendum to Form 04KI003E, Report to District Attorney;

(4) supporting documentation is scanned into the referral file cabinet in KIDS;

(5) the referral may only be open for a period of 15 calendar days from the time the district director receives the request from the Appeals or Programs Section; and

(6) at the end of the 15 days no further documentation is considered by the Appeals Section in regard to the appeal;

(c) 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.

340:75-3-501. [RESERVED]

340:75-3-502. [RESERVED]

340:75-3-503. [RESERVED]

340:75-3-504. [RESERVED]

340:75-3-505. [RESERVED]

340:75-3-506. [RESERVED]

340:75-3-507. [RESERVED]

340:75-3-508. [RESERVED]

340:75-3-509. [RESERVED]

340:75-3-510. Reports to the district attorney regarding child abuse or neglect investigations ■ 1 through 6

Issued 7-1-13

(a) Sections 1-2-102 and 1-4-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-102 and 10A O.S. § 1-4-101), provide that a complete written report of the child abuse or neglect assessment or investigation conducted by Oklahoma Department of Human Services be made within 30 calendar days, except as otherwise provided in policy, and that the report, together with its recommendations, be submitted to the appropriate district attorney's office:

- (1) where the child resides, or has resided for six months preceding the filing;
- (2) where the alleged acts of deprivation occurred;
- (3) where a parent or sibling has a deprived action pending; or
- (4) if none of the locations are known, in the county where the child is found.

(b) A petition for a deprived child proceeding is filed within seven judicial days from the date the child is taken into custody unless, upon the district attorney's request at the emergency custody hearing, the court determines there are compelling reasons to grant additional time for the filing of the petition for a period not to exceed 15 calendar days from the assumption of custody, per 10A O.S. § 1-4-205.

INSTRUCTIONS TO STAFF 340:75-3-510

Issued 7-1-13

1. (a) Preparing the Report to District Attorney (DA). The Child Welfare Services (CWS) specialist prepares the report for each investigation on Form 04KI003E, Report to District Attorney.

(1) The entire Report to DA is submitted to the DA for each investigation, within 30 days of assignment unless:

- (A) an exception has been approved; or**
- (B) the finding is reasonable parental discipline.**

(2) A copy of the report is forwarded to the DA in the county where the suspected injury occurred if different than where the child resides.

(b) Coordination between counties for completion and submission of the Report to DA. When more than one county is involved in an investigation, close coordination between CWS specialist for completion and submission of reports to the DA is required.

(1) All reports and relevant information are shared between counties and each county involved cooperates during the investigation.

(2) When interviews are required with family members or collaterals located outside the child victim's district, a written request may be sent by email or via KIDS to the other district or districts. The other district or districts

receive secondary assignment on KIDS.

(4) When court action is considered, the time allowed for completion of out-of-district interviews is based on the:

(A) child's safety needs identified by the district where the child victim is located; and

(B) need to provide timely information to the appropriate court.

(i) The district requesting interviews corresponds with and receives an anticipated date for completion of interviews from the other district.

(ii) When a district that has received a request for interviews cannot comply with the completion date requested, an attempt is made to negotiate an acceptable alternative.

(iii) After the CWS supervisor and district director are consulted, the district requesting interviews may go into the receiving district to conduct interviews when feasible or the districts agree.

(5) Each interview is documented on the appropriate page of Form 04KI003E, Report to District Attorney.

(6) The districts involved decide which district is most appropriate to make the investigative finding. The district with the most information about the case makes the finding and the decision is not determined by case assignment type.

(A) When the district where the petition is filed is not the district where most of the information is gathered, a cover memo with a recommendation is sent to the filing district.

(B) When districts do not agree about the investigation finding, a consultation is held with the district or regional director or the CPS Section.

(7) When more than one district is involved in an investigation, only one Form 04KI003E, Report to District Attorney, and one Form 04KI030E, Assessment of Child Safety, is prepared.

(A) A signed and dated copy of Form 04KI003E that includes Form 04KI030E is retained for the case file.

(B) A copy of Form 04KI003E is sent to the DA:

(i) in the district where the child resides, or has resided for six months preceding the filing of the petition;

(ii) in the district where the suspected injury or acts of deprivation occurred;

(iii) in the district where the parent or sibling has a deprived action pending; or

(iv) if none of the locations are known, in the district where the child is found.

2. DA comments written on Form 04KI003E, Report to DA. The DA's written comments written on Form 04KI003E are entered into a contact in the investigation contact screen.

3. Time requirements for submission of Form 04KI003E, Report to DA. Form 04KI003E, that includes Form 04KI030E, Assessment of Child Safety, is

prepared and submitted as soon as possible upon completion of the investigation. When necessary, an addendum to Form 04KI003E is submitted when additional information becomes available after submission of the original report. Time requirements for submitting reports are described in (1) through (9).

(1) Substantiated finding – Court intervention recommended. Immediately, or as soon as possible Form 04KI003E that includes Form 04KI030E, Assessment of Child Safety, is submitted to the DA when court intervention is recommended and the child is not in protective custody but is at high risk of imminent harm. When the child's safety cannot be secured, an affidavit requesting emergency custody is submitted to the DA.

(2) Child in emergency custody or subject of a safety plan. When a child is in emergency custody or is the subject of a safety plan, Form 04KI003E, Report to DA, that includes Form 04KI030E, is submitted to the DA as soon as possible, but no later than five judicial days after the child's removal from the home.

(A) A deprived petition is filed within seven judicial days from the date the child is placed into custody unless, upon the district attorney's request at the emergency custody hearing, the court determines there are compelling reasons to grant additional time for the filing of the petition.

(B) Per Section 1-4-205 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-205), the petition is filed within 15 calendar days from the assumption of custody when the court grants an extension for the filing.

(3) Unsubstantiated or ruled out finding - Child safe - No court intervention recommended. Within 30 calendar days after the report is accepted for investigation, Form 04KI003E that includes Form 04KI030E, is submitted to the DA when a finding of unsubstantiated or ruled out is determined and the child is safe. A petition may be requested if the child is dependent due to homelessness or when the child is without proper care through no fault of his or her parent, guardian, or custodian or the child is in need of special care and treatment because of the child's physical or mental condition and the person responsible for the child (PRFC) is unable to provide the care and treatment.

(4) Reports resulting from child custody or visitation proceedings. When the referral of abuse or neglect is initiated from a child custody or visitation proceeding, Form 04KI003E, that includes Form 04KI030E, or the assessment report is submitted to the referring court within 30 calendar days after the report is accepted for assessment or investigation. Form 04KI003E that includes Form 04KI030E, is submitted to the DA.

(5) Extensions to completion time requirements. When factors prevent the completion and documentation of the assessment or investigation within the designated time, the CW supervisor may extend the time for a specified period not to exceed an additional 30 calendar days for completion of the assessment, investigation, or related paperwork.

(A) When necessary, the CW specialist requests an extension for

submission of Form 04KI003E, Report to DA.

(B) Exceptions are granted only for findings other than substantiated.

(C) When an exception is granted, the reason for the exception is documented in KIDS.

(D) The exceptions to the time requirements listed in this paragraph do not apply to foster and trial adoptive home reports, child death reports, and some child care investigations.

(6) Delays beyond the 30 calendar day extension. When the assessment, investigation, or related paperwork cannot be completed within the additional 30 calendar days, a subsequent request for extension is considered by the next authority in the chain of command, and if granted, does not exceed an additional 30 calendar days. The exceptions to the time requirements listed in this paragraph do not apply to foster and trial adoptive home reports, child death reports, and some child care investigations.

(7) Child death investigation. The child death investigation and related report is not completed until the Medical Examiner's Report of Autopsy is received. The report regarding the deceased child is completed within 30 calendar days of receipt of the Medical Examiner's Report of Autopsy.

(8) Child death investigation with surviving siblings that require immediate protection. When surviving siblings require immediate protection, reports are completed per time requirements in paragraphs (1) and (2) of this subsection.

(A) Information obtained as a result of the medical examiner's (ME) findings is entered into the collateral screens and the DA report is resubmitted.

(B) Interviews with the child victim and PRFC are documented in KIDS within five business days after the interview.

(9) Request for extensions beyond 60 calendar days. When excessive workload, caused by a marked increase in abuse or neglect reports or CWS staff vacancies results in an inability to meet requirements for more than 60 calendar days, the CWS supervisor notifies the district director

(A) The district director is provided written details from the CWS supervisor regarding the:

(i) total number of reports received for the 60 calendar day period;

(ii) staff available to conduct assessments or investigations;

(iii) special circumstances that led to the difficulty in meeting the time requirements; and

(iv) specific policy and time requirements that cannot be met.

(B) Examples of excessive workload situations include, but are not limited to:

(i) an assignment of more than 12 reports per CWS specialist per month;

(ii) a comprehensive caseload exceeding more than 20 assignments per CWS specialist requiring both permanency planning and assessment or investigative responsibility;

- (iii) a supervisory vacancy of more than one month;
- (iv) a CWS specialist vacancy in a one-specialist district; or
- (v) a CWS specialist vacancy of more than two months.

4. Report to DA content. Form 04KI003E, Report to District Attorney, is prepared with care and deliberation. The CWS specialist collaborates with the CWS supervisor, to assure the report contains all relevant information including, but not limited to:

- (1) family member identifying information that includes identification of each parent for each child;
- (2) the nature of the report and facts of the case;
- (3) no disclosure of the name or identification of the person who reported the allegations;
- (4) information that supports the findings related to abuse or neglect and safety threats;
- (5) facts that support the safety decisions and the plan necessary to control safety threats; and
- (6) when the child is placed in protective or emergency custody, clearly detailed information that reasonable efforts were made to prevent the child's removal or that an emergency existed that required the child's removal. When a deprived petition is requested, Form 04KI003E, addresses the requirements in (A) and (B).

(A) The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) requires that the court make a proper determination of jurisdiction, per 43 O.S. § 551.209. Information containing UCCJEA is documented in Section D, Intake Information, in other custody proceedings, on Form 04KI003E and includes:

- (i) the child's present address or whereabouts;
- (ii) the addresses where the child lived during the last five years;
- (iii) the names and present addresses of persons with whom the child lived during the last five years;
- (iv) whether the child or PRFC has participated as a party or witness or in any capacity in any proceeding concerning the custody of or visitation with the child and if so, identification of the court, case number, and date of the child custody determination, if any;
- (v) identification of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoption and if so, identification of the court, case number, and nature of the proceeding;
- (vi) the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of or visitation with the child and if so, the names and addresses of those persons; and
- (vii) any tribal affiliation or tribal court involvement.

(B) Reasonable efforts to prevent removal or an existence of emergency are documented on Form 04KI003E, in Section D, Intake Information,

using either the block that indicates whether an emergency existed or that preventive or intervention-related services were offered. When yes is checked in either block, a detailed explanation of the emergency, preventive, or safety-related services that were offered to prevent removal is provided.

5. Recommendations to the DA. The CWS specialist makes a recommendation regarding the child's best interests and safety needs regardless of the DA's position.

(1) Court involvement is not required when:

(A) the child is safe;

(B) there is moderate or low risk of abuse or neglect; and

(C) services through referral to appropriate providers are accessed;

(2) A request for court involvement is required in substantiated cases of:

(i) sexual abuse when the perpetrator continues to have involvement with the child victim; and

(ii) significant abuse or neglect to the child.

(I) When a safety plan is in effect in these cases, it may be necessary to request court intervention to monitor the child's safety and ensure the PRFC and child victim access and complete needed services.

(II) Court involvement is an effective means of providing direction for the family in cases of significant abuse or neglect.

(3) When one PRFC is the perpetrator of the abuse or neglect and one PRFC is protecting the child, it is appropriate to recommend court action if the abuse or neglect is serious.

(A) When the perpetrator of serious abuse or neglect continues, as a result of non-deprived custody proceeding, to have parental rights, visitation, or contact with the child victim, continued safety threats exist unless services have been provided and successful.

(B) The structure of court involvement may be required to ensure both the perpetrator and the protecting PRFC receive services.

(C) A deprived petition, listing both parents of each child as parties, may be requested with a recommendation for:

(i) OKDHS custody;

(ii) OKDHS protective supervision;

(iii) OKDHS custody and a request for immediate termination of parental rights of the PRFC perpetrator and non-protecting PRFC when case circumstances meet the criteria outlined in OAC 340:75-1-23 ITS # 1. Refer to OAC 340:75-3-120 for the definition of heinous and shocking or;

(iv) a finding that reasonable efforts to reunite the child with the family are not required according to the criteria listed in OAC 340:75-1-18.4.

6. Court testimony. When a child is placed in protective custody or emergency custody, the courtroom testimony of the CW specialist may be required.

340:75-3-511. [RESERVED]

340:75-3-512. [RESERVED]

340:75-3-513. [RESERVED]

340:75-3-514. [RESERVED]

340:75-3-515. [RESERVED]

340:75-3-516. [RESERVED]

340:75-3-517. [RESERVED]

340:75-3-518. [RESERVED]

340:75-3-519. [RESERVED]

340:75-3-520. Closure of the child protective services assessment or investigation

Issued 7-1-13

(a) Determination of prevention and intervention-related services. 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), where appropriate and in its discretion, identifies prevention and intervention-related services available in the community and arranges for services to be provided to the family when an assessment or investigation indicates the family would benefit from services or OKDHS may provide services directly.

(1) Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record.

(2) OKDHS determines within 60 calendar days whether the family has accessed services directly related to the child's safety.

(3) When the family refuses voluntary services or does not access services directly related to the child's safety, and it is determined by OKDHS that the child's surroundings endanger the child's health, safety, or welfare, OKDHS may recommend the child be placed in protective or emergency custody, or that a petition be filed. ■ 1

(b) Notification of assessment conclusion or investigative finding to person responsible for the child (PRFC).

(1) Following completion of the assessment, OKDHS notifies each PRFC of the conclusion. ■ 2 & 4

(2) Following completion of the investigation, OKDHS notifies each PRFC of any findings pertaining to the PRFC. ■ 3 & 4

(c) Disclosure of information to reporter of child abuse or neglect. Per 10A O.S. § 1-6-102, OKDHS may summarize the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse.

(d) Disclosure of findings or conclusions and other information to persons or agencies providing professional services.

(1) Pursuant to 10A O.S. § 1-2-107, OKDHS may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:

(A) the investigative determination; or

(B) the services offered and provided.

(2) OKDHS forwards to any hospital or any physician including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child per 10A O.S. § 1-2-101, information including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS. The information is entered and maintained in the child's medical record. ■ 5

INSTRUCTIONS TO STAFF 340:75-3-520

Issued 7-1-13

1. Determination of prevention and intervention-related services.

(1) When voluntary services are recommended, the Child Welfare Services (CWS) specialist documents in the Investigation Contacts screen in KIDS, the Oklahoma Department of Human Services (OKDHS) attempts to provide, refer, or arrange for the provision of voluntary services.

(2) Within 60 calendar days of the approval of the KIDS assessment or Form 04KI003E, Report to DA, a contact entitled "Services Follow-up," is entered in the Investigation Contact screen in KIDS in the open or closed case, documenting after verifying with the service provider whether the family voluntarily accessed recommended services directly related to child safety when:

(A) allegations of abuse or neglect are substantiated; or

(B) an assessment of child safety determines the child to be unsafe.

(3) When the family refuses voluntary services or does not access services directly related to child safety and it is determined the child's surroundings endanger the health, safety, or welfare of the child, the CWS specialist consults the CWS supervisor to determine whether a recommendation is made to place the child in protective or emergency custody or that a petition be filed.

2. Notification of assessment conclusion. Following completion of the assessment, the CWS specialist notifies each person responsible for the child (PRFC) of the conclusion. The CWS specialist:

(1) mails each PRFC Form 04KI021E, Notification Regarding Assessment, or Form 04KI022E, Notification Regarding Assessment; and

(2) verbally notifies each PRFC of the conclusion.

3. Notification of investigative finding. Following completion of the investigation, the CWS specialist notifies each PRFC of the finding pertaining to the PRFC. The CWS specialist:

(1) mails Form 04KI019E, Notification Concerning Finding(s) of Child

Abuse/Neglect, to each PRFC. When the finding is substantiated, OAC 340:75-1-12.2 applies;

(2) verbally notifies the PRFC of the findings;

(3) for in-home investigations, mails each PRFC Form 04KI019E. Refer to OAC 340:75-3-410 and 340:75-3-420 for out-of-home investigative findings and notification to PRFCs; and

(4) mails Form 04KI019E to the child care center employee's home.

4. When closure with PRFC is not required. Closure with the PRFC or family may be circumvented when there is reason to believe that it may place the child or CWS specialist in danger or when the PRFC cannot be located.

5. Disclosure of information to reporter of child abuse or neglect or to persons or agencies providing professional services. OKDHS may summarize the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse. The reporter is also told:

(1) the assessment or investigation specifics cannot be disclosed;

(2) the assessment or investigation has been completed;

(3) a report of any assessment conclusions or investigative findings has been forwarded to the district attorney's office in accordance with Oklahoma Statutes; and

(4) a completed assessment or investigation does not preclude future assessments or investigations when new allegations of child abuse or neglect are reported.

340:75-3-521. [RESERVED]

340:75-3-522. [RESERVED]

340:75-3-523. [RESERVED]

340:75-3-524. [RESERVED]

340:75-3-525. [RESERVED]

340:75-3-526. [RESERVED]

340:75-3-527. [RESERVED]

340:75-3-528. [RESERVED]

340:75-3-529. [RESERVED]

340:75-3-530. Appeal process for substantiated findings of child abuse or neglect

■ 1 through 6

Issued 7-1-13

(a) Purpose. The 2010 Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, requires the Oklahoma Department of Human Services (OKDHS) to provide an appeal process for persons who disagree with a substantiated finding of child abuse or neglect. The appeal process:

(1) provides individuals with a substantiated finding of child abuse or neglect an opportunity for due process;

(2) serves as a quality assurance mechanism to assess findings compliance with child protective services (CPS) standards, per OAC 340:75-3-120 and 340:75-3-130;

(3) provides substantiated findings review by Child Welfare Services (CWS) personnel not involved in any other stage of the case.

(b) Eligibility criteria. An individual may request a review through the appeal process when:

(1) the person is a person responsible for the child (PRFC), per OAC 340:75-3-2 in an investigation involving abuse or neglect allegations; and

(2) the investigation results in a substantiated finding regarding the PRFC; and

(3) no deprived petition is filed or amended regarding the PRFC; or

(4) there is no other court action or court order in regards to the alleged child abuse or neglect including pending or completed:

(A) protective order hearings;

(B) civil actions for monetary compensation;

(C) criminal court proceedings; or

(D) juvenile deprived cases regardless of disposition.

(5) no other OKDHS program specific review is or was conducted including a program review by the CPS Section:

(A) regarding a child death or near-death;

(B) for each substantiated finding of an out-of-home care investigation that was completed by a child welfare (CW) specialist or an Office of Client Advocacy (OCA) investigator.

(c) Tribal Investigations not eligible for OKDHS appeal. The appeal process applies only to investigations conducted by OKDHS. Investigations of child abuse or neglect investigated by a tribal representative or on tribal land are not eligible for an OKDHS appeal.

(d) Procedures for appeal process. The procedures for the appeal process are outlined in (1) through (4).

(1) Notification to PRFC. Upon substantiation of abuse, neglect, or both, the CWS specialist notifies the PRFC of the finding by mailing Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal, provided the criteria in OAC 340:75-3-530 are met. Forms 04KI019E and 04KI020E are:

(A) mailed within ten calendar days of substantiation of abuse or neglect;

(B) mailed to the PRFC's last known address;

(i) Form 04KI019E informs the PRFC of:

(I) any substantiated child abuse or neglect finding in the investigation;

(II) the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party; and

(III) demographic information;

(ii) Form 04KI020E specifies:

(I) the PRFC may file an appeal by mailing a request to CWS Appeals Program Unit within 15 calendar days from the postmark on the envelope containing Form 04KI020E; Request for Appeal; and

(II) failure to submit the appeal request within 15 calendar days from the postmark on the envelope containing Form 04KI020E results in the finding becoming final and the PRFC waives any right to appeal this finding in the future, unless good cause is established per OAC 340:75-3-530; and ■ 1

(C) not mailed to the PRFC when case records reflect that notification may place family members at risk. ■ 2

(2) **Conditions of good cause.** A PRFC is granted a review despite failure to make a timely response, provided good cause is established, including, but not limited to, severe illness or other disabling condition.

(3) **Response to appeal request from PRFC.** If the PRFC requests a review within the required time, the Appeals Program Unit responds to the PRFC through written notice within ten calendar days following receipt of the PRFC's request for review. The Appeals Program Unit notifies the PRFC:

(A) of the right to provide additional information through written statements that must be submitted within 30 calendar days from the postmark on the envelope containing the notification that the appeal was accepted for review;

(B) that failure to submit additional information within 30 calendar days results in a waiver of this right, unless good cause is established per OAC 340:75-3-530; and

(C) that verification of legal representation must be established when the PRFC requests an attorney be notified of the determination results. Verification is established by a statement of representation on official letterhead from the attorney. ■ 3

(4) **Review Procedure.** Within 120 calendar days following acceptance of the PRFC's timely request for a review, or a late request for a review when good cause was established per OAC 340:75-3-530, the CWS Appeals Committee determines whether the substantiated finding of abuse or neglect meets substantiation protocol per OAC 340:75-3.

(A) The decision to uphold, modify, or reverse the original finding of abuse or neglect is determined by reviewing:

(i) Form 04KI003E, Report to District Attorney, that includes form 04KI030E, Assessment of Child Safety, attachments, and relevant CWS information including child welfare history and referrals; and

(ii) all written documents submitted by the PRFC.

(B) When the Appeals Program Unit determines the finding failed to meet the criteria for substantiation in compliance with OAC 340:75-3-103, the committee:

(i) determines whether the preliminary decision was based upon lack of credible evidence to support the allegations of child abuse, neglect, or both; or

(ii) determines whether the preliminary decision is based upon a lack of documentation by the CWS specialist:

(I) When a lack of documentation exists, the appeals section sends notification to the district director, approving supervisor, and CW specialist that information is missing and requests the information be added to the report or scanned into the KIDS file cabinet.

(II) After notification by the Appeals Program Unit, the district director reopens and reassigns the investigation.

(III) The assigned CW specialist adds the additional information to the report within 15 calendar days of the reassignment and sends notification to the Appeals Program Unit upon completion.

(IV) The Appeals Program Unit reconsiders the PRFC appeal with the additional information and modifies or upholds the finding as appropriate;

(iii) The Appeals Program Unit modifies the finding, when appropriate, in KIDS.

(I) When the substantiation finding is appropriate, but the allegation in KIDS is incorrect, the chairman on the appeals committee ensures the inappropriate allegation is marked as an improper entry and the correct allegation is added along with the substantiated finding; and

(II) Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal, are mailed to the PRFC with the corrected allegations.

(C) The Appeals Program Unit provides written notification of the final determination of the finding within 120 calendar days following acceptance of the appellant's request for a review to the:

(i) appellant;

(ii) district director;

(iii) deputy director for the region;

(iv) CW supervisor;

(v) CW specialist;

(vi) district attorney's office in the county where the finding originated;

(vii) tribe, when applicable; and

(viii) Oklahoma Child Care Services, when applicable.

INSTRUCTIONS TO STAFF 340:75-3-530

Issued 7-1-13

1. Notification of appeal determination to person responsible for the child (PRFC).

(1) When to send notification of appeal determination to PRFC The Child Welfare (CW) supervisor assures Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal, are sent to each PRFC identified during the investigation, within 10 calendar days after an investigation with a substantiated finding is approved by the CW supervisor.

(2) How to send notification of appeal determination to the PRFC. KIDS generates Forms 04KI019E and 04KI020E. The address of the PRFC populates to Form 04KI019E designed to display the PRFC's address in a window envelope. Forms 04KI019E and 04KI020E are mailed:

2. Justification for not providing notification of appeal determination. Justification for not sending Forms 04KI019E and 04KI020E is documented in KIDS Contacts screens.
3. Response to appeal request from an Oklahoma Department of Human Services (OKDHS) employee.
 - (1) In lieu of a review by the Appeals Program Unit, an OKDHS employee may request a review by programs staff comprised of a:
 - (A) programs administrator;
 - (B) programs manager; and
 - (C) programs field representative.
 - (2) Requests for review by programs staff is submitted in writing at the time of the appeal request.
4. Notification to Child Welfare Services staff of appeal. When the Appeals Program Unit accepts a PRFC request for review, notification of the acceptance is provided to the previously assigned CW specialist, supervisor, district director, and deputy director for the region who are advised of the need to ensure all necessary documentation has been entered into KIDS referral and investigation screens and that other supporting documentation is stored in the KIDS file cabinet.
5. Final determination regarding investigation finding.
 - (1) The Appeals Program Unit notifies the appellant, district director, deputy director for the region, CW specialist and supervisor, office of the district attorney's office, and appropriate programs staff, such as Oklahoma Child Care Services and CPS Program Unit of the final determination regarding whether the substantiated finding is upheld or reversed.
 - (2) The CW specialist prints the final determination email, files the email in the CWS case record and, when applicable, in the resource record, and scans the email and stores it in the referral file cabinet.
6. Appeals committee composition. The Appeals Committee is comprised of:
 - (1) a Family-Centered Services (FCS) Program Unit program field representative who serves as the Appeals Committee chairperson;
 - (2) the FCS/Appeals program units programs manager;
 - (3) the CPS Program Unit programs manager or designee;
 - (4) the Quality Assurance Program Unit programs manager or designee;
 - (5) the Continuous Quality Improvement Program Unit programs manager or designee; and
 - (6) one CW supervisor or other representative above the supervisor level from each region designated by the deputy director. The committee member:
 - (A) is designated as a rotating committee member; and
 - (B) does not vote on cases to avoid potential conflicts of interest.