

CHAPTER 35. OKLAHOMA WITNESS PROTECTION PROGRAM

[Authority: 74 O.S., § 18p-10]

SUBCHAPTER 1. OKLAHOMA WITNESS PROTECTION PROGRAM

75:35-1-1. Purpose and Applicability

(a) **Purpose.** This Chapter is hereby adopted by the Attorney General for the purpose of implementing the Oklahoma Witness Protection Plan as authorized by Title 74, Section 18p-10 (c) of the Oklahoma Statutes.

(b) **Applicability.** The rules found in this Chapter shall be applicable to and govern the manner and procedure for:

- (1) Applications submitted by a witness seeking support through the Program;
- (2) Decisions for granting or denying support to a witness applying for support;
- (3) Payments of all support upon approved applications;
- (4) Duration of support under the Program; and
- (5) Grounds for termination of a participant from the Program, whether initiated by a district attorney or the Attorney General.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Attorney General" means the Attorney General of Oklahoma.

"Case investigator" means a representative of the Attorney General through whom contact is maintained with the witness and through whom delivery of Support to the witness is ordinarily made and documented.

"Criminal action" means a criminal proceeding initiated pursuant to Oklahoma law.

"Dangerous perpetrator" means a person who has committed or is committing, or who is alleged to have committed or is alleged to be committing, a criminal act, and who has by present or past conduct allegedly:

- (A) killed any person,
- (B) arranged with another to kill any person,
- (C) expressed or shown a willingness to kill any person,
- (D) expressed or shown a willingness to arrange a killing of any person,
- (E) inflicted serious bodily harm upon any person,
- (F) arranged the infliction of bodily harm upon any person,
- (G) expressed or shown a willingness to inflict bodily harm upon any person,

(H) expressed or shown a willingness to inflict bodily harm upon any witness having evidence relevant to the prosecution of a criminal act,

(I) expressed or shown a willingness to inflict bodily harm upon any relative or significant other to any witness having evidence relevant to the prosecution of a criminal act,

(J) closely allied with or associated with a person who is a dangerous perpetrator.

"Government investigator" means a duly commissioned federal, state, county, municipal, or tribal law enforcement officer.

"Grand jury" means both a county or multicounty grand jury empaneled in accordance with Oklahoma law.

"Immediate family" means a spouse, parent, child, stepchild, sibling, grandparent, or household member, except when such person is in custody for an offense or is the dangerous perpetrator regarding whom the witness is actively assisting law enforcement.

"Investigation" means the gathering of evidence of criminal activity by either a grand jury, law enforcement officers, a combination thereof, or investigative depositions pursuant to Title 22, Section 258 of the Oklahoma Statutes.

"Office" means the Oklahoma Office of the Attorney General.

"Participant" means any witness approved pursuant to these rules. Immediate family if approved for participation pursuant to these rules.

"Program" means the Oklahoma Witness Protection Program.

"Prosecuting attorney" means the Attorney General, a District Attorney, or one of their assistants.

"Prosecution" means all phases of the investigation, charging, and litigation of a criminal act or acts.

"Support" means the provision of State funds for certain financial support of participants in the program including, but not limited to:

(A) Temporary living costs including lodging rent and per diem not to exceed the per diem authorized to State employees traveling on State business;

(B) Witness relocation (moving) expenses, including but not limited to the relocation of the person of program participants and the moving and/or storing of personal property of program participants;

(C) Security deposits for residential rental property used by relocated witnesses;

(D) Travel expenses to and from court not to exceed those authorized to State employees traveling on official business;

(E) Other necessary approved temporary expenses related to relocation or transition."

"VASU" means the Victims Advocacy and Services Unit of the Oklahoma Office of Attorney General.

"Witness" means any natural person having evidence relevant to the prosecution of a criminal act who is actively aiding the prosecution of a dangerous perpetrator by:

(A) providing truthful information regarding criminal activity to a government investigator;

(B) being subpoenaed to or testifying before a grand jury;
(C) being subpoenaed to or testifying in any investigative deposition admissible as evidence in a grand jury proceeding;
(D) being subpoenaed to or testifying in any phase of a criminal action, including all preliminary hearings, motion hearings, and trial proceedings.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-3. Applicability [REVOKED]

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Revoked at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-4. Scope of the Program

The Program is legally authorized to provide only certain limited and temporary support to participants. Physical protection of participants accepted into the Program remains a function of local law enforcement.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-5. Administration and Procedure

(a) **Application required.** To be considered for support under the Program, a witness seeking support under the Program shall complete an application using the Office's prescribed form.

(b) **Required forms.** A witness seeking support under the Program shall also sign and attach to the Application for Support Services a Memorandum of Understanding using the approved form. In the event any immediate family members over the age of eighteen (18) years of age will also be seeking support in connection to the witness, such persons must also separately approve and sign a Memorandum of Understanding that must also be attached to the witness' Application for Support Services. The VASU is authorized to assist any applicant with completing the required forms.

(c) **Declaration of applicant.** Each applicant shall subscribe to the following declaration under the penalty of perjury: "I am either a citizen of the United States or am a qualified alien under the federal Immigration and Nationality Act, and accordingly I am lawfully present in the United States."

(d) **Availability of Program forms.** Copies of all approved program forms may be obtained by a witness from:

- (1) A victim witness coordinator for a local district attorney,
- (2) The Office's website, or
- (3) In person at the Office.

(e) **Initial review.** An Application for Support Services, upon completion and together with all attachments, shall initially be submitted to and reviewed by the Prosecuting Attorney who shall either recommend approval or rejection of the application based upon the facts known to the Prosecuting Attorney that have been developed in the investigation for which the applicant is a witness and the suspect/defendant is shown

to be a dangerous perpetrator. The Prosecuting Attorney shall attach either an investigation report(s) or witness summary factually showing the applicant to be a material witness to an offense involving a dangerous perpetrator. The Prosecuting Attorney shall also attach a criminal background check regarding the applicant witness and any other person seeking support services in connection to the witness. The criminal background check shall include a query of the Interstate Identification Index and the National Fingerprint File Program.

(f) **Processing applications.** Upon completion and review by the Prosecuting Attorney, all Applications for Support Services shall be submitted to the VASU for processing. The VSU shall prepare and attach to the Application an itemized calculation of support needed by the witness or immediate family.

(g) **Applicants not entitled to support.** Support under the Program is not an entitlement. Participation in the Program is subject to the approval and discretion of the Attorney General of Oklahoma or his or her designee based upon demonstrated need in the application and other required forms and the actual availability of funds.

(h) **Expectation of employment.** An adult relocated program participant shall ordinarily be expected to promptly establish employment in the place of relocation.

(i) **Duration of support.** Except under extraordinary circumstances approved solely at the discretion of the Office of Attorney General, an adult program participant shall not receive Support in either per diem living expenses nor rent for any period more than six (6) months from the date of the approval of an application, or until the witness becomes locally employed and capable of self-support, whichever is shorter. Any extension of support beyond this period shall require submission and approval of a new application.

(j) **Strict compliance.** Any award of support under the Program shall always be conditioned upon the participant's strict compliance with all of the Program requirements set forth in the memorandum of understanding.

(k) **Termination.** In accordance with the grounds provided below, the Prosecuting Attorney may initiate termination of a participant's participation in the Program. The Prosecuting Attorney shall provide a participant with written notice of the Prosecuting Attorney's intent to initiate termination prior to doing so. The grounds for termination include:

- (1) Engages in criminal conduct which violates the criminal laws of the United States or any state;
- (2) Provides incomplete or false information to relevant law enforcement officers related to relevant investigations or proceedings;
- (3) Failure to comply with legal obligations or civil judgments against the participant;
- (4) Failure to cooperate with reasonable requests of any law enforcement officer, employees of the State, or the Prosecuting Attorney;
- (5) Takes action or actions willfully and knowingly to be detected by others or making it known to others the witness's participation

in the Program, receipt of support, or protection services;
(6) Failure to promptly seek and obtain regular employment in the participant's place of relocation, unless:

- (A) The participant cannot perform basic life tasks,
- (B) The participant cannot be employed due to safety concerns, or
- (C) Exigent circumstances exist that make employment either dangerous to the participant or officers providing protection, or impracticable.

(l) **Delivery of support payments.** All Support paid directly to a witness under the Program shall ordinarily be in the form of currency that shall ordinarily be delivered in person to the program participant by a case investigator. Alternatively, payments of currency made directly to a witness as Support may be delivered through a person approved by the VASU. Payment of support may also be paid directly to a private provider of services when such payment is determined by the Office of Attorney General to be advisable. Documentation of the payment of Support to a program participant shall always be made in the form of a written receipt signed by the program participant in the presence of the case investigator or approved designee who shall also certify thereon the payment's date of delivery.

(m) **Support payment reporting.** Prior to trial in a case, and at such other times determined to be necessary, the case investigator shall prepare a written report disclosing all support payments made by the Program to a witness including the amounts, dates of support payments, and reason for the support payment. The case investigator shall provide the report to the Prosecuting Attorney and to the VASU.

(n) **Availability of funds.** Payment for all approved Support shall be from available funds deposited to the Attorney General's Evidence Fund or from funds received from any federal grants awarded for the Program's operations. The determination of availability of funds shall be within the sole judgment of the Attorney General or his or her designee.

(o) **Non-discrimination policy.** The Office will not unlawfully discriminate on the basis of race, sex, color, age, religion, creed, political affiliation, disability, or national origin in administering the Program.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-6. Confidentiality of Program Records

Because the Program provides witness protection services to persons who by reason of actively aiding the State may be in danger of death or bodily harm, the Attorney General hereby finds that open access to records relating to the Program will defeat its legal purpose. The identification of Program applicants or participants and by providing past or current locations for such persons could place applicants and participants in danger of death or bodily harm. Further, the release of Program records will not assist the people or public in efficiently and intelligently exercising their inherent political power. Accordingly, all records pertaining to the Program including, but not limited to all applications for support under the Program, together with all records of

any and every kind related thereto, are hereby found and declared to be confidential and privileged from disclosure as trial preparation materials of the State of Oklahoma. *See* 12 O.S. § 3226(B). Further, these records are exempt from disclosure under the Oklahoma Open Records Act. *See* 51 O.S. § 24A.5(1)(a); *see also*, 51 O.S. § 24A.12; 22 O.S. § 2510; and 74 O.S. § 19a. Program records shall be disclosed only as provided in these rules. All Program records shall be subject to the regular audit of the State Auditor and Inspector and disclosed to the State Auditor and Inspector for such purposes as required for the performance of such audits under Title 74, Section 212 of the Oklahoma Statutes. Auditors and audits shall keep confidential the actual or alias identities and locations of all persons applying for or receiving support under the Program.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

75:35-1-7. Required Forms

Subject to the Attorney General's approval, the Office shall develop forms as required to fulfill the duties set forth in Title 74, Section 18p-10 of the Oklahoma Statutes. As it deems it necessary, the Office shall also update the forms subject to the Attorney General's approval. All forms shall be available for a copy at the Office or on the Office's website. The forms may include, but shall not be limited to: an application for support, memorandum of understanding, and receipt for support.

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Amended at 43 Ok Reg, Number 18, effective 6-11-26]

APPENDIX A. APPLICATION [REVOKED]

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Revoked at 43 Ok Reg, Number 18, effective 6-11-26]

**APPENDIX B. MEMEORANDUM OF UNDERSTANDING
[REVOKED]**

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Revoked at 43 Ok Reg, Number 18, effective 6-11-26]

APPENDIX C. RECEIPT [REVOKED]

[Source: Added at 31 Ok Reg 839, eff 9-12-14 ; Revoked at 43 Ok Reg, Number 18, effective 6-11-26]