CHILD PROTECTIVE SERVICES ACCESS & INITIAL ASSESSMENT STANDARDS

DIVISION OF SAFETY AND PERMANENCE

June 2026

Table of Contents

Table of Contents 1
ACCESS & INITIAL ASSESSMENT STANDARDS 3
SECTION 1: CPS ACCESS PROFESSIONAL AND SUPERVISOR RESPONSIBILITIES 5
I. Receipt of Access Report 5
II. Multi-County Reports 9
III. Information Standards 10
IV. Reports with Special Information Gathering Requirements 14
V. Decisions at CPS Access 23
VI. The Screening Decision 24
VII. The Timeframe for Response 28
VIII. Exceptions 30
IX. Independent Initial Assessment 30
X. Reports on Open Cases and Multiple Reports 33
XI. Notifications 33
SECTION 2: CPS INITIAL ASSESSMENT PROFESSIONAL AND SUPERVISOR RESPONSIBILITIES 36
XII. Requirements Applicable to All Initial Assessments 37
XIII. Consent Requirements 45
XIV. Primary Assessment Standard 51
XV. Unborn Child Abuse 62
XVI. Medical Neglect of Infants with Disabilities 63
XVII. Maltreatment by Foster Parents 64
XVIII. Secondary Assessment Standard 66
XIX. Non-Caregiver Assessment Standard 70
XX. Determinations of Maltreatment and Maltreaters 72
XXI. Referral of Young Children to the Birth to 3 Program 74
XXII. Exceptions 75
XXIII. Referral to Voluntary Services 76
XXIV. Newborn Relinquishment and Reclaiming 77
SECTION 3: LOCAL CHILD WELFARE AGENCY RESPONSIBILITIES 82
XXV. Collaboration with Law Enforcement Agencies 82
XXVI. Independent Initial Assessment Agreements 85
GLOSSARY 86
APPENDIX 1: INFORMATION TO BE GATHERED AND ANALYZED IN PRIMARY ASSESSMENT CASES 91

Table of Contents

APPENDIX 2: RESOURCES FOR WORKING WITH INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY (LEP) 100

APPENDIX 3: DOMESTIC ABUSE 102

APPENDIX 4: COORDINATION AND COLLABORATION WITH LAW ENFORCEMENT AGENCIES.....109

APPENDIX 5: STATUTORY DEFINITIONS OF ABUSE AND NEGLECT 116

APPENDIX 6: SUBSTANTIATING THE DIFFERENT TYPES OF MALTREATMENT.....123

APPENDIX 7: CONSIDERATIONS IN MALTREATER DETERMINATIONS 131

APPENDIX 8: MODEL PROCEDURES FOR CPS IN REPORTS OF WITHHOLDING MEDICALLY INDICATED TREATMENT FROM INFANTS WITH DISABILITIES WITH LIFE-THREATENING CONDITIONS 133

APPENDIX 9: GUIDANCE FOR CASES INVOLVING SEX TRAFFICKING OF CHILDREN.....136

APPENDIX 10: GUIDANCE FOR WORKING WITH INDIVIDUALS WITH DISABILITIES.....140

APPENDIX 11: RESOURCES FOR WORKING WITH INDIAN CHILDREN AND ADULTS.....147

APPENDIX 12: ENGAGING FAMILIES IN THE INITIAL ASSESSMENT PROCESS.....148

APPENDIX 13: LOCAL CPS AGENCIES' RESPONSIBILITY TO ENGAGE TRIBAL NATIONS.....154

APPENDIX 14: RESPONSE TIME CRITICAL THINKING GUIDE.....170

ACCESS & INITIAL ASSESSMENT STANDARDS

Purpose and Scope of Child Protective Services

Child Protective Services (CPS) is a specialized field of the Child Welfare System. CPS intervention is warranted whenever there is a report that a child may be unsafe, abused or neglected, or be at risk of abuse or neglect, or that an unborn child may be abused. The purpose of the CPS system is to identify and alter family conditions that make children unsafe or place them at risk for abuse or neglect.

The scope of Child Protective Services includes Access, Initial Assessment, and Ongoing Services. CPS is an integrated system of intervention that identifies conditions that make children unsafe or that put children at risk of abuse or neglect and then provides services to families to assure that children are safe and protected. CPS accomplishes this by receiving and responding to reports of abuse or neglect, conducting initial and family assessments, developing and implementing Protective, Safety, and Case or Permanency Plans, and providing services and case management. The goal of the CPS system is to support parents/guardians[1] and expectant mothers in making necessary changes to assure that their children are safe and protected.

Introduction

The CPS Access and Initial Assessment Standards reflect a balance in roles for agencies and CPS professionals between protecting children and preserving the rights of individuals. The primary responsibility of CPS during the Initial Assessment process is to identify children or unborn children who are in need of protection or services and assure that unsafe children are protected by engaging parents/guardians in implementing a Safety Plan that controls danger threats so children can remain in their home or, if that is not possible, through placement in out-of-home care. It is at this point that assessing and planning for the safety and permanence for children begins. CPS professionals work diligently to support families to provide safe and nurturing environments for their children.

Embodied in these Standards are the following tenets:

- *All children deserve protection and a safe, permanent home.* Public agencies are charged with responsibility to conduct a thorough Initial Assessment in response to screened-in Child Protective Services Reports in order to assure that children are safe and protected.
- *Parents/guardians are viewed as the primary authorities in the family and are most accountable for safety and security within the family home.* A collaborative relationship between CPS and parents/guardians is based on the principles of respect, honesty, equity, and self-determination.
- *CPS is a government intervention.* The primary function of Initial Assessment is to identify families who require support and services to assure child safety and protection.

[1] Parent/guardian as used throughout these Standards refers to any individual with legal guardianship or legal custody of a child including an Indian custodian as defined in s. 48.02(8p).

- When a child has been maltreated by an individual outside of the family, CPS acts as consultants and advocates for the parents/guardians in meeting their child's need.
- Children thrive when they are maintained within their own communities and families.

Wisconsin statutes direct the Department of Children and Families (DCF) to establish standards for conducting child abuse and neglect Initial Assessments that must be followed by local child welfare agency professionals [Wis. Stat. § 48.981(3)(c)1.a.]. DCF has developed the CPS Access and Initial Assessment Standards to meet this mandate.

These standards provide local child welfare agencies and CPS professionals with specific direction in screening and assessing reports of child maltreatment[2] within the requirements of Wisconsin and Federal statutes. The process relies on gathering, understanding, and assessing family information and dynamics that contribute to threats to child safety or maltreatment, in order to make decisions about which families receive CPS Ongoing Services. These Standards outline requirements for CPS Access and Initial Assessment for local child welfare agencies, including the Division of Milwaukee Child Protective Services (DMCPS). These Standards articulate the role for CPS and other community professionals in responding to the broad range of reports that are made to child maltreatment or threatened child maltreatment in Wisconsin.

Of particular importance is alignment and consistency with Federal Indian Child Welfare Act (ICWA) and State Wisconsin Indian Child Welfare Act (WICWA) requirements, codified at 25 USC §§ 1901–1963 and Wis. Stat. § 48.028, and operationalized throughout Wisconsin CPS policy and Standards. ICWA was enacted in 1978 in response to the large-scale removal of Indian children from their families and their placement outside of their families and communities. The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families." 25 U.S.C. § 1902. In 2009, Wisconsin codified and clarified ICWA modifying state statute with the passage of the Wisconsin Indian Child Welfare Act (WICWA).

The CPS role differs in situations of caregiver and non-caregiver maltreatment[3]. Under Wisconsin statutes, local child welfare agencies are required to conduct a "diligent investigation"[4] of all allegations of child maltreatment perpetrated by a caregiver (throughout these standards the operationalization of the "diligent investigation" requirement will be referred to as "Initial Assessment"). With respect to non-caregiver allegations, local child welfare agencies have discretion to determine whether or not to conduct an Initial Assessment, except for allegations of child sex trafficking (which must be investigated even if they are non-caregiver).

Practice requirements are contained within boxes. Additional information is included in the Standards outside of the box to provide further guidance about best practice. A number of terms in these Standards may have a meaning more specific than the generally accepted meaning and these are defined in the Glossary.

---

[2] Throughout this document there are terms that have the same meaning and are used interchangeably such as "child maltreatment" and "child abuse or neglect." Another example is "business days" and "working days"

[3] "Caregiver" is defined at Wis. Stat. § 48.981(1)(am).

[4] See Wis. Stat. § 48.981(3)(c)1.a.

SECTION 1: CPS ACCESS PROFESSIONAL AND SUPERVISOR RESPONSIBILITIES

Introduction

CPS Access is the process of receiving, analyzing, and documenting reports of alleged child maltreatment and unborn child abuse. The functions of CPS Access are to:

- receive and document reports of alleged maltreatment from the community,
- notify and engage tribes when reports are received involving an Indian child,
- identify families that the CPS system must respond to,
- determine the urgency of the response time, and
- initiate an assessment of child safety and family strengths.

As described in these Standards, the process of receiving reports of alleged maltreatment is a statewide responsibility, not an individual county function. In order to assure that reports are processed quickly and efficiently, local child welfare agencies are expected to document all reports whether the child resides in their own or another county.

Types of Reports Received by a Local Child Welfare Agency

All calls received by a local child welfare agency are required to be documented in eWiSACWIS. Reports alleging child abuse, neglect or unborn child abuse are required to be documented as Child Protective Services Reports (CPS Reports) and, if they meet Wis. Stat. § 48.981(3)(c)1.a., require a CPS response. Some calls received by a local child welfare agency do not allege child abuse or neglect but contain concerns about a child's well-being or identified service needs. These reports can be documented as Child Welfare Services Reports (Services Reports) and can be screened at the discretion of the local child welfare agency. However, there are a sub-category of calls from community members regarding the welfare of children that do not allege child abuse and neglect, but statute requires a response by the local child welfare agency. These are referred to as "Required Services Reports" that must be documented and screened-in by the agency for response. The following section provides additional information regarding these types of reports.

I. Receipt of Access Report

I.A. Types of Access Reports

Information received by the local child welfare agency is an Access report as covered by this Standard in the following situations:

I.A.1. CPS Reports

The reporter makes a report in accordance with Wis. Stat. § 48.981, and the reporter suspects or states a suspicion that a child has been abused or neglected or is likely to be abused or neglected,

or that an unborn child has been abused, regardless of whether the reported information constitutes child abuse or neglect as defined in the Ch. 48 of the Wisconsin statutes.

I.A.2. Required Services Reports

The reporter calls to report one of the following circumstances:

- unborn children exposed to controlled substances or controlled substance analogs, when the exposure is determined by a physician [Wis. Stat. § 46.238]
- newborns with controlled substances or controlled substance analogs in their bodily fluids as determined by a physician [Wis. Stat. § 46.238]
- newborns diagnosed by a physician with a fetal alcohol spectrum disorder [Wis. Stat. § 46.238]
- relinquished newborns [Wis. Stat. § 48.195]
- parent fails to provide necessary care for religious reasons [Wis. Stat. § 48.981(3)(c)4]
-

I.A.3. Discretionary Services Reports

Where services have been requested for a child or family in which:

- there has been no alleged maltreatment or threatened maltreatment (i.e., child welfare services; placement related services such as adoption, ICPC, etc.; court-ordered studies; kinship care services), or
- the report does not meet screening criteria for CPS Initial Assessment, but the report suggests that the family could benefit from a specific service offered by the local child welfare agency or referred to by the local child welfare agency.

An Access report may be received from any person. The reporter may identify him or herself or remain anonymous. Reports may be made by phone, letter, fax, e-mail or in person. CPS Access professionals document all reports of concern for children that the reporter believes may be abuse or neglect or may place a child at risk for abuse or neglect, even though the Access professional knows or suspects that the report will be screened-out. Screening an Access report is a formal agency decision that is completed by the local child welfare agency and documented in the family's record. Pursuant to state statutes, the local child welfare agency also provides feedback to the mandated or relative reporter regarding the screening decision, when applicable.

I.B. Availability to Receive Access Reports

The local child welfare agency must assure that there is a mechanism to receive reports of child abuse and neglect 24 hours a day, seven days a week. If the local child welfare agency uses a recorded message during business hours in the event that the local child welfare agency's telephone line(s) for receiving reports are all busy, the recorded message must include a statement that emergency situations must be reported to a local law enforcement agency.

At CPS Access, the quality of decision making is critical. CPS Access professionals perform a gate-keeping function by determining which children and families receive further attention from the local child welfare agency in order to protect children from maltreatment. These decisions need to be based on adequate information and made by individuals who possess knowledge and experience in CPS.

CPS Access professionals should have training in gathering information, interviewing reporters, and determining what information is significant to the CPS Access purpose. CPS Access professionals should also have expertise in the dynamics of abuse and neglect since many reporters, especially non-mandated reporters, may not have that expertise.

The Access professional should attempt to interview the caller in such a way that thorough, pertinent information is gathered for decision making purposes. Interviewing is an active rather than a passive process in order to assure that sufficient information is gathered specific to these standards to support informed decision-making.

I.C. Creating and Documenting a Report to Access

The report is created regarding the family of the child or unborn child alleged to be unsafe, maltreated, at risk of maltreatment, or in need of agency intervention. If a child resides in more than one household (e.g., parents are divorced), the Access report is created as follows:

- For Primary Assessment reports, the family/household where there are allegations of maltreatment.
- For Secondary Assessments and Non-Caregiver Assessments, the family/household that is the child's primary residence.

In Primary Assessment reports, when the reported information indicates that there are allegations of maltreatment in two households, a separate report is created for each home. When children from two or more separate families are reported as involved in an alleged maltreatment situation, a separate Access report is created for each family.

The Access report must be documented in eWiSACWIS within three business days unless the child resides in another county (see *II.A. Responsibilities of Each Local Child Welfare Agency in Access Reports for a Child and Family that Reside in Another County*).

A child or family's participation in the Safe at Home program must be documented in eWiSACWIS if such information is known when the report is received.

I.C.1 Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Access

While taking an Access report, the CPS Access professional must:

- Ask the reporter about any potential Native American ancestry.
- Inform the tribal agent for the appropriate tribe or band of all CPS reports and child welfare services reports received (screened-in and screen-out reports) pertaining to a child or unborn child whom the local child welfare agency knows to be an Indian child or Indian unborn child *DSP Numbered Memo 2023-12*).

All local child welfare agencies must inform the Indian child's tribe within 24 hours from the receipt of the report and include the eWiSACWIS case ID number. Electronic notification satisfies this requirement for reports pertaining to an Indian child or Indian unborn child whose tribal status in Person Management indicates they are a member of, eligible for membership, or have pending membership status with a federally recognized tribe that is located in Wisconsin.

I.C.2 Considerations when performing the Access Function

Tribes will make independent decisions as to whether to screen-in and investigate and/or respond to service needs for any report of alleged child maltreatment or other concerns related to family functioning and child well-being, regardless of the local child welfare agency's screening decision. A tribe's authority to serve children and families may differ from county authority under state statue and standards. This may result in tribes screening-in reports that a local child welfare agency may screen-out. Because of this difference, a tribe may question a local child welfare agency's screening decision. Should a tribe inquire into a screening decision, CPS professionals should be prepared to describe the rationale for the decision.

I.D. Determining the Household(s) to Create an Access Report

Children sometimes spend significant time in more than one parent/guardian's household. For example, when parents live apart, a child might spend time in the mother's home and time in the father's home. Information collected and documented at CPS Access is based on dynamics and conditions that contribute to concerns of maltreatment in a specific household. For example, in a situations with divorced parents or parents living apart, if a child lives with the mother and is alleged to have been maltreated during a weekend visit with the father, the report is created for the father's home since this is the home in which the maltreatment is alleged to have occurred. If there are allegations of maltreatment for both homes, a report is completed on each home with separate screening and response time decisions. Each screened-in report results in a separate Initial Assessment for each household.

I.E. Creating and Documenting a Report of Maltreatment in a Foster Home

When a local child welfare agency receives a report of alleged maltreatment in a foster home, the CPS report is recorded with the foster parent as the reference person.

A foster home's participation in the Safe at Home program must be documented in eWiSACWIS if such information is known when the report is received.

I.F. Creating and Documenting a Report of Maltreatment in a Licensed Child Welfare Facility

When a local child welfare agency receives a report of alleged maltreatment by staff of a licensed child welfare facility (i.e., group homes, shelter care facilities, or residential care centers for

children and youth), the CPS report is documented as a Secondary Assessment in the family record.

II. Multi-County Reports

II.A. Responsibilities of Each Local Child Welfare Agency in Access Reports for a Child and Family who Reside in Another County in Wisconsin

One function of CPS Access is to receive reports from the community. At times, information is reported to a local child welfare agency when a child and his or her family reside in another county in Wisconsin. In these instances, the local child welfare agency that receives the report must do the following:

- Gather all information as required in *III. Information Standards* and complete the Access report regardless of jurisdiction.
- If known at the time the report is made, the CPS Access professionals must inform the reporter that the information will be forwarded to the responsible local child welfare agency in Wisconsin for a screening decision.
- The same day the report is received, CPS Access professionals who receive the report must contact the appropriate local child welfare agency by telephone to provide notification of the pending report and determine the person to send the report to.
    - If the child, family, or out-of-home care provider is enrolled in Safe at Home, the local child welfare agency that took the report must inform the other agency of the participant's status in the program.
- The pending report must be documented in eWiSACWIS and sent to the appropriate local child welfare agency by the next business day.

If the report to the local child welfare agency about a child and his or her family that resides in another county contains information that may indicate a more urgent response is needed, then the local child welfare agency that receives the report must also do the following:

- The same day a report is received, the CPS Access professional who received the report must contact the appropriate local child welfare agency, document the report in eWiSACWIS and send it to the appropriate local child welfare agency.
- If a 24-hour response is indicated based on the information in the report, immediate notification to the appropriate local child welfare agency must occur. When a report indicates a 24-hour response, the local child welfare agency in the county where the child is located must take immediate action, if warranted.

The local child welfare agency responsible (where the family resides) for the Initial Assessment will make the screening and response time decisions and will make all notifications required in *XI. Notifications*, when appropriate.

When information is reported to a local child welfare agency and the family resides in another county, after gathering the required information, the telephone number for the responsible local child welfare agency should be provided to the reporter and he or she should be encouraged to call the other local child welfare agency with any additional questions or information the reporter may have regarding the report.

II.B. Responsibilities of Each Local Child Welfare Agency for a Report of Maltreatment When a Child Resides in More than One County in Wisconsin

When CPS Access receives reports of alleged maltreatment of a child who resides primarily or part-time in one county and the alleged maltreatment occurred in another county, then the following requirements apply (please note that these requirements do not provide a basis for screening-out a report due to a child residing in another state):

- If a 24-hour response is required based on the information in the report, immediate notification must occur. When a report indicates a 24-hour response, the local child welfare agency in the county where the child is located must take immediate action, if warranted.
- In circumstances when parents have shared physical placement of a child (the child resides in each home 50% of the time), the local child welfare agency in the county where the alleged maltreatment occurred will assume primary responsibility for the Initial Assessment, including determining if the reported information warrants intervention and completing the response time decision.
- When it cannot be determined where the child's primary residence is, the local child welfare agency in the county where the child attends school or childcare will assume primary responsibility. If the child is not in school or childcare, the local child welfare agency in the county where the child is present at the time of the Access report will assume primary responsibility.
- In Secondary and Non-Caregiver reports, the local child welfare agency in the county where the child resides will assume primary responsibility for Initial Assessment activities.
- If one or more of the participants in the Access report are enrolled in Safe at Home, the local child welfare agency receiving the report must communicate the participant's status in the program to the other local child welfare agency.

The local child welfare agency in the county that assumes primary responsibility for Initial Assessment activities is responsible for all notifications and feedback outlined in *XI. Notifications*, when applicable.

III. Information Standards

Specific information is collected by CPS Access in order to support decision-making related to screening and response time. This information also forms the basis for determining whether a Primary Assessment, Secondary Assessment, or Non-Caregiver Assessment is conducted.

III.A. Information that Must be Gathered and Documented in All Case Types

The following information must be gathered from the reporter, if available, in all case types as referenced in *I.A. Types of Access Reports*:

- Description of the allegations, including current and past maltreatment allegations, the surrounding circumstances, and the frequency of the alleged maltreatment or the intervention or services needed for the child.
- The child's injury or condition as a result of the alleged maltreatment and, if known, the services needed.
- Information that the child may be of American Indian heritage. The CPS Access professional must ask the reporter if he or she has any reason to believe that the child might be of American Indian heritage and, if so, what tribe or tribes the child might be affiliated with. The CPS Access professional must also check any eWiSACWIS documentation that may help to provide further information about American Indian heritage.
- If the child, family, or out-of-home care provider is reported to be enrolled in the Safe at Home program, this information, including the household ID number, must be documented in eWiSACWIS pursuant to eWiSACWIS requirements for how Safe at Home participants' information is documented.
- Description of the child's current location, functioning including any disabilities or special needs (i.e., physical disabilities, development disabilities, communication disabilities, etc.) and services already in place to address the child's needs, if any, and current vulnerability (see *CPS Safety Intervention Standards*, *Appendix 2: Assessing Child Vulnerability*).
- Name, age, gender, race, and ethnicity for all members of the household and their relationship to each other, the family's address and phone number, the adults' places of employment, and the child's school or childcare, when applicable.
- The presence of domestic violence (see *Appendix 3: Domestic Abuse*), if applicable, including the demonstration of power, control and entitlement within the home environment.
- How the family may respond to intervention by the local child welfare agency, including the parental protective capacities.
- The reporter's name, relationship to the family, motivation and source of information, if possible.
- The names and contact information of other people with information regarding the child or family.

III.A.1 The Co-Occurrence of Domestic Violence and Child Maltreatment

Research indicates that in up to 60% of incidences where child maltreatment is occurring, domestic violence is also present. Because of the high correlation between the two forms of violence, it is important at the point of Access to begin to identify the presence of domestic violence in a home. Knowledge about the presence of domestic violence serves several purposes for CPS. The information assists the local child welfare agency in understanding potential impact on the child, provides critical information relevant to relationship building with the caregiver/non-offending parent in families where domestic violence is present, determines how CPS should proceed (including safety concerns for CPS professionals), and provides information pertinent to assessing protective capacities (see *Appendix 3: Domestic Abuse*).

III.B. Additional Information to Gather and Document for Primary Assessment Case Types

In addition to the requirements of *III.A. Information that Must be Gathered and Documented in All Case Types*, the following information must be gathered from the reporter, if available:

- Description of the parents or adults in the parental role, including current location, functioning (including information about disabilities or other special needs), parenting practices, and views of the child.
- Description of family functioning, strengths, and current stresses.
- The name of the alleged maltreater and his or her relationship to the child.
- The whereabouts of the alleged maltreater and his or her access to the child at the time of the report and within the next five days.

III.C. Additional Information to Gather and Document for Secondary Assessment Case Types

In addition to the requirements of *III.A. Information that Must be Gathered and Documented in All Cases*, the following information, if available, must be gathered from the reporter:

- The name of the alleged maltreater, if a specific person(s) is suspected, and his or her relationship and access to the child at the time of the report and within the next five days.
- Parental involvement and contribution to the alleged maltreatment, if any.
- Parental knowledge of the incident.
- Parental action in response to the incident.
- Any action the school, childcare provider, residential care provider, or other organization has taken in response to the incident if the alleged maltreater is an employee or part of the organization providing care.

III.D. Additional Information to Gather and Document for Non-Caregiver Assessments

In addition to the requirements of *III.A. Information that Must be Gathered and Documented in All Cases*, the following information, if available, must be gathered from the reporter (see *Appendix 9: Guidance for Cases Involving Sex Trafficking of Children*):

- Except in reports of mutual sexual activity, the name of the alleged maltreater, if a specific person(s) is suspected, and his or her relationship and access to the child at the time of the report and within the next five days.
- Parental involvement and contribution to the alleged maltreatment, if any.
- Parental knowledge of the incident.
- Parental action in response to the incident.

III.E. Determining if the Parent May Have Contributed to the Alleged Maltreatment

The decision regarding if the parent may have contributed to the alleged maltreatment is made at the point CPS Access receives a report since it dictates whether a Primary Assessment, Secondary Assessment, or Non-caregiver Assessment is conducted by the local child welfare agency. When there is information that creates a reasonable suspicion that a parent contributed to the maltreatment by a secondary caregiver or non-caregiver, the primary CPS concern is the possibility of threats to child safety in the parental home. Therefore, the Primary Assessment process is followed. If there is no information that creates a reasonable suspicion that a parent contributed to the maltreatment, then the Secondary Assessment process is followed.

An assumption cannot be made that the parent(s) may have contributed to the alleged maltreatment. In order for a report of alleged maltreatment by a secondary caregiver or non-caregiver to be handled according to the requirements of a Primary Assessment, there has to be reason to suspect at the time the report is received by the local child welfare agency that the parent contributed to the maltreatment.

When making a decision related to a parent's contribution to maltreatment, CPS Access should gather information, if available, related to a parent's protective capacities (see *CPS Safety Intervention Standards*, *Appendix 5: Parent/Caregiver Protective Capacities*). Diminished protective capacity is demonstrated by a parent's inability to identify threats to a child's safety or inability or unwillingness to provide protection.

III.F. Records Search

CPS Access must review a family's CPS and child welfare records, as well as, CPS records of any person named by the reporter as a suspected maltreater. Local child welfare agencies must assure that relevant past child welfare agency records are readily available to assist with and meet screening and response time requirements (see *VI. The Screening Decision* and *VII. The Timeframe for Response*).

Additionally, CPS Access must review records in the Consolidated Court Automation Program (CCAP) and the Wisconsin Department of Corrections Sex Offender Registry – Geographical Search of household members who are age 17 or older and any person named by the reporter as a suspected maltreater.

Information from the record search (e.g. type of maltreatment, screening decision, results of any previous Initial Assessments, relevant police contacts or criminal history) must be documented in the report to assist with the screening and response time decisions. A records search on reports received after-hours must be conducted by the end of the next business day.

Family and individual history impacts how CPS responds to reports of alleged child maltreatment. This information (e.g., prior allegations, prior Initial Assessments, responsiveness of the parents) will assist in analyzing the reported information to determine how quickly CPS responds. At CPS Access, the purpose of reviewing the family's history is to understand conditions within the family and to determine if a pattern of behavior can be identified. A history of reports should prompt CPS Access to review and assess all available information about the family in relation to pervasive, changing, or escalating family conditions. Individual reports should be assessed in relation to the entirety of the information on the family rather than using an incident-based approach. Escalating family conditions, even in situations where no specific type of abuse or neglect has been reported, may indicate risk of maltreatment and warrant a CPS response.

If the information received suggests that there was or may be a previous report from a local child welfare agency in another county, CPS Access should contact that local child welfare agency to request any additional records not in eWiSACWIS (e.g., court documents, paper records, information maintained in another computer system).

IV. Reports with Special Information Gathering Requirements

The following types of reports have special information gathering requirements because of their unique circumstances:

- Unborn children and newborns affected by alcohol or other substances.
- Medical neglect of infants with disabilities.
- Relinquished infants.
- Child death due to alleged maltreatment when there are no other children in the household.

IV.A. Unborn Children and Newborns Affected by Alcohol and Other Substances

The Federal Child Abuse Prevention and Treatment Act (CAPTA), which requires states that receive CAPTA funding to have "…policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting

from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to— (I) establish a definition under Federal law of what constitutes child abuse; or (II) require prosecution for any illegal action," [42 U.S.C. § 5106a(b)(2)(B)(ii)].

When an expectant mother uses alcohol or other substances, that use can impact her unborn child, and eventually, her born child, in different ways. When receiving a report regarding an unborn child, or a newborn child, who may be experiencing effects from an expectant mother's use of alcohol or other substances, it is important to gain a clear understanding of the facts being reported in order to know how to correctly proceed with the information. There are three possible report types:

1) Unborn child abuse (may be relevant when alcohol or other substances have been used).
2) Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids (may be relevant when substances other than alcohol have been used).
3) Newborns diagnosed with a Fetal Alcohol Spectrum Disorder (may be relevant when alcohol has been used).

Each of these report types will be discussed in greater detail below.

IV.A.1 Unborn Child Abuse

While mandated reporters are not required to report suspicions of unborn child abuse, they are permitted to report them, and it is therefore not uncommon for local child welfare agencies to receive reports of unborn child abuse from both mandated and non-mandated reporters [Wis. Stat. § 48.981(2)(d)]. When such a report is received and meets the criteria for an allegation of unborn child abuse, the local child welfare agency must document the report as a CPS Report, make a screening decision and, if screened-in, make a response time decision.

IV.A.1.a Definition

Unborn child abuse occurs when an expectant mother exhibits a "habitual lack of self-control…in the use of alcohol beverages, controlled substances or controlled substance analogs,…to a severe degree" and that use Causes "serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born," [Wis. Stat. § 48.02(1)(am)].

There are therefore a number of different conditions that must all be present in order for a report to rise to the level of an allegation of unborn child abuse. The report must identify all of the following:

- An expectant mother.
- That the expectant mother is using either alcohol beverages, controlled substances or controlled substance analogs.
- That the expectant mother is exhibiting a habitual lack of self-control in her use of at least one of these controlled substances or controlled substance analogs.
- That the habitual lack of self-control is being exhibited to a severe degree.

- That the expectant mothers use is creating serious physical harm to the unborn child.
- That the expectant mothers use is creating a risk that the child, once born, will be seriously harmed as a result of the exposure to the mother's use prior to birth.

IV.A.1.b Information that Must be Gathered and Documented at Access

The CPS Access professional should gather information that assists in making the judgment as to whether there is a reasonable suspicion that the conditions outlined in *IV.A.1.a. Unborn Child Abuse Defined* are present. In addition to the requirements in *III.A. Information that Must be Gathered and Documented in All Cases* and *III.B. Additional Information to Gather and Document on Primary Assessment Cases*, the following information must be gathered from the reporter, if known:

- Information to support that an individual is pregnant and, if possible, what month of the pregnancy she is in.
- A description of the controlled substances or controlled substance analogs she is alleged to be using and the quantity she is alleged to be using.
- A description of the alcohol beverages she is alleged to be using and the quantity she is alleged to be using.
- A description of the behaviors that lead the reporter to believe that the expectant mother is demonstrating a habitual lack of self-control in the use of controlled substances, controlled substance analogs, or alcohol beverages, and that this is being exhibited to a severe degree.
- Any known history of the expectant mother's use of controlled substances, controlled substance analogs, or alcohol beverages, including any treatment received, and any previous children who were born suffering effects of exposure to alcohol beverages, controlled substances, or controlled substance analogs used during pregnancy.
- Any known physical harm to the unborn child as a result of the expectant mother's use of controlled substances, controlled substance analogs, or alcohol beverages.
- Any known risks that the child, once born, will be seriously harmed as a result of the expectant mother's use of controlled substances, controlled substance analogs, or alcohol beverages.
- A description of the prenatal care the expectant mother is receiving, if any, and the name of the doctor and medical clinic where she receives services.
- A description of the expectant mother, highlighting individual functioning and her parenting practices, if other children are residing in the household.

When creating an Access report that includes an allegation of suspected unborn child abuse, the allegation selected should always be "unborn child abuse." Allegations of "neglect" or "physical abuse" are only applicable in relation to other children in the expectant mother's care if there is sufficient information contained in the Access report to support their inclusion.

When creating an Access report that includes an allegation of unborn child abuse, the maltreater is listed as "unknown", as the identification of a maltreater is not authorized by Statute as appeal rights are not accessible in situations of unborn child abuse.

IV.A.2 Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids (Required Services Report)

These are mandated reports based upon the results of testing performed at the direction of a physician. When such reports are received, the agency must document the report as a Services Report. The local child welfare agency must screen in and provide services as required under Wis. Stat. § 46.238. If, in addition to the report based upon the results of testing, the agency also receives reports of alleged maltreatment to the newborn subsequent to birth, those allegations are to be handled as reports of alleged maltreatment under Wis. Stat. § 48.981.

IV.A.2.a Definition

Newborns with controlled substances or controlled substance analogs in their bodily fluids are identified when a physician makes the decision to test a newborn's bodily fluids for controlled substances or controlled substance analogs and "the results of the test indicate that the infant does have controlled substances or controlled substance analogs in the infant's bodily fluids." In this event, "the physician shall report the occurrence of that condition in the infant to the agency…" [Wis. Stat. § 146.0255(2)].

Under Wis. Stat. § 46.238, if a local child welfare agency receives a report under Wis. Stat. § 146.0255(2), the local child welfare agency "shall offer to provide appropriate services and treatment to the child and the child's mother…" Upon accepting a report under this provision, a local child welfare agency must assess the safety of the infant and develop a plan of care that reduces risk to the child and supports a safe environment, either an agency-managed Safety Plan or a referral to appropriate preventive community services, or determine that the family has in place a plan of safe care for the infant.

There are a number of different conditions that must all be present in order for the information contained in a report to be consistent with a report of a newborn with controlled substances or controlled substance analogs in his or her bodily fluids. The report must identify all of the following:

- A newborn.
- That the newborn's bodily fluids were tested at the direction of a physician for controlled substances or controlled substance analogs.
- That the test results showed that the newborn has controlled substances or controlled substance analogs in his or her bodily fluids.

IV.A.2.b Information that Must be Gathered and Documented at Access

The CPS Access professional should gather information that assists in making the judgment as to whether the conditions outlined in *IV.A.2.a. Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids Defined* are present. The following information must be gathered from the reporter, if known:

- Confirmation that testing was performed on a newborn at the direction of a physician.
- Confirmation that the test results showed that the newborn has controlled substances or controlled substance analogs in his or her bodily fluids.
- A description of the controlled substances or controlled substance analogs in the newborn's bodily fluids.
- A description of any effects the newborn is experiencing as a result of the pre-birth exposure to controlled substances or controlled substance analogs.

IV.A.3 Newborns Diagnosed with a Fetal Alcohol Spectrum Disorder (Required Services Report)

These are mandated reports based upon an examination and formal diagnosis by a physician. When such a report is received, the local child welfare agency must document the report as a Services Report and screen it in for services [Wis. Stat. § 146.0257(2) & Wis. Stat. § 46.238]. If, in addition to the report based upon the results of testing, the agency also receives reports of alleged maltreatment to the newborn subsequent to birth, those allegations are to be handled as reports of alleged maltreatment under Wis. Stat. § 48.981.

It is important to recognize that the diagnosis of infants with a fetal alcohol spectrum disorder alone is not enough to rise to the level of suspected or threatened physical abuse or neglect.

IV.A.3.a Definition

A newborn may be diagnosed with a fetal alcohol spectrum disorder after a physician makes the decision to evaluate a newborn "to diagnose whether the infant has that disorder" and the physician "diagnoses that an infant has a fetal alcohol spectrum disorder." In this event, "the physician shall report that diagnosis to the agency…" [Wis. Stat. § 146.0257(2)]. Upon receipt of the report, the agency "shall offer to provide appropriate services and treatment to the infant and the infant's mother…" [Wis. Stat. § 46.238].

There are, therefore, a number of different conditions that must all be present in order for the information contained in a report to be consistent with a report of a newborn diagnosed with a fetal alcohol spectrum disorder. The report must identify all of the following:

- A newborn.
- That the newborn was evaluated by a physician.
- That the physician diagnosed the newborn with a fetal alcohol spectrum disorder.

IV.A.3.b Information that Must be Gathered and Documented at Access

The Access professional should gather information that assists in making the judgment as to whether the conditions outlined in *IV.A.3.a. Newborns Diagnosed with Fetal Alcohol Spectrum Disorder Defined* are present. The following information must be gathered from the reporter, if known:

- Confirmation that a physician evaluated the newborn.

- Confirmation that the physician's evaluation of the newborn resulted in a diagnosis of the newborn with a fetal alcohol spectrum disorder.
- A description of any specific effects the newborn is suffering as a result of the pre-birth exposure to alcohol beverages.

It is important to recognize that the presence of controlled substances or controlled substance analogs in a newborn's system alone is not enough to rise to the level of suspected or threatened physical abuse or neglect. This remains true even where the infant is experiencing effects of pre-birth exposure to controlled substances or controlled substance analogs. Neither of these circumstances, whether alone or together, are enough to constitute an allegation of child abuse or neglect, absent additional information that supports allegations of abuse or neglect post-birth.

IV.B. Medical Neglect of Infants with Disabilities

Federal CAPTA requires that states that receive federal CAPTA funds have procedures within their CPS system "for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for:

1) coordination and consultation with individuals designated by and within appropriate health-care facilities;
2) prompt notification by individuals designated by and within appropriate health-care facilities of reports of suspected medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions); and
3) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from infants with disabilities who have life threatening conditions;" [§ 42 U.S.C. 5106a(b)(2)(C)].

The federal legislation was enacted to prevent discriminatory non-treatment of infants born with disabilities. Wisconsin's statutory definition of neglect under Wis. Stat. § 48.02(12g) extends protection to all children under the age of 18, both with disabilities and without disabilities, who are alleged to be neglected medically. Petitions may be filed under Wis. Stat. § 48.13(10) to initiate legal proceedings when appropriate .

IV.B.1 Definition

The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions. The term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or

medication) to an infant, when, in the treating physician's reasonable medical judgment any of the following circumstances apply:

- the infant is chronically and irreversibly comatose;
- the provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
- the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

Although these are reports of medical neglect, they differ from other reports of failure to provide needed medical care in the following ways:

- the child is generally a newborn or a child under the age of one year who has been hospitalized since birth,
- the child has one or more disabilities, especially a disability that might prompt questions about future "quality of life" or long-term comprehensive and expensive care needs, and
- the child has a life-threatening condition that requires immediate attention or intensive analysis of the feasibility of medical intervention.

These situations are very complex and emotional and require a specialized CPS response that is well coordinated with hospital personnel. Because of that, some of the actions and decisions at Access are slightly different than in other reports of medical neglect.

IV.B.2 Information that Must be Gathered and Documented at Access

In addition to the requirements in *III.A. Information that Must be Gathered and Documented in All Cases.* and *III.B. Additional Information to Gather and Document for Primary Assessment Cases*, the following information must be gathered from the reporter, if known:

- Description of the child's development, functioning and needs, highlighting the current life or health-threatening problem requiring treatment.
- Where the child is hospitalized and whether the child is being transferred to a perinatal center in another county.
- Description of the parents' views of the child and actions or response by the parents to their child's life-threatening condition.
- How the family might respond to intervention or treatment for the child.
- Description of any action taken or recommended by hospital medical personnel.
- Names and contact information of medical personnel with information relevant to the report.

If the reporter is the hospital coordinator for such reports or another hospital professional is knowledgeable about the child's situation, the following additional information must be gathered:

- The current health status of the child and the timeframe within which treatment to address the child's life-threatening condition is required.
- Whether life-sustaining treatment is recommended or currently implemented.
- Whether the hospital will sustain life-supporting care for the immediate future while the CPS Initial Assessment is underway.
- Whether food or water, either given orally or through an intravenous or nasogastric tube and medication to prevent deterioration or further damage will be provided or denied for the immediate future. If denied, the basis for the decision.

IV.C. Relinquishing Custody of a Newborn Child

IV.C.1 Definition

Wisconsin Stat. § 48.195(1m)(a) provides that "…a child whom a law enforcement officer, emergency medical services practitioner…, or hospital staff member reasonably believes to be 30 days old or younger may be taken into custody under circumstances in which a parent of the child relinquishes custody of the child to the law enforcement officer, emergency medical services practitioner, or hospital staff member and does not express an intent to return for the child…. A law enforcement officer, emergency medical services practitioner, or hospital staff member who takes a child into custody under this subsection shall, take any action necessary to protect the health and safety of the child, [and] shall within 24 hours after taking the child into custody, deliver the child to the intake worker under Wis. Stat. § 48.20…" Further provisions regarding the relinquishment of a newborn are found in Wis. Stat. § 48.195 and Ch. DCF 39, Adm. Code.

The person to whom custody of the newborn is given, according to statute and administrative code, is the court intake worker, whose powers and duties are outlined in Wis. Stat. § 48.067. The court intake worker may or may not be an employee of the local child welfare agency, and the Access professional receiving a report of a relinquished newborn may or may not be a court intake worker.

The Access report may come directly from the hospital, from the law enforcement agency, or from the court intake worker. If the Access report comes from the intake worker, the primary function of the Access report is to formally initiate the CPS case process that will result in placement of the newborn when he or she is released from the hospital and assure that safety and permanence for the child are achieved.

If the report comes from the hospital, emergency medical services provider, or law enforcement officer, the Access professional must function as the court intake worker, if authorized to do so, or assure that the intake worker receives the required information immediately. As local child welfare agencies vary in who functions as a court intake worker, local child welfare agencies may determine how much information the Access professional gathers and documents in order to assure that the requirements Wis. Stat. § 48.195 and Ch. DCF 39, Adm. Code, are fulfilled.

IV.C.2 Information that Must be Gathered and Documented by the Court-Appointment Intake Worker at Access

The person who originally took custody of the newborn must, within 24 hours, "transfer custody of the newborn to the intake worker in the county where the relinquishment occurred and provide, as requested by the intake worker, all of the information relating to the relinquishment obtained before, during and after the act of relinquishment," [Ch. DCF 39.09(3), Adm. Code]. This includes the following information:

- Current location of the newborn.
- The age or estimated age of the newborn.
- Name and title of the employee or agent who took custody of the newborn and the name and title of any other employee or agent present during the act of relinquishment.
- Date and time of the relinquishment and the address where the relinquishment occurred. If the actual address cannot be ascertained, the nearest cross street to the location where the relinquishment occurred is used.
- Any other relevant information relating to the relinquishment given to an employee or agent.
- Information on the general health of the newborn.
- Any non-identifying observations concerning the relinquishment made by an employee or agent who was present or involved in the relinquishment.
- A description of all actions taken by an employee or agent after the newborn was taken into custody, including all locations that a newborn was taken and the reason the newborn was taken to any of the locations.
- Whether the newborn is suspected to have been abused or neglected, and, therefore, whether the relinquishment is allowable.
- Whether a birth certificate has been filed and the name on the certificate.
- Whether the parent or person assisting the parent refused to accept any information offered.
- Whether the parent was informed about his or her right to remain anonymous and the confidentiality provisions related to relinquishment [Wis. Stat. § 48.195(2)].
- Whether the parent or person assisting the parent, if applicable, voluntarily provided any identifying information.
- If the parent(s) chose to be identified, the name, address and telephone number of the parent who relinquished the newborn and any person assisting a parent in the relinquishment.
- If the parent(s) chose to be identified or were willing to provide information on the ethnicity and race of the newborn, including whether (a) the newborn is of American Indian heritage and, if so, any tribal affiliation; (b) any information that could help determine eligibility for membership with a tribe; and (c) any additional information related to potential American Indian heritage.

IV.D. Child Death Due to Alleged Maltreatment When There Are No Other Children in the Household

IV.D.1 Information that Must be Gathered and Documented at Access

The following must be gathered from the reporter, if available:

- Nature of the alleged maltreatment and surrounding circumstances.
- Name, age, gender, race, and ethnicity of the alleged maltreater and of all members of the household and their relationship to each other, the family's address and phone number, and adults' places of employment, when applicable.
- Reporter's name, relationship to the family, motivation for reporting and source of information, if possible.
- Law enforcement involvement with the alleged maltreater, if known by the reporter.

V. Decisions at CPS Access

V.A. Decisions at CPS Access

The responsibility for making decisions at CPS Access is that of the local child welfare agency which has the primary responsibility as described in *II. Multi-County Reports*. The following decisions and supporting rationale must be documented in the family record:

- The local child welfare agency Access decision.
- Type of assessment required:
  - Primary Assessment (e.g. parent, foster parent, guardian, legal custodian, person who has resided in the child's dwelling, unknown maltreater);
  - Secondary Assessment (e.g. contracted caregiver or relative not sharing the child's dwelling);
  - Non-caregiver Assessment;
  - Required Services Report (see *I.A.2. Required Services Reports*, *IV.A1. Unborn Child Abuse*, *IV.A.2. Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids*, and *IV.A.3. Newborns Diagnosed with a Fetal Alcohol Spectrum Disorder*,); or
  - Discretionary Services Report (see *I.A.3. Discretionary Services Reports*)
- The assigned response time for the report.
- Local child welfare agency actions on all notifications or feedback outlined in *XI. Notifications*.

V.B. Additional Decisions Required for Possible Medical Neglect of Infants with Disabilities

The following decisions and supporting rationale must be documented in the family record:

- Any immediate actions necessary to keep the child alive or to prevent serious harm.
- The local child welfare agency's timeframe for contact with the principals of the report or with medical personnel.
- Local child welfare agency actions on all notifications or feedback outlined in *XI. Notifications*.

VI. The Screening Decision

For screening purposes, the information in the report is assessed based on the totality of circumstances, including the information from any previous CPS reports. A local child welfare agency accepts for Initial Assessment any report which creates a reason to suspect an unborn child has been abused or that a child under 18 years of age has been subjected to treatment which meets the definition of abuse or neglect as defined under Wis. Stat. § 48.02(1), or Wis. Stat. § 48.02(12g), or that a child has threatened with abuse or neglect.

This decision is based on the "reasonable person" standard. For example, a reporter need not have witnessed a child's specific injuries for there to be a reason to suspect that physical abuse has occurred or that the child is threatened with abuse. The reporter may be able to describe behavior towards the child that would cause a reasonable person to suspect injuries would result as described in Wis. Stat. § 48.02(1), or to believe such injuries are likely to occur.

Reports that do not constitute a reasonable suspicion of maltreatment but describe some behavior that the reporter or the local child welfare agency believes is inappropriate are not screened-in for an Initial Assessment, regardless of whether the local child welfare agency has extra time or CPS professionals to respond to such concerns. The authority to conduct Initial Assessments extends to those situations where the report provides information that a child may be subject to or threatened with maltreatment that meets the definition of abuse or neglect as defined under Wis. Stat. § 48.02(1), or Wis. Stat. § 48.02(12g). There are constitutional protections against unjustified intervention in family life.

VI.A. Screening of an Access Report

The initiation of an Initial Assessment (or "diligent investigation," as referenced in state statute) is defined as gathering and documenting all relevant information from reporters, making the screening decision, and, for screened-in reports, making the response decision (see *Appendix 5: Statutory Definitions of Child Abuse and Neglect*).

The screening decision is the formal decision to accept or not accept a report of alleged child maltreatment or other report (see *II. Multi-County Reports*) for further assessment. The screening decision must be documented in the family record.

The screening and the response time decisions must be completed within a timeframe that assures that the necessary response occurs, including immediate response when needed. The

screening and response time decisions must be completed, in all reports, within 24 hours of receipt of the report.

Upon receipt of a report, the local child welfare agency must immediately analyze the information to screen for information that indicates a more urgent response may be needed. If the information in the report indicates a more urgent response, the local child welfare agency must take necessary action to initiate a response in accordance with the child's needs and *VII. The Timeframe for Response*.

Supervisory approval (or that of her or his designee) is required for all screening decisions.

VI.A.1 Criteria for Screening-In an Access Report

See *Appendix 5: Statutory Definitions of Abuse and Neglect* for definitions of the maltreatment types in applying the criteria below.

- The child is under the age of 18,
- There is information that makes it possible to either identify or locate the child or family, and
- The allegations describe:
  - conditions, behaviors, or actions that create a reason to suspect that child abuse or neglect as defined in the statutes has occurred, or
  - behaviors or conditions that create reason to suspect a child has been threatened with abuse or neglect as defined in the statutes, or
  - behavior or an action or inaction that create a reason to suspect it may have resulted in maltreatment of a child, or
  - injuries to or a condition of the child that create a reason to suspect it to be a result of maltreatment, or
  - conditions, behaviors, or actions that a reasonable person would suspect resulted in a child's death due to maltreatment (regardless of whether there are other children in the home).

VI.A.1.a Criteria for Screening-In a Report of Unborn Child Abuse

If all of the following exist, a report of unborn child abuse should be screened-in by the local child welfare agency as a Child Protective Services Report:

- The allegations support a reasonable suspicion that there is an expectant mother who can be identified and located.
- That the expectant mother is using either alcohol beverages, controlled substances or controlled substance analogs.
- That the expectant mother is exhibiting a habitual lack of self-control in her use of at least one of these controlled substances or controlled substance analogs.
- That the habitual lack of self-control is being exhibited to a severe degree.
- That the expectant mothers use is creating serious physical harm to the unborn child.

- That the expectant mothers use is creating a risk that the child, once born, will be seriously harmed as a result of the exposure to the mother's use prior to birth.

VI.A.1.b Criteria for Screening-In a Report of Possible Medical Neglect of Infants with Disabilities

If all of the following exist, a report of possible medical neglect of infants with disabilities should be screened-in by the local child welfare agency as a Child Protective Services Report:

- The child is disabled and less than one year of age.
- The allegations describe conditions that are life-threatening or that seriously endanger the physical health of the child.
- The allegations describe life-threatening or health-threatening condition(s) that can likely be corrected or ameliorated through medical treatment.
- The parents are not authorizing the medical treatment or the medical evaluation necessary to make determinations for treatment decisions or authorize medical treatment.

Generally, local child welfare agencies receive reports of infants with disabilities being denied needed medical treatment only if someone in the family or the medical personnel does not agree with a decision to withhold treatment. Appropriate CPS determinations cannot be made without an Initial Assessment in accordance with the *CPS Access and Initial Assessment Standards* (see *Appendix 8: Model Procedures for Child Protective Services in Reports of Withholding Medically Indicated Treatment from Infants with Disabilities with Life-threatening Conditions*).

VI.A.2 Criteria for Screening-Out an Access Report

If one or more of the following exist, a local child welfare agency may screen out the report:

- The alleged victim is 18 years of age or older, or
- There is insufficient information to identify and locate the child or family, or
- The allegations, even if true, would not meet the statutory definitions of abuse or neglect or threatened abuse or neglect (see *Appendix 5: Statutory Definitions of Abuse and Neglect*), or
- The report of alleged abuse is by a person who is not a "caregiver" as defined in Wis. Stat. § 48.981(1)(am) (except in reports alleging Sex Trafficking of a Child (Wis. Stat. § 948.051) by an individual in a non-caregiving role [Wis. Stat. § 48.981(3)(c)1.a] which are required under statute to be screened-in), and the local child welfare agency has decided to not investigate such reports.

Except when one individual is in a caregiving role or when there are allegations of Sex Trafficking of a Child, reports of sexual contact, as defined in *Appendix 5: Statutory Definitions of Child Abuse and Neglect*, between peers can be screened-out as non-caregiver at the discretion of the local

child welfare agency. In determining whether to screen-out an allegation of sexual contact between peers where neither individual is in a caregiving role and there are no allegations of Sex Trafficking of a Child, local child welfare agencies should take into account the following considerations:

- Whether there is an allegation of assault, coercion, exploitation, or other condition consistent with Wis. Stat. § 940.225.
- Whether the minor's sexual activity with a peer creates a suspicion that he or she is exhibiting behaviors as a result of being sexually abused by another person.

All reports of sexual contact when the child is 15 years or under must be referred to law enforcement.

Reports of alleged maltreatment in a facility licensed under Ch. 48, Stats., that are screened-out for not meeting the definitions of child abuse or neglect or threatened child maltreatment under Ch. 48, Stats., **must** be referred to the licensing or regulatory agency for that agency's follow-up.

When reports of child maltreatment by a non-caregiver are received, agencies that do not investigate these reports must:

- Provide feedback to a mandated or relative reporter in accordance with Wis. Stat. § 48.981(3)(c)6 and 6m.
- Refer screened-out reports of alleged maltreatment under Wis. Stat. §§ 48.02(1)(b)–(f), to law enforcement.

The decision to screen-out an Access report must include justification and documentation of why the report does not warrant a CPS response. A report cannot be screened-out solely because the reporter is anonymous or because maltreatment information is not current. Screened-out reports are subject to all notification and feedback requirements as outlined in *XI. Notifications*.

When reports are screened-out at CPS Access, local child welfare agencies are encouraged to refer families to community resources, when appropriate. When a report is screened-out, but a local child welfare agency decides to make an offer of services, the local child welfare agency has initiated voluntary services (assessment and referral). This is an optional service; local child welfare agencies are not required under Wis. Stat. § 48.981 to provide outreach services to reports that are screened-out at Access.

VI.A.2.a Criteria for Screening-Out a Report of Unborn Child Abuse

If any of the following exists, and there are no reported conditions that identify threats to the safety of any other children in the home (see *CPS Safety Intervention Standards*, *Appendix 1: Present Danger* and *Appendix 4: Impending Danger*), a report of unborn child abuse may be screened-out by the local child welfare agency:

- There is insufficient information to make it possible to identify and locate the expectant mother.
- There is no credible information to support a suspicion that the individual is pregnant.

- There is no credible information to support a suspicion that the expectant mother is using either alcohol beverages, controlled substances or controlled substance analogs.
- There is no credible information to support a suspicion that the expectant mother is exhibiting a habitual lack of self-control in her use of at least one of these controlled substances or controlled substance analogs.
- There is no credible information to support a suspicion that the expectant mothers use is creating serious physical harm to the unborn child.
- There is no credible information to support a suspicion that the expectant mothers use is creating a risk that the child, once born, will be seriously harmed as a result of the exposure to the mother's use prior to birth.

VI.A.2.b Screening-Out a Report of Possible Medical Neglect of Infants with Disabilities

There are no specific criteria for screening out a report of possible medical neglect of infants with disabilities. A report that does not fit the definition in *IV. Reports with Special Information Gathering Requirements* would not automatically be screened-out, but rather is screened using the criteria under *VI.A.2. Criteria for Screening-Out an Access Report*.

VII. The Timeframe for Response

VII.A. Determining the Timeframe for Response

The timeframe for response is when a CPS professional will have initial face-to-face contact with the alleged child victim and/or parent(s)/guardian(s) to assess threats to a child's safety. Five business days from receipt of the report is the maximum timeframe for face-to-face contact with the child victim and/or parent(s)/guardian(s).

Response times are as follows:

- **Within 24 hours of receipt of report, including holidays and weekends:** A response time of within 24-hours is assigned when the information in the Access report indicates the presence of one or more 24-Hour Response Time Factors with no mitigating factors (*see Appendix 14: Response Time Critical Thinking Guide*).
- **Within five business days of receipt of report:** A response time of within five business days is assigned when there are no 24-hour Response Time Factors indicated; or a Within 24-Hour Response Time Factor is indicated but one or more mitigating factors are identified (*see Appendix 14: Response Time Critical Thinking Guide*).

For reports of alleged maltreatment in a foster home (or for an Independent Initial Assessment when the child is in out-of-home care (*see IX.B. Responsibilities of Each Agency*)), the maximum timeframe for face-to-face contact by the Investigating Agency is within three business days of receipt of report. If the 24-Hour Response Time Factors indicate a quicker response is needed, the Requesting Agency is responsible for making initial face-to-face contact and, when applicable, implementing a plan based on the immediate needs for the child's safety.

Supervisory approval (or that of his or her designee) is required for all timeframe for response decisions.

The specific family dynamics and social work judgment are critical in analyzing reported information and determining the response time. CPS Access may also utilize law enforcement, probation and parole, and other records as well as the Consolidated Circuit Access Program (CCAP) to assist in determining response time.

CPS professionals should utilize information in the report to determine when to respond within the assigned timeframe. It is considered best practice to respond as soon as practical and not wait until the end of the assigned timeframe to attempt contact with the family. There may also be situations that require immediate action, such as circumstances outlined in an agency's MOU with law enforcement.

VII.A.1 Unborn Child Abuse

The following must be considered:

- Alleged conditions that would require immediate hospitalization, detoxification, or intervention.
- The anticipated discharge date if the expectant mother is currently hospitalized.
- Reported conditions that impact any other children in the home (see *Appendix 14: Response Time Critical Thinking Guide*).

If conditions indicate a more urgent response is needed, the local child welfare agency must immediately contact the appropriate law enforcement agency to coordinate the response to the report. If the expectant mother is currently hospitalized, the local child welfare agency must work with hospital staff to jointly plan a discharge response.

VII.A.2 Possible Medical Neglect of Infants with Disabilities

A report of possible medical neglect of infants with disabilities requires an immediate CPS response. The response time in these reports is not the timeframe for face-to-face contact with the child or parent. Rather, it is the timeframe that contact must be made with hospital personnel to determine whether basic sustenance or life-supporting care is being provided and whether the hospital will sustain life-supporting care for the immediate future until CPS is able to intervene.

VII.A.3 Relinquishing a Newborn

These reports must be immediately screened-in and a response must be immediately initiated to comply with Ch. DCF 39, Adm. Code. Ch. DCF 39.09(3)(b), Adm. Code requires that "[u]pon accepting custody of a relinquished newborn, the intake worker shall immediately request that the appropriate law enforcement agency investigate and determine, through" the Wisconsin Clearinghouse for Missing & Exploited Children & Adults, "the National Center for Missing and Exploited Children, and any other national and state resource, whether the newborn has been

reported as a missing child. The intake worker shall document the request and results of the search in the usual and customary manner of performing intake services under Ch. 48, Stats."

The CPS Access professional, if functioning as the intake worker, must complete the above responsibility. Otherwise, The CPS Access professional must immediately notify the intake worker of the report so that the intake worker can fulfill this requirement.

VII.A.3.a Request from a Parent to Have the Child Returned

If the local child welfare agency receives a request from a parent who relinquished a newborn, or from the other parent of the relinquished newborn, stating he or she would like to have the newborn returned to them, the request must be screened-in as a Services Report (see *XXIV: Newborn Relinquishment and Reclaiming*).

When individuals initiate the process to reclaim a newborn whose custody was relinquished, the report should be documented on a Services Report, as there are no allegations of possible maltreatment.

VIII. Exceptions

VIII.A. Applicability

An exception is not the same as a waiver. A waiver means that the requirement need not be followed. An exception means that a specific requirement will be met in an alternative fashion.

Exceptions can be made to these Standards only when the justification and the alternative provision to meet the requirement(s) is documented in the family record and approved by a supervisor or her/his designee. Exceptions cannot be granted for requirements of state statutes, federal law or regulation, or administrative rules.

In Secondary Assessments and Non-Caregiver Assessments, if the reported information suggests that the alleged maltreater has intermittent access to a child, contact with the parent/guardian is made the same day the report is received to assure that there is an adequate plan for protection. This contact may be a telephone call to the parent/guardian.

The response time in reports where there is a child death due to alleged maltreatment and there are no other children in the household refers to the timeframe in which contact will be made with law enforcement to gather necessary information and does not refer to the timeframe for face-to-face contact with the alleged maltreater.

IX. Independent Initial Assessment

IX.A. Applicability

An Independent Initial Assessment is required when the local child welfare agency receives a report of alleged maltreatment or threatened harm of a child if:

- the child is placed in a foster home which the local child welfare agency has licensed, or
- the child is placed under the supervision of the local child welfare agency in a foster home licensed by another local child welfare agency, tribal agency, or private Child Placing Agency, group home, or residential care center, or
- the child is in the household of an agent or employee of the local child welfare agency required to investigate under Wis. Stat. § 48.981(3)(c), or
- because of the relationship between the local child welfare agency and the subject of the report there is a substantial probability that the local child welfare agency would not conduct an unbiased assessment.

If a local child welfare agency receives a report of alleged maltreatment in a foster home licensed by a local child welfare agency in another county, a tribal agency, or a private Child Placing Agency and there are no children placed in the home by the local child welfare agency receiving the report, an Independent Initial Assessment is not necessary unless there is a substantial probability of bias.

IX.B. Responsibilities of Each Agency

When requesting an Independent Initial Assessment, the requesting local child welfare agency must:

- Respond to the report immediately, when warranted.
- Refer the CPS report to a supervisor (or designee) of another local child welfare agency to make the screening and response time decision within 24 hours.
- Make all notifications required in *XI. Notifications*, when applicable.

There are times when a local child welfare agency is able to make the screening and response time decisions but not able to conduct the Initial Assessment. In these circumstances, collaboration is essential among the local child welfare agencies.

When completing an Independent Initial Assessment, the consulting/assessing local child welfare agency must:

- Assure the safety of the child, when applicable.
- Make all notifications required in *XI. Notifications*, when applicable.
- Make the screening and response time decisions within 24 hours.
- Document the screening and response time decisions as well as the content of the consultation.
- Adhere to the screening and response time decision made by the consulting local child welfare agency, if other than the investigating local child welfare agency.

In reports of maltreatment alleged within an out-of-home care placement, the response time cannot exceed 3 days.

IX.C. Substantial Probability of Bias

When the occupation of the alleged maltreater is such that it necessitates an ongoing, working relationship with the local child welfare agency or such a relationship is likely, an Independent Initial Assessment may be appropriate. For example, allegations of abuse by a sheriff's department's detective may warrant an Independent Initial Assessment in some counties due to the nature of that individual's or his or her employing agency's working relationship with CPS professionals.

Substantial probability of bias may also be introduced if the subject of the Access report is an immediate family member of an employee or volunteer of the local child welfare agency. In instances where the child of an employee or volunteer of the local child welfare agency is alleged to have been maltreated by someone outside of the family, the need to assess parental contribution to the incident and parental ability to provide protection may introduce substantial probability of bias.

The presence of widespread publicity surrounding a report does not, in itself, justify an Independent Initial Assessment. There must be additional information to suggest that the relationship between the subject and the local child welfare agency is such that substantial probability of bias is introduced. An Independent Initial Assessment is not appropriate simply because the alleged maltreater or the alleged victim are well known in the community. An Access report involving an official whose office entails a relationship with the local child welfare agency (for example, the chair of the social services committee) should be referred outside the county. The mere fact that the alleged maltreater is a public official, however, would not necessarily justify an Independent Initial Assessment.

If local child welfare agencies are unclear in making determinations related to the probability of bias, consultation with the local child welfare agency attorney is appropriate.

IX.D. Alleged Maltreatment in a Foster Home

Screening decisions of reports of alleged maltreatment by a foster parent, licensee, or other household member of the foster home are often complex. Foster children are in their current placement as a result of the action of the local child welfare agency. This heightens the responsibility of the CPS system to assure that the quality of care children in foster care receive is appropriate and that they are safe.

Foster parents are at higher risk than adults in the general population of being reported for maltreating a child even though their substantiation rates are lower. Many concerns that come to the attention of local child welfare agencies, though intended by the reporter as reports of child maltreatment, are more appropriately characterized as possible licensing rule violations. Thus, the screening decision for these reports may include:

- Screen-out: no alleged maltreatment
- Screen-out: no alleged maltreatment, rule violation
- Screen-in: Independent Initial Assessment

X. Reports on Open Cases and Multiple Reports

X.A. Repeated or Multiple Reports on Open Cases

A local child welfare agency may receive repeated or multiple reports on the same family, generally alleging the same concerns or escalating concerns. In those instances, one or more of the following may apply:

- When a new CPS report is received by the local child welfare agency on a family currently open for an Initial Assessment or in Ongoing Services (see *Appendix 5: Statutory Definitions of Abuse and Neglect*), the information documented and the screening decision must be in accordance with *VI. The Screening Decision*.
    - The timeframe for response to a new report that is screened-in must be in accordance with *VII. The Timeframe for Response*.
- When a CPS report has not yet been screened and the local child welfare agency receives another report, this information is added to the current CPS report.
    - The timeframe for response must consider the totality of the information contained in the combined report.
- When CPS Access receives information from another reporter that is the same as the current Access report (e.g. physical abuse, even though the second reporter may add more detail) the report must be screened-out and documented in eWiSACWIS as "multiple report on the same incident."
    - If the family is receiving Ongoing Services, the information must be forwarded to the Ongoing Services professional for case planning purposes.

Reports that are screened-in or out as a new CPS report must be linked to the existing eWiSACWIS case. If either Access report indicates the child, family, or out-of-home care provider is enrolled in the Safe at Home program, the screened-in report must exclude the participant's physical address and shall retain the Safe at Home documentation, including the household identification number. If a CPS professional identifies an additional form of maltreatment during the course of an Initial Assessment, or an additional or different maltreater, this information is documented in the Initial Assessment and does not constitute a new report of alleged maltreatment.

The response to new CPS reports on families open for ongoing case management services may be made by the Ongoing Services professional (or in her or his absence another Ongoing Services professional), may be referred to an Initial Assessment professional for the response, or may be teamed and responded to by an Ongoing Services professional and an Initial Assessment professional.

XI. Notifications

XI.A. Required Notifications for Applicable Case Types

The local child welfare agency must notify the following agencies and in the following circumstances that a report has been received:

- Law Enforcement within 12 hours in reports of suspected or threatened sexual abuse, including reports of suspected or threatened sex trafficking (also, refer to the local Memorandum of Understanding for guidance).
- State licensing specialist in reports of alleged maltreatment in a residential care center for children and youth, group home, shelter care facility, childcare program, or other facility or entity regulated by Chapter 48 of the state statutes.
- Any other local child welfare agency that has a child placed in the facility identified in the CPS report by the next business day (Independent Initial Assessment only).
- The licensing or regulating agency/agencies of a report of maltreatment in a facility it has licensed by the next business day.
- Placing local child welfare agency, if alleged child victim is in an out-of-home care placement that was opened by another local child welfare agency.
- Division of Safety and Permanence (DSP) when there is an "incident of egregious abuse or neglect" or an "incident of death or serious injury," as defined in Wis. Stat. § 48.981(7)(cr).
- The local child welfare agency where the infant resides or the local child welfare agency where the infant is hospitalized, if not the same local child welfare agency that received the report, in reports of medical neglect of infants with disabilities.
- The tribal agent for the appropriate tribe or band of all CPS reports and child welfare services reports received (screened-in and screened-out) pertaining to a child or unborn child whom the agency knows to be an Indian child or Indian unborn child.
    - The notice must be made within 24 hours from the receipt of the report and include the eWiSACWIS case ID. To meet the 24-hour deadline, notice must be given by fax, phone, or e-mail. Electronic notification as described here satisfies this requirement for an Indian child or Indian unborn child whose tribal status in Person Management indicates they are a member of, eligible for membership, or have pending membership status with a federally recognized tribe that is located in Wisconsin.
        - An automated email generated through eWiSACWIS will be sent to the federally recognized tribe or tribes in Wisconsin that are listed in Person Management and the local child welfare agency indicating a CPS report or a child welfare services report has been received. This automated email notification does not remove the need for the child welfare agency to comply with all other requirements pertaining to families involving Indian children contained within this policy and in ICWA/WICWA. (DSP Numbered Memo 2023-12)
    - Pursuant to Wis. Stat. § 48.981(7)(a)2, the local child welfare agency is able to disclose information to the appropriate staff of a tribal social services department to support tribal child welfare professionals in clearly identifying the

child, participating in a county-tribal collaborative response whenever possible, and assisting with the delivery of prevention and supportive services. Agencies may provide copies of CPS or Child Welfare Services Reports to tribes when requested.

- Tribal governments may have their own children's codes that differ from the Wisconsin Children's Code, as well as their own standards that differ from the Wisconsin CPS Standards. Local child welfare agency professionals should share information with the tribe regarding reasons and considerations in their decision-making process to enhance collaboration and mutual understanding.

For reports involving Safe at Home participants, the CPS professional(s) shall consult with the agency's legal counsel with respect to compliance with the Safe at Home statute in providing any required notifications.

All notifications not generated automatically by eWiSACWIS must be documented in the family record.

XI.B. Feedback to a Mandated Reporter When the Access Report is Screened-Out

Local child welfare agencies are required to inform a person required to report under Wis. Stat. § 48.981(2)(a) what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report. CPS Access has the responsibility for providing feedback to mandated reporters in all reports. The supervisor or her/his designee must provide feedback to mandated reporters within 60 days after the agency receives the report [Wis. Stat. § 48.981(3)(c)6].

XI.C. Feedback to a Relative Reporter When the Access Report is Screened-Out

A relative, other than a parent, who makes a report of alleged maltreatment may make a written request to the local child welfare agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is subject of the report. The supervisor or her/his designee must, within 60 days after receiving the report or 20 days after the local child welfare agency receives the written request from a relative, whichever is later, inform the relative reporter in writing of what action, if any, was taken (unless a court order prohibits the disclosure) and of the duty to keep the information confidential as provided under Wis. Stat. § 48.981(7), and of the penalties for failure to do so [Wis. Stat. § 48.981(3)(c)6m].

SECTION 2: CPS INITIAL ASSESSMENT PROFESSIONAL AND SUPERVISOR RESPONSIBILITIES

Introduction

The CPS Initial Assessment Standards outline requirements for three types of assessments: Primary Assessments, Secondary Assessments, and Non-Caregiver Assessments. The Standards are more prescriptive and detailed for Primary Assessments and allow for more discretion in Secondary Assessments and Non-Caregiver Assessments. The type of assessment is based on the relationship between the child and the suspected maltreater because the role of CPS is different in reports of maltreatment by parents/guardians versus people outside of the family home. In addition, these Standards recognize that some reports of maltreatment require collaboration with other professionals, such as law enforcement, tribes, or childcare licensing staff. The nature of this collaboration is described throughout this document.

Primary Assessments

Primary Assessments are used when the alleged maltreatment is by parents/guardians, caregivers, others living in the child's household, or an unknown maltreater. Primary Assessments prioritize child safety, using the process to understand and respond to child and family strengths and needs. This responsibility requires the skillful use of a CPS professional's authority to engage family members with empathy, respect and cultural humility. The primary purpose of the assessment is to gather information about child safety, the alleged maltreatment, and family dynamics. Ultimately, CPS professionals work with families to identify and connect families to necessary resources and services.

Secondary/Non-Caregiver Assessments

In response to reports of maltreatment by individuals outside the family, CPS utilizes secondary assessments or non-caregiver assessments. Secondary Assessments are utilized for alleged maltreatment by individuals who provided temporary care, supervision or exercised control over the child, outside or within the home; licensed childcare program staff; teachers and school personnel; staff of licensed child welfare facilities; and relatives who don't regularly reside with the child, such as grandparents. Non-Caregiver Assessments are utilized when the alleged maltreatment is by individuals who do not have a caregiving role with the child and do not live in the child's home.

For Secondary and Non-Caregiver Assessments, the CPS role is to collaborate with and support parents or caregivers in providing protection and services for the child, when necessary. Some parents may not need assistance from CPS while others may experience the incident as a crisis and want support in meeting their child's needs. Continued involvement by CPS may include providing information about the effects of maltreatment, providing information about and making referrals to community services, or advocating with other systems (e.g. law enforcement).

Additional Considerations

Assessment of maltreatment by someone outside of the household includes, as part of the CPS purpose, assessing whether there is any parental contribution to the maltreatment. If the CPS professional finds that the parents contributed to the maltreatment, such as through lack of

supervision, emotional maltreatment, or neglect of the child's needs in response to the maltreatment, the parental actions become a primary focus of the assessment. As such, the CPS professional should proceed with a Primary Assessment.

Local child welfare agencies sometimes receive reports of suspected maltreatment in which there is no specific suspected maltreater. These reports are legitimate and are accepted by the local child welfare agency, barring another appropriate reason for screening out the report. If there is no specific suspected maltreater, CPS professionals should proceed using the Primary Assessment process. If, during the course of the Initial Assessment, a specific maltreater is identified who is not a member of the child's household, the CPS professional follows the Secondary Assessment or Non-Caregiver Assessment process.

XII. Requirements Applicable to All Initial Assessments

XII.A. Role of the CPS Professional

The role of the CPS professional in conducting an Initial Assessment is to:

- Explain the Initial Assessment process to the family including the purpose of the interview(s) and how information gathered during the assessment will be used (e.g. to provide assistance, to inform court proceedings, etc.). Describe collaboration that may be needed with other agencies (e.g., law enforcement, regulatory agency).
- Engage and collaborate with families in a culturally responsible manner.
- Inquire about every child's Native American heritage at initial contact and subsequent contacts until such status is determined and documented.
- Assist families in identifying and connecting with community resources and services, as needed, during the course of the Initial Assessment process.
- Identify, assess, and analyze threats to child safety (see the CPS Safety Intervention Standards).
    - When safety threats are identified assist parents in managing any threats to child safety or take protective action, when necessary, to control threats to child safety (see the CPS Safety Intervention Standards).
- Identify and collaborate, as appropriate and necessary, with law enforcement, medical providers, licensing, regulatory, or administrative agencies.

For relevant Initial Assessments, the following responsibilities are also required:

- Continuously comply with the Federal Indian Child Welfare Act (ICWA) and State Wisconsin Indian Child Welfare Act (WICWA) (See XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview)
    - Make and document diligent efforts to confirm a child's tribal eligibility in the required eWiSACWIS ICWA Record forms.
    - Make active efforts to prevent the breakup of the Indian family, including collaborating with the Indian child's tribe(s).

- For Secondary Assessments, collaborate with facility (e.g., congregate care, childcare, youth correctional facility) staff to assist in recognizing, understanding, and managing threats to child safety and providing protection, when needed.

At the conclusion of all Initial Assessments, the following decisions must be made and approved by a supervisor:

- Final conclusions regarding the Safety Decision in the Safety Analysis.
- Determine the need for the family to be served in CPS Ongoing Services (voluntary or court-ordered).
- Make a maltreatment determination and when appropriate (See XX.B. Requirements in Making Maltreatment Determinations), a maltreater determination (See XX.D. Criteria for Substantiating a Specific Person as a Maltreater).

For all Initial Assessments, document the results of the assessment in the eWiSACWIS Initial Assessment template.

Engaging in conversations and explaining the Initial Assessment process with the family can assist the CPS professional in engaging and building rapport, and create a foundation of mutual trust, respect, and professional accountability. DCF resources are available for the professional to assist with these conversations and to share with the family. It is significant that some of these resources were developed in collaboration with parents who have lived expertise, alongside with county and tribal child welfare agency stakeholders. Information for Parents at the Start of a CPS Initial Assessment (also available in Spanish & Hmong) was developed specifically to explain the Initial Assessment at the first point of meeting with parents/guardians. Additional DCF resources along with professional judgment will assist in having conversations with the family over the course of the Initial Assessment process. Simply providing verbal or written resources to the family one time, particularly during an event experienced by the caregiver as a traumatic event and without an opportunity for conversation, will likely be insufficient and will deepen distrust and create barriers to building rapport and promoting engagement.

XII.A.1 Role of the CPS Professional: Indian Child Welfare Act

As an Initial Assessment professional, your role is crucial in ensuring compliance with the ICWA and WICWA requirements. This requires you to identify whether you are working with an Indian child and providing active efforts to prevent the removal of an Indian child and the breakup of the Indian family. Should a removal be required, placement preferences and active efforts to provide remedial services to reunify the family apply. If a court proceeding is initiated, federal and state statute, as well as the applicable federal regulations, further identify casework requirements. This can include proper notice of an initial court hearing, identifying a Qualified Expert Witness (QEW), and engaging the tribal agent in your assessment and case planning. These are just a few of the requirements of ICWA and WICWA. Refer to 25 USC §§ 1901–1923, Wis. Stat. § 48.028, and 25 CFR Part 23 for further information. You can also refer to the WICWA Online Resource or the WICWA Online Resource for Case Workers for more information.

In 48.028(4)(g), The Wisconsin Indian Child Welfare Act (WICWA) defines active efforts as an ongoing, vigorous and concerted level of case work. This is higher level of case work than reasonable efforts and is considered the gold standard of case work.

The CPS professional must continuously comply with all nine active effort requirements throughout the Initial Assessment, regardless of the Indian child's tribe level of involvement. (see XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview)

One of the nine active efforts requirements under WICWA is to include the tribal child welfare professional in assisting with assessing the family and any subsequent case planning. The CPS professional must contact, communicate, and collaborate with the Indian child's tribe(s) as soon as they become aware the child is or may be an Indian child. Tribal child welfare professionals must be invited to join as partners during the Initial Assessment process and beyond. Collaborating with tribes and tribal child welfare professionals in a meaningful way is also part of being culturally responsible. The level of tribal involvement is at the tribe's discretion, but does not negate the CPS agency's responsibility to continuously comply with ICWA/WICWA.

XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview

In all aspects of CPS intervention, an Indian child's parents, Indian custodian, tribe, and where appropriate, extended family members, must be informed and engaged in the assessment and case planning process. The federal and state Indian Child Welfare Acts, 25 USC §§ 1901–1923 and Wis. Stat. § 48.028 and applicable federal regulations (25 CFR Part 23) must be followed. Under federal regulations, if there is reason to know that a child is an Indian child, the child should be treated as an Indian child for the purpose of ICWA until the child's eligibility status is confirmed. Local child welfare agencies should consult with the agency attorney to assure that any applicable ICWA and WICWA requirements are met.

XII.B.1 Federal and State Indian Child Welfare Act Requirements: Initial Assessment

- Identification – Under federal regulations, the local child welfare agency must make diligent efforts to verify whether the child is an Indian child. See 25 CFR § 23.107(b)(2); see also Wis. Stat. § 48.02(8g) and 25 USC § 1903(4) (defining "Indian child").
    - All families, regardless of their Indian status, should be asked about Native American ancestry; document the inquiry by completing a Screening for Child's Status as Indian located in the ICWA record in eWiSACWIS.
    - Everyone included in the Initial Assessment should be asked about Native American ancestry, including parents and any extended family members.
    - Submit a request to any and all potential tribes to confirm the child's eligibility status; the ICWA record in eWiSACWIS has three forms (Request for Confirmation of a Child's Indian Status, Screening for Child's Status as Indian, and the Child's Biological Family History) that can be sent to each tribe to submit this request.

- Active Efforts – When working with an Indian child, all active efforts requirements must be followed, which includes engaging and partnering with any tribe the child might be affiliated. See Wis. Stat. § 48.028(4)(g); 25 USC § 1912(d); 25 CFR § 23.2. Active efforts must be provided to:
  - prevent the break-up of the Indian family, and
  - reunify an Indian family.
- Notice – If a petition is filed on behalf of an Indian child, the local child welfare agency must provide notice to the Indian child's parent, tribe(s), Indian custodian, and/or the Bureau of Indian Affairs (BIA). See Wis. Stat. § 48.028(4)(a); 25 USC § 1912(a).
- Placement Preferences – When an Indian child cannot be returned to his or her parent(s) or Indian custodian, placement preferences must be followed as required by Wis. Stat. § 48.028(7) and 25 USC § 1915. Under WICWA, the active efforts standard also requires the local child welfare agency to notify and consult with extended family members to provide structure and support, assure cultural connections, and serve as a placement resource for the child. See Wis. Stat. § 48.028(4)(g)1.c.
- CPS professionals must consider placement preferences as outlined in Wis. Stat. § 48.028(7) and Active Efforts as outlined in Wis. Stat. § 48.028(4)(g) when Temporary Physical Custody (TPC), Delegation of Powers, or a Voluntary Placement Agreement (VPA) are needed to ensure child safety (unless there is good cause to depart from the placement preferences as provided in Wis. Stat. § 48.028(7)(e)). Attending to these statutory requirements when using separation as a means of controlling for child safety in the protective planning process will help avoid unnecessary moves and promotes placement stability of Indian children should future formal placement action and/or court involvement occur. See *CPS Safety Intervention Standards*, *II.B.2. Active Efforts and Protective Planning with Indian Children*).

XII.C. Cultural Practices

Cultural values and practices play an important role in assessing individual and family functioning. It is important for CPS to be responsive to and understand the beliefs, interpersonal styles, attitudes, languages, and behaviors of families. It is not expected that CPS professionals become experts in all cultures; however, it is their responsibility to approach families in a culturally responsible manner. To limit the effects of bias and promote accurate information gathering in Initial Assessments, CPS professionals should utilize open-ended questions and approach each family with acceptance of a diversity of cultural norms, traditions, and beliefs, etc. help CPS professionals gain a deeper understanding, leading to improved rapport, trust, and ultimately, more effective interventions and services. There are likely to be cultural differences in child rearing practices, family dynamics, and communication styles, which, if misunderstood, could affect the information-gathering process and lead to biased or inaccurate conclusions. While cultural variations in child-rearing practices exist, it is important to acknowledge that none are inherently superior to another.

Information gathered should be understood within its cultural context. For example, several American Indian tribes have an extended family system of child rearing. Many adults take an

interest in the children's well-being and different adults may take responsibility for different aspects of child rearing. In this context, it may be erroneous to conclude that the parents are not fulfilling their role and are being neglectful. For more information on engaging families in a culturally responsible manner, see Appendix 12: Engaging Families in the Initial Assessment Process.

XII.D. Working with Individuals with Alternative Communication Needs

Throughout the Initial Assessment, the CPS professional must assure that involved individuals are able to participate by making arrangements to have an adult interpreter or a translator available to assist with communication, when applicable (see *Appendix 2: Resources for Working with Individuals with Limited English Proficiency (LEP)* and *Appendix 10: Guidance for Working with Individuals with Disabilities*).

CPS professionals should strive for the same level of engagement with individuals regardless of communication needs or styles. For more information on engaging families, see APPENDIX 12: Engaging Families in the Initial Assessment Process.

XII.E. Safe at Home

Safe at Home is a statewide cost-free address confidentiality program for victims of acts or threats of abuse and those who fear for their safety or the safety of their child. The program, which is administered by the Wisconsin Department of Justice (DOJ), provides participants with an assigned legal substitute address, which is a forwarding mailing address that they may use for all purposes instead of their actual address (defined as the residential street address, school address, or work address, or any portion thereof, of a program participant). The program went into effect on April 1, 2017. The state statute that created Safe at Home, which includes details regarding program eligibility and administration, is Wis. Stat. § 165.68. More information about Safe at Home is available at www.safeathomewi.gov.

XII.E.1 Documentation

In response to the Safe at Home Address Confidentiality program pursuant to Wis. Stat. § 165.68, CPS professionals shall take necessary steps to assure a Safe at Home participant's actual address remains confidential.

If, during the course of an Initial Assessment, a CPS professional is informed a child, family, and/or out-of-home care provider is enrolled in Safe at Home, the CPS professional shall document this information in eWiSACWIS. In order to protect the participant's actual address, proper documentation of the enrollee's Safe at Home status shall occur as soon as possible.

If CPS professionals have questions about Safe at Home requirements or compliance, CPS professionals and their agencies shall consult with their legal counsel for further guidance.

XII.F. Confidentiality of CPS Records

CPS reports and records must only be disclosed in accordance with Wis. Stat. § 48.981(7).

XII.G. Collaboration with Law Enforcement

In cases of suspected or threatened sexual abuse as defined in Wis. Stat. §§ 48.02(1)(b)–(f), including sex trafficking, the local child welfare agency must coordinate the planning and execution of the Initial Assessment with the sheriff or policy department.

With respect to all other allegations of child maltreatment, the local child welfare agency must collaborate with law enforcement as outlined in its Memorandum of Understanding (MOU). State statutes require that each local child welfare agency "adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities," [Wis. Stat. § 48.981(3)(a)3] (see *XXV. Collaboration with Law Enforcement Agencies* and *Appendix 4: Coordination with Law Enforcement Agencies*).

XII.H. Advising the Alleged Maltreater of the Allegations

In response to a report of child abuse or neglect or the threat of abuse or neglect pursuant to Wis. Stat. § 48.981, the CPS professional must assure that the alleged maltreater of the child is aware of the CPS purpose and must inform the individual of the allegations made against him or her at the time of initial contact (e.g., face-to-face, telephone, letter). If the alleged maltreater is a minor, the parent(s), guardian, or other adult protecting the minor's interest and the minor must be advised of the allegations against the minor at the time of the initial contact.

In cases where there is no clear alleged maltreater or the maltreater is unknown, CPS must assure at the first contact that each individual interviewed is aware of the CPS purpose, the purpose of the interview, and provide a general explanation of the allegations and concerns. This does not include individuals interviewed to gather collateral information or the child victim.

When CPS and law enforcement conduct a joint interview or contact the alleged maltreater, the requirement for CPS to notify the alleged maltreater of the allegations made against him or her still applies.

Notification of the allegations need not be in detail (e.g., what the child has stated, dates of alleged incidents, specifics about any instruments used, who may have witnessed the incident) but should be sufficient so that the alleged maltreater understands what CPS is assessing and that a purpose of the interview is to gain more information. In some cases, it may be appropriate to consult with law enforcement about the CPS requirement to provide notification to the alleged maltreater and how this may be done without jeopardizing any law enforcement efforts.

If the alleged maltreater refused to be interviewed, the CPS professional should document the date or dates the attempt was made and a description of the attempt(s) and of the alleged maltreater's response.

The requirement to notify the alleged maltreater does not apply when the local child welfare agency screens out a referral but contacts the family for the purpose of offering voluntary agency services or referral to voluntary community services.

XII.I. Foster Homes Licensed by Another Local Child Welfare Agency, a Tribal Agency, or a Private Child Placing Agency, or Other Reports if there is a Substantial Probability of Bias

When the Initial Assessment is for the foster parent(s), licensee, or other household member of a foster home licensed by a local child welfare agency in another county, a tribal agency, or a private Child Placing Agency, the local child welfare agency in the county where the home is located is responsible for coordinating an Independent Initial Assessment. The local child welfare agency responsible for the Initial Assessment must provide the placing and licensing agencies the completed assessment.

If there are no children placed in the home by the local child welfare agency in the county in which the foster home is located, an Independent Initial Assessment is not necessary (unless there is a substantial probability of bias) and that local child welfare agency is responsible for the entire Initial Assessment.

When it becomes necessary to remove children placed in the home due to identified Placement Danger Threats, the local child welfare agency conducting the Initial Assessment must coordinate the removal with the placing local child welfare agency/agencies. If any children have already been moved by the licensing or placing local child welfare agency, the placing local child welfare agency, if it has the legal authority, is responsible for interviewing the children and providing the information from the interviews to the agency that will be conducting the Initial Assessment.

If the foster home is licensed by a tribal agency, the local child welfare agency should make immediate contact with the tribe. The tribe may have internal policies and procedures or a parallel process to initiate as well.

See *IX.A. Independent Initial Assessment Applicability* for additional information regarding the Independent Initial Assessment Standard at Access.

XII.J. Responsibilities of Local Child Welfare Agencies in Independent Initial Assessments

Both local child welfare agencies are responsible for meeting the requirements outlined in *XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements*: Overview, as applicable.

The requesting local child welfare agency must:

- Assure that Placement Danger Threats to child safety are assessed and, when necessary, take protective action.
- Facilitate any court action necessary to provide protection or services to the child and family.
- Provide ongoing services, when needed.

The assessing local child welfare agency must:

- Conduct the Initial Assessment in accordance with the *Child Protective Service Access and Initial Assessment Standards*.
- Inform the parent/guardian who the child was removed from of the case finding determination.
- Provide information to mandated or relative reporters pursuant to Wis. Stat. § 48.981(3)(c)6 and Wis. Stat. § 48.981(3)(c)6m.
- Conduct the appeal process.

XII.K. Court Intervention

When court intervention is needed, the process must be initiated within 60 days from the receipt of the report. The local child welfare agency must adhere to Ch. 48, Stats., to petition and provide services to abused and neglected children, when needed.

XII.L. Feedback to a Mandated Reporter

Local child welfare agencies are required to inform a person required to report under Wis. Stat. § 48.981(2), what action, if any, was taken to protect the health and welfare of the child who is the subject of the report. The local child welfare agency has the responsibility for providing feedback to mandated reporters in all reports.

The supervisor or her or his designee must provide feedback to mandated reporters within 60 days after the agency receives the report [Wis. Stat. § 48.981(3)(c)6].

XII.M. Feedback to a Relative Reporter

A relative, other than a parent, who makes a report of alleged maltreatment may make a written request to the local child welfare agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is subject of the report.

If that request is made, the supervisor or her/his designee must, within 60 days after it receives a report or within 20 days after the local child welfare agency receives the written request from a relative, whichever is later, inform the relative reporter in writing of what action, if any, was taken (unless a court order prohibits the disclosure) and of the duty to keep the information confidential as provided under Wis. Stat. § 48.981(7), and of the penalties for failure to do so [Wis. Stat. § 48.981(3)(c)6m].

XII.N. Supervisory Approval and Documentation

All requirements related to a Primary Assessment, Secondary Assessment, or Non-Caregiver Assessment must be approved by the supervisor or her/his designee and documented in the family record within 60 days from the receipt of the report.

XIII. Consent Requirements

XIII.A. Authority to Interview a Child or Visually Observing a Child's Body for Evidence of Maltreatment

Wisconsin Stat. § 48.981(3)(c)1. states in part that "[t]he agency may contact, observe or interview the child at any location without permission from the child's parent, guardian or legal custodian if necessary to determine if the child is in need of protection or services, except that the person making the investigation may enter a child's dwelling only with permission from the child's parent, guardian or legal custodian or after obtaining a court order permitting the person to do so." CPS professionals do not have the same legal authority to interview children on certain private property that they have in public settings. The Seventh Circuit U.S. Court of Appeals has narrowed the application of Wis. Stat. § 48.981(3)(c)1. to apply only when a child is in a "public setting" unless there is appropriate consent or a court order or emergency or exigent circumstances.

The requirements for consent to interview a child or to visually observe a child's body for evidence of maltreatment differ for private and public settings. In order to constitute legal consent, any consent given by the parent or other person is to be given freely and without intimidation, threat of arrest, or threat of removal of the child from the home. When consent is needed, a CPS professional explains to the parent, guardian, or legal custodian, or another person in whom the parent has vested the control of the child, such as a school or child care official, the CPS process and the reasons for interviewing the child or visually observing specific areas of a child's body. When seeking consent to interview a child, consent should also be sought to visually observe the child's body under clothing in the event information indicates it is appropriate to do so for the Initial Assessment. Local child welfare agencies should consult their agency attorney if there are questions on how to proceed with interviewing a child or visually observing his/her body for evidence of maltreatment.

XIII.B. Cases in which a Parent, Guardian, Legal Custodian, or Indian Custodian is the Alleged Maltreater

This category includes the following types of cases:

- Alleged maltreatment by a parent, guardian, legal custodian, Indian custodian, kinship care provider, or an unknown maltreater.
- Alleged maltreatment by an adult residing regularly or intermittently in the child's household who has any kind of childcaring or parenting responsibilities.

- Cases where the parent, guardian, legal custodian, Indian custodian, or kinship care provider is alleged to have facilitated or failed to act to prevent the alleged maltreatment by another individual.

XIII.B.1 Access to a Child in a Public Setting when the Parent, Guardian, Legal Custodial, or Indian Custodian is the Alleged Maltreater

When a child is in a public setting and there is reasonable suspicion that the child has been maltreated or is in danger of being maltreated, he or she can be interviewed in that setting without consent of the parent, guardian, legal custodian, Indian custodian, or any adult who is responsible for the child in that public setting.

If the alleged maltreatment is by an individual listed above or an unknown person and the child is in a public setting (e.g., public school, public childcare), consent, emergency or exigent circumstances, or a court order are not required to visually observe the child's body for evidence of maltreatment.

Any visual observation of a child's body for evidence of maltreatment must be related to the specific information reported to CPS or the information gathered from the child as a part of the CPS interview process or from other collateral sources of information. Prior to observing a child's body for evidence of maltreatment, all other reasonable avenues of gathering information must be explored to determine the necessity of the visual observation of the child.

More intrusive types of physical examination involving medical personnel can be done when there is authority to take a child into custody under Wis. Stat. § 48.08, with valid consent, where there is probable cause to believe that he child has been maltreated or in immediate danger of being maltreated, or there are emergency circumstances or exigent circumstances, or with a court order. When possible, more intrusive physical examinations should be done only after consultation with a supervisor or, if appropriate, the agency attorney.

XIII.B.2 Access to a Child in a Private Setting when the Parent, Guardian, Legal Custodian, or Indian Custodian is the Alleged Maltreater

If a child is on private property, including the child's dwelling, one of the following is necessary for the child to be interviewed:

- Consent of a parent, guardian, legal custodian, Indian custodian, an individual with delegated authority to consent to the interview, or another person with whom the parent has vested control of the child.
- Probable cause to believe that emergency circumstances or exigent circumstances exist.
- A court order for the interview or for physical custody of the child.

If the child is in his or her dwelling, the CPS professional can enter the child's dwelling only with:

- Appropriate consent of the parent, guardian, legal custodian, Indian custodian, or another individual who has been vested with control of the premises.
- A court order permitting the CPS professional to do so [Wis. Stat. § 48.981(3)(c)1.].
- Probable cause to believe that emergency or exigent circumstances exist.

If the alleged maltreatment is by a parent, guardian, legal custodian, Indian custodian, or an unknown person and the child is in a private setting, the CPS professional must have reason to believe that the child has been maltreated or one of the following conditions must be met in order for the CPS professional to visually observe the child's body for evidence of maltreatment:

- Consent of a parent, guardian, legal custodian, or the person in whom the parent has vested control of the child (e.g., private school principal, childcare administrator) has been obtained.
- Probable cause exists to believe that there are emergency or exigent circumstances.
- A court order has been obtained.

Any visual observation of a child's body for evidence of maltreatment must be in accordance with a court order of be related to the specific information reported to the local child welfare agency, the information gathered from the child as a part of the CPS interview process, or from other collateral sources of information. Prior to observing a child's body for evidence of maltreatment, all other reasonable avenues of gathering information must be explored to determine the necessity of the visual observation of the child.

If a child is in his or her home and emergency circumstances exist and removal from those surroundings is necessary to prevent serious harm, a CPS professional is not prohibited from entering the home to take the child into custody and take the child to safety. Under these circumstances, a child may be taken into custody solely for the purpose of securing the child's safety and immediate care.

Besides the home, private settings include, but are not limited to:

- parochial schools,
- other non-public schools,
- some childcare locations, and
- other private property settings in which a parent has placed the child for care.

Private settings do not include private property where a parent/guardian would have no reasonable expectation of privacy: for example, a shopping mall or a restaurant open to the public.

XIII.B.3 When Consent is Not Given to Access the Child in a Private Setting when the Parent, Guardian, Legal Custodian, or Indian Custodian is the Alleged Maltreater

When consent to interview in a private setting is not given, the CPS professional cannot simply require the official in charge of the private setting to produce the child for an interview based on a declaration on the part of the CPS professional that there are emergency or exigent circumstances. If consent is not given or there is no court order, the CPS professional must first consult with a supervisor, supervisor's designee, or legal counsel to determine if there are emergency or exigent circumstances that would allow the CPS professional to proceed with the interview by taking the child into custody as provided under Wis. Stat. § 48.08(2) unless time and the nature of the emergency or exigent circumstances do not permit prior consultation.

Once the child is in custody or the local child welfare agency has a court order, the CPS professional is able to either interview the child in the private facility, if allowed by the official, or transport the child for an interview as appropriate at the local child welfare agency, law enforcement agency, child advocacy center, medical facility or other suitable place.

XIII.C. Cases in which the Parent, Guardian, Legal Custodian, or Indian Custodian is not the Alleged Maltreater

XIII.C.1 Access to a Child when the Parent, Guardian, Legal Custodian, or Indian Custodian is not the Alleged Maltreater

When the parent, guardian, legal custodian or Indian custodian is not the alleged maltreater, regardless of whether the child is in a public or private setting, the CPS professional can only interview the child or visually observe his/her body for evidence of maltreatment with one of the following:

- Consent of a parent, guardian, legal custodian, or Indian custodian.
- The existence of emergency or exigent circumstances.
- A court order for the interview or for physical custody of the child.

In these cases, when the parent or other person in the child's household acting in the parent role is not the alleged maltreater and is not alleged to have facilitated or been complicit in the alleged maltreatment, authority to interview the child or visually observe his/her body for evidence of maltreatment comes from the parent, guardian, legal custodian or Indian custodian.

Unless the parent, guardian, legal custodian or Indian custodian is acting in a way that endangers the child, they should determine who has access to the child, absent emergency or exigent circumstances or a court order. When the parent, guardian, legal custodian, or Indian custodian consents to have the child's body visually observed for evidence of maltreatment and also states a preference for the structure or process for how this should occur, the CPS professional follows their preference or consults with a supervisor or supervisor's designee before proceeding unless time and emergency or exigent circumstances do not permit prior consultation or there is a court order.

If the parent, guardian, legal custodian, or Indian custodian is not available, the CPS professional should wait until he or she can speak with the parent, guardian, legal custodian or Indian custodian to receive permission to interview the child or visually observe his/her body for evidence of maltreatment unless emergency or exigent circumstances do not permit or there is a court order. In circumstances where there is an immediate need to take appropriate protective action for that child or another child, unless time and the circumstance do not permit prior consultation, the CPS professional should consult with a supervisor, supervisor's designee, or agency attorney to decide the appropriate next steps (e.g., contacting a person with delegated authority to obtain permission to visually observe a child's body for evidence of maltreatment) or determine if there are emergency or exigent circumstances or to obtain a court order.

The parent, guardian, legal custodian, Indian custodian, or child may withdraw consent at any time during the Initial Assessment process. If this occurs, the CPS professional stops the interview or

visual observation of a child's body for evidence of maltreatment and consults with a supervisor, supervisor's designee, or agency attorney to discuss the appropriate next steps. If there are emergency or exigent circumstances, the CPS professional should consult with a supervisor, supervisor's designee, or agency attorney, if possible, before taking further action.

XIII.D. Visually Observing a Child's Body for Evidence of Maltreatment

Except for instances of visually observing an infant or toddler's body as described in *XIII.C.1. Procedure for Visually Observing a Child's Body for Evidence of Maltreatment*, CPS professionals should not examine injuries to a child's genital areas, buttocks, or the breast area of female children. This type of exam should be conducted by medical personnel.

In all other circumstances, the CPS professional should have another adult in the room with him or her. If the child is at school, for example, the child should be asked which school personnel, such as the school nurse, social worker, or a teacher, he or she would prefer to be present while his/her body is visually observed for evidence of maltreatment.

When a report involves physical abuse or sexual abuse, collaboration with health care professionals increases the thoroughness and accuracy of information available to make the critical decisions about child safety. Health care professionals are able to examine a child completely for injuries that might be missed in typical visual observation of a child's body performed in the field by a CPS professional. Furthermore, the health care professional has special expertise in making a determination about whether injuries are consistent with the history and developmental abilities of the child. Note that when a report involves sexual abuse, including sex trafficking, the local child welfare agency and law enforcement must coordinate the planning and execution of the Initial Assessment.

Infants or toddlers should be examined by a health care professional, if there is legal authority, since seemingly small or insignificant injuries may be a warning sign of undetected maltreatment. Small bruises and injuries (such as point tenderness over a fracture) are easily missed and carry great significance for this age group.

These procedures for visually observing a child's body for evidence of maltreatment should be followed in all circumstances regardless of who the alleged maltreater is and whether it is a public or private setting.

XIII.D.1 Procedure for Visually Observing a Child's Body for Evidence of Maltreatment

Consent to interview a child does not constitute consent to visually observe a child's body for evidence of maltreatment. When the CPS professional has proper consent or other proper authority (such as probable cause, the presence of emergency or exigent circumstances, or a court order), any visual observation for evidence of maltreatment must be reasonably related to the nature of the report and additional information received.

After receiving required consent, when there is probable cause to believe a child has been maltreated or in immediate danger of being maltreated, when emergency or exigent circumstances exist, or with a court order, the CPS professional is able to examine the child's

body for evidence of maltreatment. The CPS professional must use the following protocol when visually observing a child's body for evidence of maltreatment:

Infants, Toddlers and Preschoolers

When the child's parent, guardian, legal custodian, or Indian custodian is present, the CPS professional will ask them to undress the child, including removing the child's diaper. When the parent is not present, the CPS professional will request that an individual with whom the parent has entrusted the child's care (e.g., childcare provider) to undress the child, including removing the child's diaper.

School-Aged Children

When the child's parent, guardian, legal custodian, or Indian custodian is present, they must be asked to remove or help remove the child's clothing if the child is not old enough to undress him/herself so the alleged injuries can be examined. The CPS professional must ask older children to lift their own clothing, consistent with this policy.

The CPS professional will seek consent from the child to examine the exposed areas of the child's body, such as the head, neck, face, arms and legs for evidence of an observable injury. If the report or other information leads a CPS professional to suspect that the child may have sustained an injury as a result of child maltreatment on an area of the body that is currently covered by clothing, the CPS professional must seek consent from the child to visually observe specifically identified areas of the child's body by requesting the child:

- pull up his/her pant legs,
- pull up his/her sleeves,
- roll down his/her collar to the shoulder,
- pull up his/her shirt to examine the back or stomach area of a male or female child or chest area for a male child, or
- remove his/her shoes, socks, or tights.

All Children

If injuries are observed on the child's body or if there is information that leads a CPS professional to believe that there is reasonable cause to suspect that a more thorough examination is warranted (e.g., in any situation where a child may have sustained an internal or otherwise undetectable injury, injuries to a child's genital areas, buttocks, or breast area of a female child), the CPS professional must consult with a supervisor or supervisor's designee to determine whether a more thorough exam should be conducted in a medical setting (e.g., Child Protection Center (CPC), Children's Hospital Emergency Room), unless time and emergency or exigent circumstances do not permit prior consultation.

If a medical exam is needed, the CPS professional must either:

- have a parent, guardian, legal custodian, or Indian custodian transport the child to the appropriate medical facility,
- obtain the consent of a parent, guardian, legal custodian, or Indian custodian to transport the child,

- initiate action to take the child into physical custody if there is probable cause that the child has been maltreated or in immediate danger of being maltreated or that the child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from the surroundings is necessary under Wis. Stat. § 48.08(2),and proceed as required by Ch. 48, Stats., or
- obtain a court order under Wis. Stat. § 48.19(1)(c).

XIV. Primary Assessment Standard

XIV.A. Applicability

The Primary Assessment is required when the alleged maltreatment or threats to child safety are by or contributed to by a parent, stepparent, the child's guardian or legal custodian, an Indian custodian, a kinship care provider, foster parent, or any individual who resides regularly or intermittently in the same dwelling as the child. This assessment is also used when the alleged maltreater is unknown but there is a reasonable cause to suspect that the alleged maltreater may be a person in the child's home.

XIV.B. Inter-Agency Initial Assessments

There are instances when more than one local child welfare agency is involved in conducting a Primary Assessment, generally when caregivers (e.g., parents, guardians, Indian custodian) live in different counties. In these instances, local child welfare agencies collaborate to assure that the requirements of these Standards are met.

The following protocol will address most instances that involve multiple counties. There may be situations, however, when counties do not agree on how to proceed with the Initial Assessment. Counties will then need to have discussions to determine how to collaboratively complete the Initial Assessment to assure child safety and the best interest of the child and family.

XIV.B.1 Protocol for Inter-Agency Primary Assessments

When a child resides primarily in one county in Wisconsin and the alleged maltreatment occurred in another county in Wisconsin, the following protocol applies:

- The local child welfare agency in the county where the child primarily resides will assume the lead in coordinating the Initial Assessment and must collaborate with the local child welfare agency in the county agency where the alleged maltreatment occurred to assure that the requirements of these Standards are met. The Initial Assessment will focus on the home where the alleged maltreatment or threats to child safety occurred. In circumstance where the child resides in both homes 50% of the time, the local child welfare agency in the county where the alleged maltreatment occurred, and safety threats exist will assume primary responsibility.
- Either local child welfare agency has the authority to conduct the entire Initial Assessment. The local child welfare agency that assumes responsibility for the Initial Assessment must notify the other local child welfare agency of the outcome.

When an Inter-Agency Initial Assessment is initiated, the following protocol must be followed.

Local Child Welfare Agency with Primary Responsibility must:

- Contact the local child welfare agency in the county where the alleged maltreatment occurred to coordinate and develop a plan to complete the Initial Assessment. This includes the timing and responsibility for each required or collateral interview. Each local child welfare agency will interview the parties residing or currently present in its county.
- Document in the family record the agreed upon plan, identifying each local child welfare agency's responsibilities.
- When appropriate, report the allegations of maltreatment to law enforcement in the county or locality where maltreatment occurred and coordinate any joint interviews as necessary.
- Initiate any court action necessary to provide protection or services to the child and family.
- Make all decisions related to the maltreatment determination.
- Provide notification of the final outcome of the Initial Assessment to the parent/guardian, any identified maltreater, and the local child welfare agency where the maltreatment occurred.

Local Child welfare Agency with Secondary Responsibility must:

- Collaborate with CPS professionals from the local child welfare agency in the county where the child primarily resides to develop a plan to complete the Initial Assessment. Complete all agreed upon required or collateral interviews/home visits and share this information with the primary local child welfare agency in the Initial Assessment.

Inter-county reports of child abuse and neglect require collaboration, communication, and coordination between the local child welfare agencies involved as well as law enforcement and other professionals. These reports are a priority for both local child welfare agencies involved to assure that children are safe, and families receive necessary services and supports. As such, neither local child welfare agency is conducting "courtesy interviews" for another local child welfare agency; rather the result is an inter-agency Initial Assessment that meets all state statutes, standards, and policies. This type of collaboration may result in one local child welfare agency opting to complete all related case activities. This decision may be based on such factors as a current or previous relationship with the child or family or that all parties live in the same municipality but in two counties.

XIV.B.2 Tribal Coordination

Early communication and collaboration between local child welfare agencies and tribal child welfare agencies enhance coordinated response to reports of child maltreatment. The local child welfare agency is encouraged to make it a priority to conduct an inter-agency Initial Assessment with the Tribe where appropriate. The local child welfare agency should consult with the agency attorney as needed to determine the agency's legal responsibilities.

XIV.C. Interview Contacts

As part of Primary Assessments, all household members must be interviewed to increase the likelihood of gathering accurate and thorough information. The order in which CPS professionals conduct these interviews must take into consideration the preservation of information gathered, the timeframe for response, and the need to minimize anxiety that is experienced by the child and family. Often, contacting the parent/guardian(s) first may be the appropriate way to start the Initial Assessment process, as it is likely to reduce trauma to both the child and the parent/guardian, creates an opportunity to enlist the parent/guardian in the assessment process, and increases engagement with families. To the extent permitted under the consent requirements, see XIII. Consent Requirements, an interview of a child alone, without parental consent or knowledge, should occur in circumstances where preserving information integrity, free from other's influence, is integral to the assessment of child safety. Regardless of whom the Initial Assessment process begins with, face-to-face contact is required with the following individuals:

- Parents/guardians of children
- All children in the home
- Non-maltreating adult(s), if any
- Alleged maltreater

If a child in the family home(s) is too young to be interviewed, then the child must be observed by the CPS professional. In addition, if a child in the family home(s) has a disability that affects his or her ability to communicate, arrangements must be made to assist in communicating and gathering information (see *Appendix 10: Guidance for Working with Individuals with Disabilities*).

A visit to the home(s) where the alleged maltreatment may have occurred or threats to child safety may exist is required. When conducting a Primary Assessment, refer to *XIII. Consent Requirements*.

Although the protocol generally calls for interviewing each family member in private, there are times when the presence of others may be needed to gather accurate information and reduce the anxiety of the individual being interviewed (see *Appendix 10: Guidance for Working with Individuals with Disabilities*).

Non-Household Parent

The CPS professional, in accordance with Wis. Stat. § 48.981(3)(c), must interview the alleged child(ren) victim's parents, if possible, in the course of a primary Initial Assessment. Therefore, an interview with a parent who does not live in the alleged child(ren) victim's home, regardless of their legal custody status, must be actively attempted by the CPS professional.

The decision to interview a parent who does not reside in the home of the alleged child(ren) victim can be a sensitive decision for the CPS professional and for the family. Any concerns about domestic violence and the safety of the child, parent/guardian, or other family members should be carefully considered before attempting to interview and engage a parent not residing in the home of the child. The nature of domestic violence is complex and should be approached on a

case-by-case basis. For more information on strategies for navigating assessments where domestic violence is or may be present, see Appendix 3: Domestic Abuse and the Domestic Violence Handbook for Wisconsin Child Welfare Professionals.

The decision on the order of interview contacts will depend on a variety of factors that will be specific to each family's circumstances, the allegations, and other information available when the CPS report is received. Discussions between the CPS professional and a supervisor or designee can help to critically think through these factors and come to a collaborative decision.

Non-household parents, including non-custodial parents, may have valuable, unique family information that is important to consider throughout the Initial Assessment. A non-household parent, for example, may be aware of the child's American Indian heritage, CPS history in another state, past interventions with the family, specific child needs or family strengths, important cultural considerations, or other family resources. Non-household parents are likely to have personal interests in their children and may have a legal right to know about their children's health and safety needs.

Interviewing a parent who does not reside in the home of the child does not have to be in person. The decision regarding how to engage the parent not residing in the home of the child should be weighed throughout the Initial Assessment process, should take into consideration the safety and well-being of the household parent, and should include supervisory consultation.

CPS professionals should inform the household parent of the need to and intent of interviewing the non-household parent prior to doing so, seeking to understand expected or unexpected implications of contacting the non-household parent, except in situations where preserving information is necessary to assess for safety of the child(ren). This conversation may reveal concerns about the safety of household members if the non-household parent were involved. In such instances, the CPS professional should consult with their supervisor to determine the necessity of interviewing the non-household parent.

XIV.D. Required Information from Collateral Contacts

Collateral sources of information must be contacted by the CPS professional during the course of the Initial Assessment if the collateral is known or believed to have important and relevant information related to child safety and/or the alleged maltreatment. The CPS professional should partner with the family to identify possible sources of information. Collateral sources of information, depending upon the information necessary to carry out child safety assessment and alleged maltreatment, may include but are not limited to:

- Physicians
- Teachers
- Treatment/Service Providers
- Law Enforcement
- Neighbors
- Natural Supports
- Other Community Supports

Although a release of information is not always required during the Initial Assessment, it is considered best practice to, when possible, obtain a release of information prior to contacting the collateral source of information. This is to enhance engagement with the family and foster collaboration. A release of information is not required for the CPS professional to share information with an Indian child's tribe, per 48.981(7)(a)2.

XIV.E. Information to Gather and Analyze

During the Initial Assessment process, the CPS professional must gather, analyze, and document a sufficient amount of relevant information to be able to make quality decisions related to safety, maltreatment determination, and case disposition. This information, with input from the family, is also used to identify needs and match the family with services to prevent re-entry into the child welfare system. When conducting a Primary Assessment refer to *Appendix 1: Information to be Gathered and Analyzed in Primary Assessment Cases* and *CPS Safety Intervention Standards.*

Information must be gathered and analyzed in the following areas:

- Documentation of the child's Indian status in accordance with *XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview*.
- Family Functioning
- Parenting Practices
- Enhanced and diminished parent/caregiver protective capacities (see *CPS Safety Intervention Standards*, *Appendix 5: Parent/Caregiver Protective Capacities*)
- Adult Functioning
- Child Functioning
- Maltreatment
- Surrounding Circumstances

If an Initial Assessment is being conducted for a newborn testing positive for controlled substances or controlled substance analogs or suffering from a Fetal Alcohol Spectrum Disorder because there are also allegations of maltreatment to the newborn subsequent to birth (see *IV.A.2. Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids* or *IV.A.3. Newborns Diagnosed with a Fetal Alcohol Spectrum Disorder*) the assessment must also include any effects of identified substances on the newborn and a focus on the mother's use of controlled substances and the impact on her to care for the newborn.

XIV.F. Child Death Due to Maltreatment and No Other Children in the Household

When a child dies due to alleged maltreatment and there are no other children in the household, the CPS professional gathers information related to the maltreatment and surrounding circumstances. The CPS professional does not have to interview the alleged maltreater when there is sufficient and credible information from other sources (e.g., medical personnel, law

enforcement) to provide the basis for making a maltreatment or maltreater case finding determination.

Critical information about child deaths due to maltreatment and alleged maltreaters should be recorded in eWiSACWIS in the event the individual applies for a foster care or childcare license or has children in the future and there is a new report of alleged child maltreatment.

XIV.G. Conclusions of the Initial Assessment

As part of concluding an Initial Assessment, the CPS professional must make the decisions listed below. When ICWA/WICWA applies, these decisions should be made through communication, coordination, and collaboration with the Indian child's tribe. The level of tribal involvement is at the tribe's discretion, but regardless of how a tribe exercises their involvement, it is the CPS agency's responsibility to continuously comply with ICWA/WICWA.

The CPS professional must make the following determinations:

- Whether there are any identified threats to child safety.
- Whether the parent(s)/guardian(s) are able to provide protection when there are identified threats to child safety (protective capacities).
- When CPS intervention is necessary, what response can control safety threats and promote the parent's/guardian's ability to provide protection.
- When the family requires continued intervention in CPS Ongoing Services, whether to provide these services through a voluntary approach to such intervention.
- When voluntary CPS intervention is not possible, whether involuntary continuation of CPS intervention necessitates involvement through an informal disposition agreement, consent decree, CHIPS petition, or other formal legal actions.
- The maltreatment determination for any identified allegations assessed as part of the Initial Assessment.
- The maltreater determination for any substantiated maltreatment allegations, when applicable.

The CPS professional must also take the following actions at the conclusion of the Initial Assessment:

- Communicate the results of the Initial Assessment to the parents/guardians, including each of the determinations made above.
    - When protective action has been taken, the CPS professional must inform the parent of the responsibility of the agency to provide CPS Ongoing Services when a child is unsafe (see *CPS Safety Intervention Standards*).
- Initiate the process for a substantiated maltreater to appeal this determination, when applicable.
- Supporting the parent(s)/guardian(s) to access community resources, as needed.

The conclusion of the Initial Assessment is often the final opportunity to engage the family. A CPS professional's approach at the conclusion of the Initial Assessment can have a positive impact on the family, promote long-term stability, and reduce the likelihood of future CPS involvement. CPS professionals should continue to approach this phase with cultural humility, sensitivity, and empathy, acknowledging the stress the family likely experienced during the Initial Assessment. For more information on engaging families, see Appendix 12: Engaging Families in the Initial Assessment Process.

Decisions regarding child safety include a collaborative process between the CPS professional, the parent/guardian, their family or close supports, supervisors, an Indian child's tribe, and in some circumstances, legal professionals. Protective action and planning must be viewed on a continuum from least intrusive to most intrusive. CPS professionals should take all possible and necessary actions when working with every family to prevent their child's removal, as it is the most intrusive form of action and planning.

In some instances, legal action is necessary to further support protective action. Legal action may involve the court system; however, as with protective action, the least intrusive legal action should always be considered. The following are some examples of legal actions:

- Informal Disposition Agreement (IDA)
- Consent Decree
- CHIPS petition

Child welfare professionals should consult with their supervisor and/or legal representatives when determining which legal action is most appropriate. Additionally, when working with children and families who have Native American heritage, it is required to involve the tribe or tribes as soon as possible when taking protective or legal actions. It is necessary to adhere to ICWA and WICWA requirements throughout the process.

XIV.H. Family Interaction

When children are placed in out-of-home care during the Initial Assessment process, face-to-face family interaction must occur within 5 business days of placement in out-of-home care. The Initial Assessment professional, or their designee, is responsible for assuring that family interaction then continues as supported by a formal Family Interaction Plan (FIP).

The Family Interaction Plan must include:

- Frequency and location of the face-to-face family interaction.
- Plans for transportation for those involved in the family interaction.
- Who will be present.
- Arrangements for monitoring or supervising, if needed.
- For Indian children, arrangements to provide natural and unsupervised family interaction in the most natural setting that can ensure the Indian child's safety must be made [Wis. Stat. § 48.028(4)(g)1.d.].

Unless prohibited by order of the court, CPS must make diligent efforts to facilitate face-to-face family interaction based upon the child's developmental needs; however, it must occur no less than weekly. See the *Ongoing Services Standards*, *Family Interaction for Child Protective Services Cases When a Child is in Out-of-Home Care* for more information.

Additionally, children shall have other family interaction (e.g., telephone calls, letters, etc.) with their parents and siblings at least weekly. When siblings are not placed together, sibling face-to-face interaction must occur monthly, at minimum.

Additional Requirements:

- Family interaction can only be prohibited by the agency if a court finds that continued contact is not in child's best interests.
- Family interaction can be decreased or suspended if there is evidence that the contact is contrary to the safety of the child(ren) and this information is documented in the record.
- Family interaction cannot be used as a punishment, reward, or threat for a child.
- The agency cannot restrict or suspend family interaction as a means to control or punish a parent for failure to work with agency or community providers or to comply with conditions set forth by the agency or court.
- The out-of-home care provider cannot prohibit family interaction.

In situations where biological parents reside in separate households, biological fathers have historically been left out or minimized in family interaction planning. Efforts should be made to include both the child's mother and father in family interaction planning. In some cases, this may require the development of separate plans due to issues of safety, confidentiality, domestic violence, etc.

XIV.I. The Transition Process

The transition process is not a singular event. Instead, it is a sequence of internal and external communications between CPS professionals, families, and designated tribal child welfare professionals. It is a critical time period where children, families, and tribal workers will typically be introduced to their new CPS professional(s) and its purpose is for families, providers, as well as local child welfare and tribal CPS professionals to clearly articulate roles and expectations. A constructive transition process sets a positive tone for children and families who are involved in the child welfare system. Successful and positive collaboration between Initial Assessment, Ongoing services, and/or tribal professionals also helps to ensure necessary and critical information is passed from one CPS professional to the other.

The transition process includes the following:

- Sharing and understanding information collected and decisions made during the Initial Assessment process, ongoing case management services, or other points in the case process.
- Ensuring a clear understanding of roles and responsibilities of CPS professionals and formal and informal family supports.

- Identifying additional agency, cultural, and community resources, services, and supports to the family.
- Confirming the CPS professional has had conversations with the family about the IA process and has shared the available resource with the family titled "An Introduction to Child Welfare for Parents, by Parents" Or another similar document of the agency's choosing.
- Preparing the newly assigned CPS professional for the initial meeting with the family.

XIV.I.1 Applicability

This Standard applies to all families, except youth justice in-home families, when there is a transition from one CPS professional to another CPS professional. This includes, but is not limited to:

- Internal agency transitions.
- Changes of venue from one county to another county.
- Transitions from a county to an Indian Child Welfare Agency.
- Joint supervision situations.
- Transitions from a county child welfare professional to a contracted public adoption child welfare professional.
- Transitions from a contracted public adoption child welfare professional to a county child welfare professional.

XIV.I.2 Supporting Families and Agency Requirements during the Transition Process

The CPS professional initiating the transition maintains responsibility for case management until the conclusion of the transition process. This includes:

- managing and overseeing the Safety Plan, as applicable,
- managing and overseeing the Family Interaction Plan, as applicable,
- communicating with a child and their parents/guardian/legal custodian/Indian custodian/state guardian, and
- communicating with assigned tribal CPS professionals, formal and informal service providers, and out-of-home care providers.

When there is more than one CPS professional assigned to a case, those CPS professionals shall determine who has the responsibility for the items listed above.

XIV.I.3 Preparing for Transition

The newly assigned CPS professional reviews documentation to prepare for the transition staffing. Full disclosure of information and determinations about the family assists the newly assigned CPS professional in assuming safety and case management responsibilities. The following documentation will be reviewed prior to the transition staffing as applicable:

- All pertinent assessments
- Protective and/or Safety Plan

- Safety Analysis
- Case Plan and/or Permanency Plan
- Court Report and any other court related documentation,
- Confirming Safe Environments,
- Family Interaction Plan
- Child and Adolescent Needs and Strengths tool (CANS) results
- Out-of-Home Care Support Plan

XIV.I.4 Conducting the Transition Staffing

In situations where the Initial Assessment process requires a family to be opened for ongoing services, the transition staffing must occur within seven working days from the ongoing services supervisor's receipt of an approved Initial Assessment in eWiSACWIS. The transition staffing must include the initial assessment professional, the ongoing child welfare professional, and the tribal child welfare professional for families involving an Indian child. For all other types of transitions, the CPS professionals must schedule a transition staffing when possible.

The following must be discussed at the transition staffing:

- Documentation, gaps in information, and decisions made.
- Child needs, including a summary of medical, mental health, and school information, as available.
- Whether a child has been found to be an Indian child in accordance with the Wisconsin Indian Child Welfare Act (WICWA); and if so, the steps taken to notify and involve the Indian child's tribe.
- All attempts to comply with WICWA including but not limited to, placement preferences, active efforts, notification of any initial hearing, any requests for discussion regarding a Qualified Expert Witness (QEW).
- Any existing court orders, upcoming court obligations, and timeframes for the completion of court reports.
- Status of involvement of any non-household parent and the CPS professional's due diligence to locate and involve them.
- Status of the Birth to 3 referral or services when maltreatment has been substantiated involving a child under the age of three.
- Status of the child, family, or out-of-home care provider's enrollment in the Safe at Home program.

XIV.I.5 Additional Requirements When a Child Is Unsafe (CPS Case Type)

Safety management is the primary responsibility of the local child welfare agency when a CPS case type is transitioned. The transition process clarifies the status of Impending Danger Threats to the CPS professional receiving the information who will examine the Safety Plan to ensure it is sufficient, feasible, and sustainable. During the transition staffing between the Initial Assessment and Ongoing professionals the following must be discussed:

- Identified Impending Danger Threats
- The safety analysis and whether it resulted in the least intrusive, sufficient, feasible, and sustainable Safety Plan.
- The identified safety services/actions and whether they continue to be available at the needed frequency to control each Impending Danger Threat.
- The continued suitability, role, and commitment of safety service providers.
- The presence of existing protective capacities and general family strengths.
- The status of parent/guardian and family involvement in the Safety Plan.

In addition to the transition staffing, a Safety Plan discussion must occur between the current and receiving CPS professionals, with parents/guardians and family members; and with providers involved in the Safety Plan. Local child welfare agencies may decide to include parents/guardians, family members, and providers in the transition staffing. If that is not the case, a separate Safety Plan discussion must occur in order to ensure understanding of the Safety Plan. The local child welfare agency may practice discretion when determining the method of meeting (i.e., face-to-face or virtual) in order to best consider the needs of the family. This discussion could occur during the Ongoing professional's first contact with the family, which is to occur within seven (7) days of the initiation of ongoing services (see *Ongoing Services Standards*) or sooner if necessary. The purpose of this Safety Plan discussion is to ensure understanding of the Safety Plan and includes a review of:

- The identified Impending Danger Threats
- The roles and responsibilities of everyone involved in the Safety Plan
- The sufficiency, feasibility and sustainability of the Safety Plan

XIV.I.6 Additional Requirements When a Child is Placed in Out-of-Home Care

When a child is placed in out-of-home care through a Petition for Protection or Services (CHIPS) order or through a Voluntary Placement Agreement (VPA), the transition staffing must focus on the status of the child's current placement and also include the Family Interaction Plan, including sibling contact, and whether it is sufficient to meet the developmental needs of the child.

The following must be discussed:

- Information about the safety of the placement setting (Confirming Safe Environments).
- The most recent face-to-face contacts with the child, parent/guardian, and out-of-home care provider.
- Efforts to locate and place the child with relatives, like-kin, siblings or other adults identified by the parent/guardian.
- The results of the Child and Adolescent Needs and Strengths tool (CANS) and any implications for service needs for the child or out of home care provider.
- The status of the placement and licensing process for any relative caregivers, as applicable.

- Efforts to ensure that the child has regular opportunities to engage in age or developmentally appropriate activities following the Reasonable and Prudent Parent Standard.
- The child's eligibility for independent living services, as applicable.
- Efforts to confirm whether the child is a member or eligible for membership in a tribe.
- Compliance with the Wisconsin Indian Child Welfare Act (WICWA) placement preferences under Wis. Stat. § 48.028(7) for eligible Indian children unless good cause exists to depart from the placement preferences as provided in Wis. Stat. § 48.028(7)(e) and whether required notification has been sent to the tribe. For additional WICWA information and requirements, refer to the DCF Wisconsin Indian Child Welfare Act Desk Aid.

Current and previous supervisors and tribal or private agency child welfare professionals, as applicable, should participate in the transition staffing to assist in understanding and clarifying outcomes and decisions. Early collaboration must occur with the tribal child welfare agency with focus on ensuring that WICWA and ICWA requirements are met. In some situations, tribal child welfare agencies will not assign a worker at the onset of ongoing services but will ask that information regarding the child's case be shared to inform future decisions.

Transition to a CPS professional may occur during or following the completion of the initial assessment. In some situations, the family will transition to ongoing services, but will not transfer to a new CPS professional. In these situations, the CPS professional and supervisor will need to focus on changing roles and responsibilities to provide necessary services and supports to the child and family. Following the transition process, scheduling a transition staffing and a Safety Plan discussion is preferred; however, child welfare professionals and their agencies are encouraged to engage in telephone or other virtual platforms to conduct such meetings to best meet the needs of the child, family, and out of home care provider.

XIV.I.7 Readiness for Transition

Situations may exist where CPS professionals or supervisors disagree about readiness of the case for transition to a new CPS professional or local child welfare agency. Each local child welfare agency must develop a policy to address these situations for internal case transitions.

XIV.I.8 Documentation

The content, date, and time of the case transition staffing must be documented as a case note in the eWiSACWIS record. Agencies must determine which child welfare professional is responsible for documenting this information.

XV. Unborn Child Abuse

See *IV.A. Unborn and Newborns Affected by Alcohol and Other Substances* for information regarding the definition of unborn child abuse, the requirements at Access, and documentation of maltreater information for reports with these allegations only.

XV.A. Information that Must be Gathered and Analyzed

The Initial Assessment professional should collaborate closely with medical professionals, substance use professionals, and legal counsel in gathering the information necessary to complete an Initial Assessment with an allegation of unborn child abuse. In addition to the requirements of the Primary Assessment Standard (see *XIV. Primary Assessment Standard*), the following information must be gathered and analyzed during the Initial Assessment:

- The unborn child's fetal development as reported by a physician, including the effects of the expectant mother's use of alcohol beverages, controlled substances, or controlled substance analogues, and any serious physical harm to the unborn child as a result of the expectant mother's use.
- Any risks that the child, once born, will be seriously harmed as a result of the expectant mother's use of alcohol beverages, controlled substances, or controlled substance analogues during pregnancy.
- The manner, frequency, and quantity of the expectant mother's use of alcohol beverages, controlled substances, and controlled substance analogues, and the impact the use is having on her, and, when applicable, other children in her care.
- Any history of prior use of alcohol beverages, controlled substances, or controlled substance analogues, including any history of treatment, and recovery.
- When applicable, any history of other children born to the expectant mother suffering effects of alcohol beverages, controlled substances, or controlled substance analogues used during pregnancy. Any other information useful in assessing the expectant mother's capacity to care for an infant.

XVI. Medical Neglect of Infants with Disabilities

XVI.A. Information that Must be Gathered and Analyzed

Information must be gathered in accordance with the requirements of the Primary Assessment Standard (see *XIV. Primary Assessment Standard*).

XVI.B. Interview Protocol

The first interview contact by the CPS professional is with the health care facility designee to:

- Review the infant's medical record.
- Obtain a description of the child's development, functioning and needs, highlighting the current life or health-threatening problem requiring treatment.

- Assess the current safety of the infant including verification that efforts are being made to maintain the infant in a stabilized condition.
- Determine the parent's/guardian's response to their infant's life- or health-threatening condition.
- Obtain a description of the actions taken or recommended by hospital and other medical personnel.
- Determine if the hospital ethics committee has reviewed the information.

The order of the interviews should consider preserving information and minimizing the trauma for parents who are in the process of learning about the nature of their child's life- or health-threatening condition. Generally, it would not be practical or necessary to interview siblings for a report of possible medical neglect of infants with disabilities.

XVI.C. Collaboration

Depending on the case type, the CPS professional may want to seek the assistance of a qualified medical consultant to evaluate the child's medical information (see *Appendix 8: Model Procedures in Reports of Withholding Medically Indicated Treatment from Infants with Disabilities with Life-Threatening Conditions*). If the CPS professional, in consultation with medical personnel, determines that current medical information on the infant's condition is not adequate to make a determination regarding the treatment questions and the parents refuse consent for additional medical evaluation, the CPS professional should seek court intervention under Wis. Stat. § 48.295 or Wis. Stat. § 48.373 following the filing of the petition. If immediate medical treatment is necessary, court intervention should be pursued.

If the ethics committee of the hospital has not yet reviewed the information, a meeting should be initiated, and the CPS professional may request to be included. The CPS professional may want to talk with the committee chair to explain that the reason for the CPS professional's involvement in the meeting is to acquire the information necessary to determine if medically indicated treatment is being withheld.

If it is determined that medically indicated treatment is being withheld, a petition can be filed under Wis. Stat. § 48.13 alleging that the child is medically neglected. During the Initial Assessment the CPS professional should continue to be available to provide the family with supportive services or referrals as appropriate.

XVII. Maltreatment by Foster Parents

Licensed foster parents have the responsibility to assure that children placed in their homes are cared for, safe, and protected. Children removed from their parent's/guardian's homes often have special needs or challenging behaviors to which their foster parent responds to and manages. Foster parents are held to a higher parenting standard than the general public. They often experience increased scrutiny and may be more likely to be the subject of maltreatment allegations than other families in their community.

Considering these factors, it is important that the CPS professional balances the responsibilities of assuring the safety of children placed in out-of-home care with minimizing potential disruption and trauma experienced by the child, foster parent and the child's family. The CPS professional should also assess any unmet service needs of the foster parent and of all children residing in the home as a part of the Initial Assessment process.

XVII.A. Applicability

The requirements of the Primary Assessment Standard (see *XIV. Primary Assessment Standard*), Independent Initial Assessment Standard (see *XII.I. Responsibilities of Local Child Welfare Agencies in Independent Initial Assessments*), and the *CPS Safety Intervention Standards* must be followed when CPS responds to a report of alleged maltreatment by a foster parent or other adults living in the home in a caregiving role.

XVII.A.1 Collaboration

The response to a report of maltreatment by a foster parent involves collaboration between the requesting local child welfare agency that licensed the home or placed the child and the local child welfare agency that is conducting the Independent Initial Assessment. Collaboration with law enforcement and a private Child Placing Agency that licensed the home may also be necessary in these situations.

XVII.B. Responsibilities of Each Agency

In addition to the requirements in *XII.I. Responsibilities of Agencies in Independent Initial Assessments*, the following applies:

The requesting local child welfare agency must:

- Assure that Placement Danger Threats are assessed for all children in the home and when necessary, implement protective actions in accordance with the *CPS Safety Intervention Standards*.
- Inform the foster parent(s) of the allegations and explain the Independent Initial Assessment process to them.
- Inform the child's parent/guardian that they were removed from of the allegations and explain the Independent Initial Assessment process.

The assessing local child welfare agency must:

- Follow the requirements of *XIV. Primary Assessment Standard* and the *CPS Safety Intervention Standards*.
- When conducting a Primary Assessment, Maltreatment by Foster Parent, refer to *XIII. Consent Requirements.*

If the requesting local child welfare agency has not made a face-to-face contact with the foster parent (e.g., law enforcement responded), all efforts should be made for a representative of the requesting local child welfare agency to accompany the CPS professional from the investigating

local child welfare agency on their first face-to-face contact with the foster parent to explain the Independent Initial Assessment procedure.

If the foster parent maintains their license (e.g., it is not revoked by their licensing agency), any placements may remain intact if it is in the child's best interest and if protective action, if necessary, is implemented in the foster home to control for Placement Danger Threats during the Initial Assessment. The agency that licensed the foster home and agency that placed the child in the home, if different, should work together to determine the appropriateness of continued placement in the home and should consult with agency attorneys as needed. Additionally, the local child welfare agencies should work together if licensing actions will be taken, as it may impact placement in the home. This collaboration will also ensure continuity of services to both the child placed in the home and the foster parent.

XVII.C. Conclusion of the Initial Assessment

The requesting local child welfare agency must discuss the following with the foster parent(s):

- Any identified unmet service needs for the child.
- Any identified unmet service needs for the foster family.
- Any identified licensing issues and corrective action in response. If the requesting local child welfare agency is not the licensing agency, the requesting local child welfare agency must inform the private Child Placing Agency that licensing the home of the identified licensing issues.

The requesting local child welfare agency must discuss the following with the child's parent/guardian:

- The determination of whether or not the child was maltreated.
- The maltreater determination, if applicable.
- Any identified threats to child safety and the plan to control those threats.
- Any other unmet service needs for the child.

The assessing local child welfare agency must:

- Make the maltreatment determination.
- Share the results of the Initial Assessment including any identified threats to child safety and the plan to control those threats with the foster parent.
- Explain to the foster parent the process to appeal a maltreater determination, when applicable.
- Conduct the agency review process and participate in an appeal to the Division of Hearings and Appeals, if applicable.

XVIII. Secondary Assessment Standard

XVIII.A. Applicability

The Secondary Assessment is required when the alleged maltreatment is by one of the following:

- An individual who has provided care to the child in or outside of the child's home, exercised temporary control over the child or supervised the child.
- Staff of a licensed or certified childcare program.
- Teachers and other school personnel.
- Staff of a licensed child welfare facility such as a group home, shelter care facility, or residential care center for children and youth.
- Any relative of the child, including but not limited to grandparents and great-grandparents, who do not reside regularly or intermittently with the child.

XVIII.B. Coordination and Collaboration

The CPS professional must collaborate with law enforcement personnel in accordance with the local child welfare agency's Memoranda of Understanding (MOU) with law enforcement agencies (see *XXV. Collaboration with Law Enforcement Agencies*).

When the alleged maltreatment occurs in a facility licensed under Chapter 48 or another state facility, the local child welfare agency must also coordinate with the licensing and regulation staff of the Department of Children and Families (DCF), Department of Health Services (DHS) or Department of Corrections (DOC).

When the alleged maltreater of a student is a public school employee and the report was made by someone outside of the school system, the local child welfare agency must notify the school district superintendent or their designee of the report within 24 hours. The local child welfare agency must coordinate with school administration as allowed by State statutes [Wis. Stat. § 48.981(7)(a)17].

XVIII.C. Interview Contacts

Interviews must be conducted in the following order:

- Parent(s)/guardian(s)
- Child - only when the parent consents, there is the presence of emergency or exigent circumstances, or a court order has been obtained

When conducting a Secondary Assessment, refer to *XIII. Consent Requirements*.

Interviewing the alleged maltreater is optional. However, a specific individual can be identified as a maltreater only when the CPS professional has interviewed that individual or when there is other credible evidence. The local child welfare agency must obtain a copy of the police report or other evidence on which the finding was based and include it in the local child welfare agency's record. Whenever a person is identified as the maltreater, the person must be given the right to appeal that determination. The maltreater must be notified of the right to appeal.

If the local child welfare agency uses a child advocacy center (CAC) or another assessment setting to conduct interviews and the parent consents to that process, the parent should transport

the child to the facility or accompany the CPS professional in transporting the child, when possible.

If the child is interviewed by another person, with the CPS professional observing (either in the room or via two-way mirror or an electronic device), and the interview supports the local child welfare agency in fulfilling its role, this can be considered the CPS interview or observation of the child.

XVIII.D. Information to be Gathered and Analyzed

Information must be gathered and analyzed in the following areas:

- Documentation of the child's Indian status in accordance with *XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview*.
- Maltreatment including alleged maltreatment and any relevant medical information/findings.
- Surrounding Circumstances including circumstances leading up to maltreatment and the responsible adult's/facility's explanation of circumstances.
- Child's and Family's Response to Maltreatment including the child's and the parents'/guardians' reactions, parental/guardian actions to provide protection and services, and, if applicable, the response on the part of the facility staff or other responsible adults.

XVIII.E. Follow-up with Parent(s)

The local child welfare agency must provide the parent with the following information:

- The maltreatment determination.
- The maltreater determination, if one is made.
- A discussion of possible service needs.
- Community resources and referral, if needed.
- When there is limited ability to control access to the child by the alleged maltreater, strategies the parent might use to assure protection of child.

XVIII.F. Licensed Child Welfare Facilities

XVIII.F.1 Group Homes, Residential Care Centers for Children and Youth, and Shelter Care Facilities

When maltreatment is alleged by staff in a group home, residential care center for children and youth, or a shelter care facility, the local child welfare agency in the county where the facility is located is responsible for the Secondary Assessment. When a local child welfare agency receives specific information that other children are alleged to have been maltreated, a separate Initial

Assessment must be conducted for each child/family. The local child welfare agency in the county where the facility is located must notify the local child welfare agency in the child's county of residence of the alleged maltreatment and the outcome of the Secondary Assessment, including the identification of any needed services for the child.

XVIII.F.2 Other Group Living Settings (e.g., Camps, Boarding Schools, State Institutions)

When the maltreatment is alleged by staff in other group living situations (e.g., camp, boarding school, state institutions) the local child welfare agency in the county where the facility is located is responsible for the Secondary Assessment.

If maltreatment is alleged in a facility licensed or administered by the state, the Secondary Assessment includes collaboration with DHS or DOC regulatory professionals. Those regulatory professionals have the responsibility to address organizational issues related to potential rules violations and to provide additional supports and resources to address child safety concerns.

Maltreatment by staff in a facility may also be a personnel issue. In these instances, collaboration with administrators of the institution, to the extent allowed by statute and in coordination with regulatory professionals, is also appropriate. Wis. Stat. § 48.981(7)(a)17 states that reports and records under Wis. Stat. § 48.981 may be disclosed to "a federal agency, state agency of this state or any other state or local government unit located in this state or any other state that has a need for a report or record in order to carry out its responsibility to protect children from abuse or neglect or to protect unborn children from abuse."

Wis. Stat. § 48.981(7)(a)17 allows CPS record information to be shared with regulatory professionals in the Department of Public Instruction (DPI) and with the public-school district superintendent (or her or his designee), as they have a responsibility to assure a safe environment for students. Local child welfare agencies may want to develop a Memorandum of Understanding with their public-school system(s) to address, among other issues, handling cases where maltreatment by a school employee is alleged.

XVIII.G. When Maltreatment Must be Assessed in Accordance with the Requirements of a CPS Primary Assessment

If the information gathered indicates that a parent was complicit in the maltreatment or is knowingly or negligently failing to protect the child, the allegations must be assessed in accordance with the requirements of a CPS Primary Assessment (see *XIV. Primary Assessment Standard*).

In order for a report of alleged maltreatment by a secondary caregiver or non-caregiver to be handled as a CPS Primary Assessment, there must be a reason to suspect that the parent contributed to the maltreatment. When making a decision related to the parent's contribution, it is important for the CPS professional to gather and analyze information related to protective capacities. Diminished protective capacity may be demonstrated by a parent's inability to identify threats to a child's safety or inability or unwillingness to provide protection. The judgment about whether a parent is failing to protect needs to take into account whether the parent reasonably

has the ability to affect a safe environment on his or her own. For example, a parent cannot assure that a childcare teacher has no contact with the child without the cooperation of the childcare center, short of removing the child, which may not be a reasonable option for some parents. Also, a parent does not have complete control over the activities and behaviors of pre-teen and teenaged children. For example, the fact that a child is sexually active does not mean that a parent is failing to protect.

XVIII.H. Notifications

In cases of alleged maltreatment by staff of a residential care center, group home, shelter care facility, childcare program, or other facility or entity regulated by Chapter 48 of the state statutes, the local child welfare agency must notify the regulatory professional that the Initial Assessment has been concluded and provide a copy of the Initial Assessment.

In cases of alleged maltreatment by staff of a state mental health institution, state center for the developmentally disabled, or other facility regulated by the Department of Health Services (DHS), the local child welfare agency must notify the regulatory professional of the local child welfare agency's maltreatment determination, the basis for the decision, and, if applicable, the maltreater determination. If requested, the local child welfare agency must provide information from the CPS record in accordance with Wis. Stat. § 48.981(7)(a)17.

In cases of alleged maltreatment by staff of a secured correctional facility, the local child welfare agency must notify the Assistant Administrator of the Department of Corrections (DOC) Division of Juvenile Corrections (DJC) of the local child welfare agency's maltreatment determination, the basis for the decision, and, if made, the maltreater determination. If requested, the local child welfare agency must provide information from the CPS record in accordance with Wis. Stat. § 48.981(7)(a)17.

In cases of alleged maltreatment by staff of a juvenile detention facility, the local child welfare agency must notify the DCF Bureau of Youth Services (BYS) of the local child welfare agency's maltreatment decision, the basis for the decision, and, if made, the maltreater determination. If requested, the local child welfare agency must provide information from the CPS record in accordance with Wis. Stat. § 48.981(7)(a)17.

In cases of alleged maltreatment of a student by a public-school employee, the local child welfare agency must notify the school district superintendent (or her or his designee) of the local child welfare agency's maltreatment determination, the basis for the decision, and, if applicable, the maltreater determination. If requested, the local child welfare agency must provide information from the CPS record in accordance with Wis. Stat. § 48.981(7)(a)17.

XIX. Non-Caregiver Assessment Standard

XIX.A. Applicability of the Non-Caregiver Assessment

Local child welfare agencies have discretion in conducting Initial Assessments on reports of alleged child maltreatment by a person who is not a caregiver as defined in Wis. Stat. § 48.981(1)(am), except in reports of alleged Sex Trafficking of a Child, [Wis. Stat. § 48.02(1)(cm)]. When reports of alleged child maltreatment by a non-caregiver are received, local child welfare

agencies that do investigate these reports must comply with the requirements of this Standard and statutes.

XIX.B. Coordination and Collaboration with Law Enforcement

In reports of suspected or threatened sexual abuse as defined in Wis. Stat. §§ 48.02(1)(b)–(f), including sex trafficking, the local child welfare agency must coordinate the planning and execution of the Initial Assessment with the sheriff or policy department.

With respect to all other allegations of child maltreatment, the CPS professional must collaborate with law enforcement personnel in accordance with the local child welfare agency's Memoranda of Understanding (MOU) with law enforcement agencies (see *XXV. Collaboration with Law Enforcement Agencies* and *Appendix 4: Coordination and Collaboration with Law Enforcement Agencies*).

XIX.C. Interview Contacts

Interviews must be conducted in the following order:

- Parent(s)
- Child - only when the parent consents, there is the presence of emergency or exigent circumstances exist, or a court order has been obtained.

When conducting a Non-Caregiver Assessment, refer to *XIII. Consent Requirements*.

Interviewing the alleged maltreater is optional. However, a specific individual can only be identified as a maltreater only when a CPS professional has interviewed that individual or when there is other credible evidence. The local child welfare agency must obtain a copy of the police report or other evidence on which the finding was based and include it in the local child welfare agency's record. Whenever a person is identified as the maltreater, they must be given the right to appeal that determination.

XIX.D. Information to be Gathered and Analyzed

Information must be gathered and analyzed in the following areas:

- Documentation of the child's Indian status in accordance with *XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview*.
- Maltreatment including alleged maltreatment and any relevant medical information/findings.
- Surrounding Circumstances including circumstances leading up to maltreatment and the responsible adult's/facility's explanation of circumstances.

- Child's and Family's Responses to Maltreatment including the child's and the parent/guardian's reactions, and the parental/guardian actions to provide protection and services.

XIX.E. Follow-up with Parent(s)

The local child welfare agency must provide the parent with the following information:

- The maltreatment determination.
- The maltreater determination, if one is made.
- A discussion of possible service needs.
- Community resources and referral, if needed.
- When there is limited ability to control access to the child by the alleged maltreater, strategies the parent might use to assure protection of child.

XX. Determinations of Maltreatment and Maltreaters

When making case finding determinations as required in Wis. Stat. § 48.981(3)(c)4 the term "maltreatment" or "child maltreatment" refers to child abuse as defined in Wis. Stat. § 48.02(1) and Wis. Stat. § 48.02(14g), emotional damage as defined in Wis. Stat. § 48.02(1)(gm), and child neglect as defined in Wis. Stat. § 48.02(12g).

XX.A. Purpose of Making Maltreatment Determinations

The maltreatment determination is made in addition to the local child welfare agency's process in determining who may need services. Wis. Stat. § 48.981(3)(c)7 states that the local child welfare agency "shall coordinate the development and provision of services to abused and neglected children, to abused unborn children [and] to families in which child abuse or neglect has occurred, to expectant mothers who have abused their unborn children, to children and families when circumstances justify a belief that abuse or neglect will occur and to expectant mothers of unborn children when circumstances justify a belief that unborn child abuse will occur."

XX.B. Requirements in Making Maltreatment Determinations

Within 60 days after receipt of a report of alleged child maltreatment the local child welfare agency must conclude whether or not maltreatment occurred by using one of the following determinations:

- Substantiated
- Unsubstantiated
- Unsubstantiated/Unable to Locate Source

The following criterion must be met in order to substantiate that maltreatment has occurred:

- There is a preponderance of the evidence, based on credible information, that every element of the definition of the specific type of maltreatment has been met.

Additional requirements in substantiating reports of child abuse or neglect include:

- "...In making a determination that emotional damage has occurred, the [local child welfare agency] shall give due regard to the culture of the subjects..." [Wis. Stat. § 48.981(3)(c)4].
- "A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child" [Wis. Stat. § 48.981(3)(c)4] (see *Appendix 6: Substantiating the Different Types of Maltreatment*).

The maltreatment determination "Unsubstantiated/Unable to Locate Source" is used when the local child welfare agency was unable to access critical sources of information; therefore, the local child welfare agency cannot determine that there is a preponderance of the evidence that abuse or neglect occurred. This conclusion should only be reached if critical sources of information, such as observation of or interviews with the parent and child, necessary to completing the Initial Assessment cannot be obtained.

Although Wisconsin statutes require that a determination be made as to whether child abuse has occurred, the statutes do not require that a determination be made that a particular person has maltreated the child.

XX.C. Criteria for Services Needed Determinations for Allegations of Unborn Child Abuse

When selecting the determination for an allegation of unborn child abuse, the options available will be "Services Needed," "Services Not Needed," and "Unable to Locate Source," rather than "Substantiated" or "Unsubstantiated." All of the following criteria must be met in order to make a determination of "Services Needed" in unborn child abuse case:

- There is an expectant mother.
- The expectant mother is using either alcohol beverages, controlled substances or controlled substance analogs.
- The expectant mother is exhibiting a habitual lack of self-control in her use of at least one of these controlled substances or controlled substance analogs.
- The habitual lack of self-control is being exhibited to a severe degree.
- The expectant mothers use is creating serious physical harm to the unborn child.
- The expectant mothers use is creating a risk that the child, once born, will be seriously harmed as a result of the exposure to the mother's use prior to birth.

XX.D. Criteria for Substantiating a Specific Person as a Maltreater

The local child welfare agency makes a determination that a specific person has maltreated a child only when all of the following criteria are met:

- Maltreatment has been substantiated.
- The following persons were interviewed by CPS:
  - The child (if the child is too young to be interviewed, the child must be observed).
  - At least one parent.
  - The alleged maltreater, who must be advised of the allegations. An interview is not required only if there is other credible evidence (e.g., an arrest by law enforcement, a confession to law enforcement, or criminal charges brought by a prosecuting attorney and CPS has obtained a copy of the police report or criminal complaint).
- There is a preponderance of the evidence that the child was maltreated by the particular person identified (see *Appendix 7: Considerations In Maltreater Determination*).

The local child welfare agency must notify persons against whom a substantiated finding of child abuse or neglect has been made that they have a right to appeal that decision. The notice of the right to appeal and the appeal process must be documented in eWiSACWIS.

If the narrative portion of the family record contains the conclusion by the local child welfare agency that a particular adult person has maltreated the child(ren), the record must reflect this conclusion in the data tracking portions of the family record, except when a child is the alleged maltreater (see *Appendix 7: Considerations In Maltreater Determination*). Exception, for cases in which a determination of services needed is made, rather than substantiation, no maltreater will be identified in the data tracking portion of the family record.

It is generally inconsistent with CPS purposes under Ch. 48 to make a formal determination that a child is a maltreater. The youth justice system is the appropriate system for determining whether a child is held accountable for abusing another child.

XXI. Referral of Young Children to the Birth to 3 Program

A referral to the Birth to 3 Program is made to facilitate services to infants and toddlers who have delayed development or have a physical or mental condition which is likely to result in delayed development. The local Birth to 3 Program will provide screening, evaluation, and intervention services. Areas of delay may include cognitive development, physical development (fine motor, gross motor, or vision/hearing), speech, language and communication development, social and emotional development, and adaptive behavior and self-help development.

XXI.A. Applicability

A referral to the Birth to 3 Program must be made for all children less than three years of age who are substantiated as having been maltreated. This is automatically generated by the eWiSACWIS system at the point of supervisory approval of the Initial Assessment.

XXI.B. Primary Assessment Cases

In cases where a child less than three years of age has been substantiated as having been maltreated by a parent/guardian, regardless of whether the child is residing in the family home or is placed in out-of-home care, the CPS professional must do the following:

- Explain the Birth to 3 Program to the parents/guardians.
- Request that the parent/guardian sign a consent for release of information.
- If there is a delay in final approval of the Initial Assessment that runs beyond the 60 days specified by statute, manually generate the referral to the Birth to 3 Program.
- Document all activities associated with the referral to and ongoing coordination with the Birth to 3 Program in the family record.

When the parent/guardian does not give consent to release information to the Birth to 3, the CPS professional must advise the parent/guardian that a referral has been or will be made to the program, but that the parent/guardian is not required to accept these services.

When the child has been placed in an out-of-home care placement outside of the placing child welfare agency's county, the referral is made to the Birth to 3 Program in the placing child welfare agency's county.

XXI.C. Secondary Assessment or Non-Caregiver Cases

In cases where a child less than three years of age has been substantiated as having been maltreated by a person not living in their household, the CPS professional must do the following:

- Explain the Birth to 3 Program to the parents/guardians.
- Request that the parent sign a consent form if they would like assistance.
- If there is a delay in final approval of the Initial Assessment that runs beyond the 60 days specified by statute, manually generate the referral to the Birth to 3 Program.
- Document all actions related to providing Birth to 3 Program information to the family in the record.

Local child welfare agencies are encouraged to expand communication with the local Birth to 3 Program to enhance understanding of each other's services, policies, procedures, responsibilities, and restrictions. Local child welfare agencies are also encouraged to develop additional policies or procedures with the local Birth to 3 Program to facilitate the referral process, enhance communication, and ensure service coordination on behalf of the family.

XXII. Exceptions

XXII.A. Applicability

An exception is not the same as a waiver. A waiver means that the requirement need not be followed. An exception means that a specific requirement will be met in an alternative fashion.

Exceptions can only be made to these Standards when the justification for the exception and the alternative provision to meet a requirement is documented in the record and approved by a supervisor or her/his designee. Exceptions cannot be granted for requirements of state statutes, federal law or regulation, or administrative rules.

Occasionally, local child welfare agencies receive a report which, upon assessment, is found to be clearly wrong. This is different than a report that is found to be unsubstantiated. These are situations where there is no ambiguity. The fact that a parent or child denies the alleged maltreatment is insufficient in itself to warrant an exception from the interview protocol.

In these situations of concern , initial interviews yield information that maltreatment has clearly not occurred, and the family shows significant strengths in terms of individual and family functioning and there is an absence of conditions or factors indicating risks of maltreatment. Under these circumstances, completing the interview protocol beyond statutorily required actions is not appropriate and may be unnecessarily intrusive. The assessment may consist of interviews with just the reported child and one parent. Even though not all family members are being interviewed, all areas of required information gathering (child functioning, adult functioning, family functioning and maltreatment) must be covered until a comfort level regarding safety and low risk of maltreatment is reached. Information can be gathered through the interview with parents and available collateral contacts. Decisions to deviate from the interview protocol must be made in conjunction with a supervisor. An example of where an exception might be advisable is the following:

> *A childcare center reports that a two-year-old child that has just started coming to the center appears to have bruising on the buttocks. The CPS professional sees the child and interviews the mother who informs the CPS professional that the child has Mongolian spots. This is verified by the family's pediatrician. The child is observed by the CPS professional and by childcare staff to be happy and developmentally on target. In addition, the mother is clearly attached to the child, enjoys being a parent, and is very aware of her child's needs, communicates well, appears to manage her home and her work responsibilities well, reasonably describes her family as new to the community but adjusting well, etc.*

Local child welfare agencies may also receive reports that are clearly wrong in other ways. For example, a report is received that two preschoolers are being routinely abused. When the CPS professional goes to the address given, there are only teenagers living in the home, and no preschoolers are cared for in that home. In such situations, the local child welfare agency does not conduct an Initial Assessment. The fact that a wrong family or wrong address was reported is documented in the record. If a parent refuses access to the child, this is not a situation of a wrong report. If it is a situation of a clearly wrong report, the documentation needs to clearly state this.

XXIII. Referral to Voluntary Services

XXIII.A. Applicability

Information regarding voluntary community services must be shared with a family when:

- The Initial Assessment is concluded.
- The Initial Assessment identifies possible service needs.
- The family requests information regarding services.

XXIII.B. Information and Referral

When the criteria in *XXIII.A. Referral to Voluntary Services, Applicability* are met, the local child welfare agency must provide all of the following to the family:

- Information about community resources.
- A description of how the resources may benefit the family.
- An explanation of how to access services.
- Assistance in accessing resources, if the family requests.
- An offer to contact the agency for assistance.

XXIV. Newborn Relinquishment and Reclaiming

XXIV.A. Newborn Relinquishment

Wisconsin Stat. § 48.195(1m)(a) provides that "…a child whom a law enforcement officer, emergency medical services practitioner…, or hospital staff member reasonably believes to be 30 days old or younger may be taken into custody under circumstances in which a parent of the child relinquishes custody of the child to the law enforcement officer, emergency medical services practitioner, or hospital staff member and does not express an intent to return for the child…. A law enforcement officer, emergency medical services practitioner, or hospital staff member who takes a child into custody under this subsection shall, take any action necessary to protect the health and safety of the child, [and] shall within 24 hours after taking the child into custody, deliver the child to the intake worker under Wis. Stat. § 48.20…" Further provisions regarding the relinquishment of a newborn are found in Wis. Stat. § 48.195 and Ch. DCF 39, Adm. Code.

As outlined in Ch. DCF 39, Adm. Code, within 24 hours after a specified individual has accepted custody of a relinquished newborn, the individual must refer the newborn to the intake worker in the county where the relinquishment occurred. Once the intake worker takes custody of the newborn, the child becomes the responsibility of the local child welfare agency. The intake worker requests a Petition for Protection or Services (CHIPS).

There are circumstances where a parent who has relinquished custody of his or her newborn under Wis. Stat. § 48.195 or another parent of the newborn makes the decision to rescind the relinquishment and seek custody of his or her child. If this occurs, it is important for the local child welfare agency to assess the parent/family in terms of strengths and needs of the parents to provide for the safety and care of the newborn.

This standard is designed to provide additional information regarding the requirements of Ch. DCF 39, Adm. Code, Relinquishing Custody of a Newborn Child, specifically on procedures to be

followed when a parent who has previously relinquished his or her newborn comes forward to reclaim the child. It further provides direction on requesting a revised birth certificate once the court has entered a finding of fact concerning the biological parentage of the relinquished newborn.

XXIV.B. Reclaiming a Relinquished Newborn

If a parent of a child who was relinquished wishes to reclaim custody of the relinquished newborn, and parental rights have not been terminated, the decision of the agency to reunify the newborn with either parent, to proceed with the termination of parental rights, or to establish another permanence goal for the newborn shall be subject to established procedures in Wisconsin Statutes and Standards.

The local child welfare agency must:

- Provide notice of the effort to reclaim custody to any court in which a petition for the termination of parental rights (TPR) may have been filed.
- Request the court to suspend any pending involuntary termination of parental rights proceedings if other grounds for TPR do not exist.
- Request a court order requiring the person identifying himself or herself as the relinquished child's parent to obtain a genetic test indicating that the person is the newborn's parent.

XXIV.B.1 Genetic Testing

The person attempting to reclaim his or her custody of the relinquished newborn will be responsible for the expense of and arranging for the genetic testing. Genetic determination of the biological parent shall include the following:

- Verification of birth facts for the relinquished newborn issued by the Wisconsin State Vital Records Office.
- Proof of the identity of the reclaiming biological parent.
- Court finding of fact concerning the biological parentage of the relinquished newborn based upon one or more of the following:
    - DNA testing.
    - Notarized affidavit confirming the identity of the newborn's birth mother from the hospital where the infant was born.
    - Other irrefutable proof of biological parentage.

XXIV.B.2 Local Child Welfare Agency Responsibilities

If the results of the genetic test indicate that the person wishing to reclaim the newborn is the biological parent, within 60 days after the genetic determination, the local child welfare agency must conduct:

- An assessment of the individual adult, parenting, and family functioning. The assessment process must include a meeting with the parent or parents wishing to

reclaim parental custody of the newborn and a visit to the home where the newborn would be residing.

- An assessment of danger threats and an assessment of risk of maltreatment to the newborn if returned to the parent or parents and placed in his or her home.
- An assessment of whether or not the newborn has any Native American ancestry and the eligibility status of the child. Under federal regulations, if there is reason to know that a child is an Indian child, the child should be treated as an Indian child for the purpose of ICWA until it is determined otherwise. See 25 CFR § 23.107(b)(2). The local child welfare agency should consult with the agency attorney to assure that any applicable ICWA and WICWA requirements are met.

Based upon the information obtained through the Initial Assessment, the local child welfare agency shall make a determination as to whether or not the newborn is in need of protection or services and, as appropriate, make reasonable efforts to reunify the newborn with parents, including providing to the parent or parents such services as are necessary to control threats to child safety and reduce risks to maltreatment. If any threats to safety or risk concerns are identified, the family must be opened for ongoing services in accordance with the *CPS Safety Intervention Standards* and the *Ongoing Services Standards*.

XXIV.C. Information to be Gathered an Analyzed

In assessing the parent or parents seeking to reclaim parental custody of a newborn, thorough information shall be gathered and analyzed, at a minimum, relative to the following:

- Factors that may have contributed to the relinquishment, including how those factors have been eliminated or resolved (*Nature/Surrounding Circumstances*).
- Whether or not the newborn has any Native American ancestry and, if so, from which tribe(s) this ancestry comes from.
- Under federal regulations, if there is reason to know the child is an Indian child, diligent efforts shall be made to obtain verification of the child's eligibility status from the tribe(s). See 25 CFR § 23.107(b)(1). The local child welfare agency should consult with the agency attorney to assure that any applicable ICWA and WICWA requirements are met.
- The newborn's general functioning, including any identified special needs (*Child Functioning*).
- The individual functioning of the parent or parents, including communication, coping, problem solving, life management, control of emotions, use of alcohol or other substances, mental health functioning, sociability and relationships with others, and self-concept (*Adult Functioning*).
- The parenting practices of the parent or parents, including understanding of the newborn's needs and capabilities, ability to provide for the physical and emotional needs of the newborn, expectations of the newborn, nurturing, discipline, and satisfaction with the parenting role regarding both the relinquished newborn and any other child of the parent or parents (*Parenting Practices*).

- The family's functioning, strengths, and current stresses, including roles and boundaries, communication, decision making, relationships, integration into the community, power distribution, the presence or absence of domestic violence, organization and stability, and demographics (*Family Functioning*).
- If only one biological parent is seeking to reclaim custody of the newborn, the nature of the relationship between the biological parents, including the knowledge the other parent has of the existence of the newborn, including any available information regarding potential safety issues for the newborn or for the parent seeking to reclaim custody of newborn if the other parent becomes aware of the existence of the newborn and the relinquishment (*Family Functioning*).
- The existence and description of any circumstances that suggest a threat to the safety of the newborn if the newborn were to be returned to the parent and placed in his or her home/care.
- The existence and description of any circumstances that suggest a risk of maltreatment of the newborn in the family.
- A description of any services or supports that would support family reintegration.
- The need to open the family for ongoing services or to refer the family to community services to support the safe return of the newborn.
- If applicable and when applicable, the efforts the agency will undertake to contact, locate, or notify the other biological parent of the existence of the newborn and the relinquishment.

XXIV.D. Case Determinations

Based upon the assessment of the parent and home, the local child welfare agency must determine the following:

- the need to continued jurisdiction of a court order under Wis. Stat. § 48.13,
- if the newborn is placed outside of his or her home, the need to develop or revise a Permanency Plan for the newborn, and
- the need to petition the court to revise any dispositional order to include any new requirements determined to be necessary for the safety and well-being of the newborn.

XXIV.E. Report for Issuance of Revised Birth Certificate

As part of the reclaiming process, the parent will need to obtain a true and accurate birth certificate for the newborn. In order for the DHS Vital Records Office to issue a revised birth certificate, the local child welfare agency must provide the following:

- A summary of the information.
- Notice that the biological parent's or parents' rights have not been terminated.

- A signed statement from the biological parent(s) that he or she is voluntarily acknowledging parentage of the newborn.
- A Wisconsin birth certificate worksheet, to be signed and completed by the parent(s) reclaiming custody with the assistance of the birthing hospital or the CPS professional assigned to the family.

SECTION 3: LOCAL CHILD WELFARE AGENCY RESPONSIBILITIES

XXV. Collaboration with Law Enforcement Agencies

XXV.A. Statutory Requirements for Referral to Law Enforcement Agencies

Wisconsin statutes require that "a county department, the department or a licensed child welfare agency under contract with the department shall within 12 hours, exclusive of Saturdays, Sundays or legal holidays, refer to the sheriff or police department all reports of suspected or threatened abuse, as defined in Wis. Stat. §§ 48.02(1)(b)–(f), reported to it. For reports of suspected or threatened abuse, as defined in Wis. Stat. § 48.02(1)(a), (am), (g), or (gm), or neglect, each county department, the department, and a licensed child welfare agency under contract with the department shall adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities." [Wis. Stat. § 48.981(3)(a)3]

Wisconsin statutes require mandatory reporters of alleged child abuse or neglect to make such reports to the local child welfare agency or to local law enforcement agencies. The statute states, "[a] person required to report … shall immediately inform, by telephone or personally, the [local child welfare agency] … or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur…" [Wis. Stat. § 48.981(3)(a)1].

The statutes require communication between law enforcement agencies and local child welfare agencies. Specifically, the statutes require that "…the sheriff or police department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the county department…, department or a licensed child welfare agency under contract with the department all of the following types of cases reported to the sheriff or police department:"

- Cases in which a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of a child.
- Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.
- Cases in which a person who is not a caregiver is suspected of sex trafficking or committing, allowing, or encouraging a child to engage in prostitution.
- Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.
- Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse. [Wis. Stat. § 48.981(3)(a)2]

The county department, department or licensed child welfare agency may require that a subsequent report be made in writing," [Wis. Stat. § 48.981(3)(a)2g].

XXV.B. Statutory Requirements for Coordination with Law Enforcement Agencies

"If the report is of suspected or threatened abuse, as defined in Wis. Stat. §§ 48.02(1)(b)–(f), the sheriff or police department and the county department, department, or licensed child welfare agency under contract with the department shall coordinate the planning and execution of the investigation of the report." [Wis. Stat. § 48.981(3)(a)4]

Although the statutes require referral to law enforcement agencies and coordination with law enforcement agencies only in cases of suspected or threatened sexual abuse [cases defined in Wis. Stat. §§ 48.02(1)(b)–(f)] collaboration on other cases of maltreatment is also very important, given the different yet complementary roles of each system. Law enforcement agencies conduct criminal investigations and pursue charges against persons alleged to have committed crimes and take immediate action, when warranted, to assure public safety. Many law enforcement agencies are also involved in crime prevention through community-oriented policing. The CPS system attempts to help families meet their immediate and ongoing safety needs and assure the well-being of their children, and pursues civil court action, when necessary, to support this purpose. However, the immediate safety of children is a responsibility shared by both systems. Neither system can always effectively fulfill this responsibility on its own.

XXV.C. Memoranda of Understanding (MOU) Scope and Applicability

The MOU requirements reference reports of suspected or threatened maltreatment that are screened-in by the local child welfare agency. This requirement includes reports of suspected or threatened maltreatment by a non-caregiver. The MOU must contain an agreement regarding the timeframe within which the local child welfare agency will refer the above cases to law enforcement. Reports of suspected or threatened sexual abuse must be referred within 12 hours, exclusive of Saturdays, Sundays, or legal holidays.

XXV.C.1 Development of MOU

Local child welfare agencies shall develop written MOUs between the local agency and each law enforcement agency located within the county, including tribal law enforcement agencies. If a law enforcement agency will not meet with the local child welfare agency to develop an MOU, the local child welfare agency shall develop "a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities" [Wis. Stat. § 48.981(3)(a)3], send or give the policy to the law enforcement agency and document its efforts to meet with the law enforcement agency.

Since local child welfare agencies, the Department, and local law enforcement agencies all have statutory responsibilities in reports of child maltreatment, and since coordination is statutorily required in the planning and execution of a subset of reports, it is critical that the local written policy be in the form of a MOU. The MOU should assure that each party is able to effectively meet its responsibilities and that the safety and well-being of children and other family members is paramount. An MOU also assures that all parties agree to the procedures mutually developed.

The process of discussing and developing the agreement is as important as the agreement itself, in that it will:

- Enhance understanding and appreciation of each other's role, responsibilities, skills, and limitations.
- Reinforce successful implementation of the agreement.
- Lead to identifying creative and improved solutions and strategies.
- Enhance overall cooperation.

Local child welfare agencies are encouraged to hold meetings with law enforcement personnel and others, as appropriate, to discuss and come to agreement on all of the issues involved.

XXV.C.2 One MOU vs. Individual MOUs

It is strongly recommended that one MOU be developed with all law enforcement agencies. This may be difficult to accomplish, as law enforcement agencies are not bound by this standard. Although individual MOUs with each law enforcement agency may be easier to negotiate and achieve, they make it difficult for the local child welfare agency to operate efficiently. Multiple MOUs can create a situation where the local child welfare agency must frequently review an MOU throughout the Initial Assessment process in order to determine whether a law enforcement agency should be notified, how the case process should be coordinated, whether joint, parallel or independent interviewing should be done, whether written reports will be shared, etc. One MOU will allow the local child welfare agency to know how to proceed with each report received, regardless of the law enforcement jurisdiction in which the alleged maltreatment occurred.

One MOU will also support agreements between law enforcement agencies that can capitalize on special skills and training. For example, small township or village agencies may reach an agreement with the county sheriff's department that certain functions or reports routinely be handled by the latter. If one MOU is not possible, every effort should be made to create the greatest consistency possible among all MOUs, so that the local child welfare agency's practice and procedures do not vary from one MOU to the next.

XXV.C.3 MOU Content – Coordination with Law Enforcement Agencies

The MOU must contain an agreement regarding the following:

- The types of situations when local child welfare agencies and law enforcement will collaborate.
- How planning and execution of assessments will be accomplished.
- How parallel or joint assessments will be conducted.
- When and how joint interviewing will be conducted considering the safety of all parties.
- How changes in family circumstances affecting the safety of any family member will be communicated.

The MOU must contain a description of each agency's role and responsibilities in reports of alleged child maltreatment. The role and responsibilities of the local child welfare agency must

be consistent with the child protective services purposes as outlined in state statutes, standards, or policy, as applicable.

The local child welfare agency generally cannot suspend or delay its response, defer or abbreviate its information gathering, delay notification of tribal authorities, where applicable, or otherwise fail to adhere to the requirements described in state statute, federal laws and regulations, CPS standards and policy, or agency policy related to response time in deference to a law enforcement investigation. A delay in response time in order to coordinate with law enforcement agencies is allowable only if the delay is in the best interests of the child, child safety is not compromised by the delay, and it does not violate Wis. Stat. § 48.981 requirements.

The MOU must include when and how written reports will be shared among the involved agencies and with whom and for what purpose written reports may be re-disclosed. Any limitations on what may be re-disclosed must be clearly described and consistent with Wis. Stat. § 48.981(7) and any other applicable confidentiality statutes.

Participants in the MOU may wish to be very specific in describing how and by whom certain functions will be accomplished. For example, law enforcement agencies generally are responsible for the collection and preservation of evidence. This may include such things as photographs of the home conditions or injuries, videotapes, or audiotapes, in addition to other physical evidence. Local child welfare agencies are encouraged to develop greater clarity and specificity in these provisions and all of the above requirements through discussion with law enforcement agencies.

XXVI. Independent Initial Assessment Agreements

Wisconsin Stat. § 48.981 acknowledges the need for a mechanism for assessment of reports of child abuse and neglect when concerns arise as to the local child welfare agency's ability to remain unbiased. As a result, counties are required to develop reciprocal agreements for conducting independent Initial Assessments.

XXVI.A. Agreements for Conducting Independent Initial Assessments

Local child welfare agencies must:

- Have written agreements with the local child welfare agency, or local child welfare agencies, or licensed private child welfare agency which conduct their Initial Assessments.
- Send copies of original or revised agreements to the DCF Regional Office.

The DCF Regional Office:

- May designate a local child welfare agency or board established under Wis. Stat. § 46.215, Wis. Stat. § 46.22, Wis. Stat. § 46.23, Wis. Stat. § 51.42, Wis. Stat. § 51.437, or a licensed child welfare agency to conduct the independent Initial Assessment.
- May make recommendations regarding the use of reciprocal agreements and the balance of workload among reciprocating local child welfare agencies, upon request.
- May review local child welfare agency decisions or actions and make recommendations, upon request of either local child welfare agency.

GLOSSARY

Agent, for the purpose of an Independent Initial Assessment under Wis. Stat. § 48.981(3)(d)1, means a foster parent, or other person given physical custody of a child or a human services professional employed by a county department under Wis. Stat. § 51.42 or Wis. Stat. § 51.437 or by a child welfare agency who is working with a child or expectant mother of an unborn child under contract with or under the supervision of DCF in a county having a population of 750,000 or more or a county department under Wis. Stat. § 46.22.

Assessment means the process of gathering thorough relevant information for decision making and weighing the importance, significance and meaning of the information gathered.

Child Protective Services (CPS) is the public agency with the authority to respond to threats to child safety.

CPS Access means the function of the agency to gather information leading to a determination of the need for CPS intervention.

CPS Report means a report made in accordance with Wis. Stat. § 48.981 where the reporter suspects or states a suspicion that a child has been abused or neglected or is likely to be abused or neglected, or that an unborn child has been abused, regardless of whether the reported information constitutes child abuse or neglect as defined in the Ch. 48 of the Wisconsin statutes.

Consent means compliance in or approval of what is done or proposed to be done.

Controlled Substance means a drug, substance or immediate precursor included in Schedules I to V of subch. II. of Ch. 961.

Controlled Substance Analog means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance included in Schedule I or II and:

- Which has a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or
- With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

Controlled substance analog does not include:

- A controlled substance;
- A substance for which there is an approved new drug application;
- A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355 to the extent that conduct with respect to the substance is permitted by the exemption; or
- Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance [Wis. Stat. § 961.01(4m)].

Domestic Violence means a pattern of behavior that one intimate partner or spouse exerts over another as a means of control. Perpetrators of domestic violence typically consider themselves entitled to have their needs met first within the family. Domestic violence may include physical violence, coercion, threats, intimidation, isolation, stalking, and emotional, sexual or economic abuse. Frequently, perpetrators use the children to manipulate victims: by harming or abducting the children; by threatening to harm or abduct the children; by forcing the children to participate in abuse of the victim; by using visitation as an occasion to harass or monitor victims; or by fighting protracted custody battles to punish victims.

Dwellings means family or family-like settings which do not depend solely on professional care providers. Dwellings include private residences shared by family members, foster families and unrelated individuals. Dwellings do not include residential facilities.

Emergency Circumstances means those situations:

- in which a child is immediately threatened with harm, or
- where there exists an immediate threat to the safety of the child, or
- where there is evidence of serious ongoing abuse and the CPS professional has reason to fear imminent recurrence.

Emergency circumstances need not equate to life or death situation. Emotional harm or neglect may not be sufficient to meet the requirements of emergency circumstances, unless these parental actions or omissions rise to the level of placing the child at imminent risk of physical harm. The test for emergency circumstances is whether a reasonable person would believe that there was an immediate need to provide aid or assistance to a person due to actual or threatened physical injury, and that immediate entry into the area in which a person had a reasonable expectation of privacy was necessary in order to provide aid or assistance.

Exigent Circumstances mean situations, for which probable cause exists, where the CPS professional would be unable to examine a child's body for evidence of maltreatment unless the CPS professional acts swiftly and without seeking prior judicial authorization in order to preserve evidence. “Exigent circumstances,” when they exist, allow CPS Initial Assessment to proceed without consent or a court order. An example is when a parent, guardian, or legal custodian would likely seek to make the child unavailable by fleeing with the child or hiding the child. If possible, without subjecting the child to increased risk of danger, a CPS professional should consult with a supervisor, supervisor’s designee, or legal counsel before proceeding to take action on the basis of exigent circumstances.

Family means a group of persons, including at least one adult in a caretaking role and one child, who generally reside together and identify themselves as a family.

Foster Family means the foster parent(s), licensee(s), foster child(ren), any birth or adoptive children of the foster parent(s), any children under guardianship of the foster parent(s), and any other person(s) living in the home.

Foster Parent(s) means, for the purpose of this Standard, individuals licensed to provide care and maintenance to children placed in their home by court order or voluntary placement agreement. This includes all foster parents and licensees that reside in the foster home.

Household means all individuals living together in the same dwelling.

Indian Child means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe in any of the following ways: (a) as a member of the tribe, or (b) as a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe [Wis. Stat. § 48.02(8g)].

Indian Child's Tribe means (a) The Indian tribe in which an Indian child is a member or eligible for membership, or (b) In the case of an Indian child who is a member of or eligible for members in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts [Wis. Stat. § 48.02(8m)].

Indian Custodian means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child [Wis. Stat. § 48.02(8p)].

Indian Tribe means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. Secretary of the Interior because of Indian status, including any Alaska native village, as defined in 43 USC 1602(c) and Wis. Stat. § 48.02(8r).

Initial Assessment refers to a comprehensive assessment of individual and family conditions, functioning, and dynamics in response to a report of alleged child maltreatment and includes the CPS "diligent investigation" process as defined in Wis. Stat. § 48.981(3)(c).

Joint Supervision refers to situations involving multiple CPS professionals where coordination and collaboration is necessary in order to assess the family, plan with the family, and/or provide services to the family. Joint supervision can occur within an agency or between local child welfare agencies.

Local Child Welfare Agency means a county department of social services under Wis. Stat. § 46.22, a county department of human services under Wis. Stat. § 46.23, the Division of Milwaukee Child Protective Services (DMCPS), or a licensed child welfare agency under a contract with a county department or DMCPS.

Maltreatment means child abuse as defined in Wis. Stat. § 48.02(1), (5j) and (14g), child neglect as defined in Wis. Stat. § 48.02(12g), or threatened child abuse or neglect.

Maltreatment Determination means a conclusion drawn as to whether abuse or neglect has occurred.

Maltreater Determination means a conclusion as to whether a specific person abused or neglected a child.

Non-Caregiver means those individuals who do not meet any of the statutory definitions of caregiver in Wis. Stat. § 48.981(1)(am). Included is an individual who is a stranger, neighbor, adult acquaintance, or another child who never had control over or supervisory responsibility for the child who is the alleged victim of maltreatment. The individual cannot have ever shared the same household as the child.

Non-Caregiver Assessment is conducted when the alleged maltreater is not a relative and has not supervised or exercised control over the child or has never resided in the child's dwelling. This would include strangers, neighbors, adult acquaintances, and other children.

Parent/guardian as used throughout these Standards refers to any individual with legal guardianship or legal custody of a child including an Indian custodian as defined in s. 48.02(8p).

Peer means a person who, in terms of general cognitive development and social role, has equal standing with the child. A caregiver or other person who exercises or has exercised temporary or permanent control over a child can never be considered a peer.

Primary Assessment is conducted when the alleged maltreater is a parent, guardian, legal custodian, brother, sister, foster parent, or anyone who has resided in the child's dwelling, currently or in the past.

Probable Cause means the amount of information which would lead a reasonable investigator to believe the child has been abused. It is not necessary that the information be sufficient to prove abuse "beyond a reasonable doubt" for guilt in criminal court, or by "clear and convincing evidence" for a CHIPS finding, or even by a "preponderance of the evidence" for maltreatment substantiation purposes; it is only necessary that the information lead a reasonable investigator to believe that abuse is more than a possibility. Thus, probable cause follows reasonable suspicion in the continuum of proof. For probable cause, it is necessary that the child abuse report, together with any additional corroboration, be strong enough to demonstrate a substantial likelihood that abuse has in fact occurred.

Reasonable Suspicion or **Reasonable Cause to Suspect** means a suspicion that a reasonable person would have, based on all the known information and circumstances, that an unborn child has been abused or that a child has been abused or neglected or threatened with abuse or neglect. It is based on evidence of specific and articulable facts, which when combined with rational inferences, creates a suspicion in a reasonable person that an unborn child has been abused or that a child has been abused or neglected or threatened with abuse or neglect. Reasonable cause to suspect child abuse or neglect is more than a hunch, but less than proof, that an unborn child has been abused or that a child has been abused or neglected or threatened with abuse or neglect.

Relative (s. 48.02(15)) means a parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, first cousin, first cousin once removed, 2nd cousin, nephew, niece, uncle, aunt, step uncle, step aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom. For purposes of placement of a child, "relative" also includes a parent of a sibling of the child who has legal custody of that sibling.

The definition of "extended family member" with respect to an Indian child is a member of the Indian child's extended family by the law or custom of the Indian child's tribe or, in the absence of such a law or custom, a person who has attained the age of 18 years and who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent [Wis. Stat. § 48.028(2)(am)].

Secondary Assessment is conducted when the alleged maltreater is a contracted caregiver or relative not sharing the child's dwelling. This includes, but is not limited to, childcare staff, juvenile corrections and other residential facilities, babysitters, teachers, and youth activity leaders.

Services Needed refers to a determination associated with an allegation of maltreatment assessed as part of an Initial Assessment where it is found that continued agency involvement with the family is warranted, and the family will be opened with the agency for Ongoing Services through any of the dispositions authorized by Statutes or Standards.

Services Not Needed refers to a determination associated with an allegation of maltreatment assessed as part of the Initial Assessment where it is found that continued agency involvement with the family is not warranted, and the family will be closed with the agency. This does not include a family which is refusing services and the agency is unable to obtain jurisdiction; but rather, a finding by the agency that services are not needed by the family.

Services Report means reports that are either required Services Reports or discretionary Services Reports.

- **Required Services Reports** are reports regarding the welfare of children that do not allege child abuse and neglect, but statute requires that a local child welfare agency screen-in the report to provide services (see *I.A.2. Required Services Reports*) or reports where services have been requested for a child or family in which there has been no alleged maltreatment or threatened maltreatment (i.e., child welfare services; placement related services such as adoption, ICPC, etc.; court-ordered studies; kindship care services).
- **Discretionary Services Reports** are reports received that do not meet screening criteria for CPS Initial Assessment, but the report suggests that the family could benefit from a specific service offered by the local child welfare agency or referred to by the local child welfare agency.

Unborn Child means a human being from the time of fertilization to the time of birth [Wis. Stat. § 48.02(19)].

APPENDIX 1: INFORMATION TO BE GATHERED AND ANALYZED IN PRIMARY ASSESSMENT CASES

Information gathered and analyzed in Primary Assessments is critical to understanding and making decisions related to child safety, patterns of behavior that may lead to or protect children from maltreatment, the occurrence of maltreatment, and the need for services provided by CPS or referrals to outside services. During the Initial Assessment process, it is the role of the CPS professional to gather a sufficient amount of relevant information to be able to make quality case decisions related to maltreatment, safety, and case disposition. As noted in section XIV.E. Information to Gather and Analyze, information must be gathered in the following areas:

- Documentation of the child's Indian status in accordance with *XII.B. Federal Indian Child Welfare Act and Wisconsin Indian Child Welfare Act Requirements: Overview*.
- Family Functioning
- Parenting Practices
- Enhanced and diminished parent/caregiver protective capacities (see *CPS Safety Intervention Standards*, *Appendix 5: Parent/Caregiver Protective Capacities*)
- Adult Functioning
- Child Functioning
- Maltreatment
- Surrounding Circumstances
- If an Initial Assessment is being conducted for a newborn testing positive for controlled substances or controlled substance analogs or suffering from a Fetal Alcohol Spectrum Disorder because there are also allegations of maltreatment to the newborn subsequent to birth (see *IV.A.2. Newborns with Controlled Substances or Controlled Substance Analogs in Their Bodily Fluids* or *IV.A.3. Newborns Diagnosed with a Fetal Alcohol Spectrum Disorder*) the assessment must also include any effects of identified substances on the newborn and a focus on the mother's use of controlled substances and the impact on her to care for the newborn.

Before an assessment of the circumstances can take place, CPS professionals must gather necessary information. CPS professionals completing Initial Assessments are tasked with gathering a significant amount of information in a relatively short amount of time. Because of these time constraints, collaboration and partnering with families is an important aspect of the CPS professional's role. CPS professionals should actively involve family members in the assessment process, encouraging them to share their perspectives and experiences. This involves open-ended communication, actively listening to their concerns, and involving them in decision-making. For more information on engaging families, see Appendix 12: Engaging Families in the Initial Assessment Process.

Understanding the family conditions , patterns of behavior, perceptions, etc. is critical to assessing threats to child safety and risk of maltreatment. Additionally, the assessment of protective capacities is important for making child safety determinations. Information in this assessment provides for the identification of protective capacities and strengths that are operating or that can be reinforced and used in case planning. In all families, there are both

buffers (protective capacities, positive support networks, and other strengths) and risks present. Identifying both creates a more accurate understanding of the family.

Considerations for Information to be Gathered, Analyzed, and Documented

Information documented during the Initial Assessment should be demonstrably relevant to child safety and decision-making. Understanding the family's cultural context and diverse perspectives can assist the CPS professional in making quality decisions. However, documented details should focus on specific behaviors, perceptions, conditions, and beliefs that directly impact, or have the potential to impact, the safety of children in the household. This includes both strengths that could serve as protective factors against maltreatment and challenges that raise concerns about maltreatment. CPS professionals should strive to establish clear connections between documented information and its relevance to child safety, maltreatment, risk of maltreatment, and decisions regarding interventions or service recommendations.

Information is gathered through interviews and observations of family members, as well as from collateral contact persons and reports, if available. Interviews and other interactions with the family should be completed in a culturally responsible manner. Assumptions based on personal biases or limited cultural knowledge can be detrimental to families. CPS professionals should actively cultivate cultural humility, acknowledging that their own cultural lens may limit their understanding of diverse family dynamics and communication styles. By asking informed questions, actively listening, and seeking cultural guidance where appropriate, professionals can gather nuanced information that accurately reflects the family's strengths and potential concerns. Ultimately, this approach can lead to assessments that are completed in a culturally responsible manner that best serves the families involved. This involves using inclusive language, avoiding assumptions, and tailoring the assessment approach to the family's unique circumstances.

During the Initial Assessment process, it is the role of the CPS professional to gather a sufficient amount of relevant information to be able to make quality case decisions related to maltreatment, safety, and case disposition.

- Sufficient: Adequate to understand the circumstances
- Relevant: Closely connected to the decisions being made

While thoroughness is essential, the CPS professional must be mindful of focusing on the specific circumstances currently impacting the family's ability to provide a safe environment for their children. Although the family may speak to the CPS professional about a wide array of information, it does not necessarily contribute to the assessment. Maintaining a clear and focused scope directs our resources towards protecting the children involved.

Relevance during an Initial Assessment goes beyond simply collecting information. It is about identifying details that directly impact a child's safety. While acknowledging general context is important, understanding the significance of that information is crucial.

The following sections outline areas of information that may be gathered in each of the areas for assessment required as part of conducting Primary Assessments per section XIV.E. Information to Gather and Analyze. These descriptions are presented to support the CPS professional in understanding the scope of the areas that may be assessed and guide the CPS professional to consider those issues that contribute to a safe home and mitigate the occurrence of maltreatment. While it may not be necessary to gather and document information related to *every* topic listed below, the information collected should be sufficient and relevant to paint a clear picture of the family's dynamics, strengths, and needs. Ultimately, the information should support the determinations made at the end of the assessment, ensuring transparent and well-informed decision-making.

Family Functioning

This component encompasses the family's overall functioning, strengths and needs, current stressors, and support network. The CPS professional should gather a sufficient amount of relevant information to be able to have an understanding of the family's circumstances. Not all information gathered is necessary to document in the Initial Assessment. Major areas for assessment and understanding could include:

General Functioning

- Communication: Evaluate the quality and effectiveness of communication within the family. Observe how family members express themselves, listen to each other, and how they navigate situations of disagreement.
- Relationships between Parents/Caregivers: Assess the level of mutual respect, support, and conflict resolution strategies between parents/caregivers in the household. How do they approach decision-making and navigate conflict between themselves?
- Emotional Climate: Assess the general feelings, mood, and sense of connection within the family, including expressions of affection and support. Identify any patterns of affection and support to the child, both verbally and nonverbally, taking into considerations any cultural influences on their expression of affection.
- Clarity of Roles and Boundaries: Identify how roles, responsibilities, and boundaries are understood within the family.
- Family Dynamics: Explore how decisions are made within the family and how power is distributed amongst family members.

Support Networks

- Formal Support Network: Identifying and understanding the role of the family's formal support network can be helpful information. Formal supports, such as teachers, counselors, therapists, or other professionals who support the family, often have important and relevant information pertaining to the child, parent, and family as a whole. Understanding the family's existing formal support network can also help guide the CPS professional when determination what, if any, additional services the family needs or could benefit from.

- Natural Supports: Informal networks are made of up friends, family, neighbors, and other community members. Understand to what extent the family is connected to natural supports that may offer assistance in the areas of child care, emotional backup, practical help, and other concrete resources that can bolster child safety and well-being.

By thoroughly assessing these aspects of family functioning, CPS professionals can gain a comprehensive understanding of the family's strengths and challenges, identify threats to child safety, and inform appropriate interventions and support services.

Parenting Practices

This component explores the general nature and approach to parenting. Parenting should be assessed for all of the children, not just the child reported as a victim of maltreatment. The CPS professional should gather a sufficient amount of relevant information to be able to have an understanding of parenting practices. Not all information gathered is necessary to document in the Initial Assessment. Major areas for assessment and understanding could include:

- Parenting Approach and Philosophy: Explore the caregivers' overall approach to parenting, including their values, beliefs, and goals for their children and any cultural or religious influences that may affect their parenting. Understand the principles that guide their parenting decisions and how they view their role as caregivers.
- Understanding Child(ren)'s Basic Needs: Examine how children's basic needs for food, clothing, shelter, and medical care are consistently met, including any gaps in the provision of basic needs. Explore how caregivers access and utilize resources to address these needs. Considerations include the availability of relevant community resources, the caregivers' knowledge about accessing them, and any challenges or barriers faced in accessing resources.
- Managing Unique Child Needs: For children with unique needs, such as complex medical needs or cognitive disabilities, assess the caregiver's understanding of the child's specific needs and ability to apply recommended strategies for child safety, taking into account their access to information, resources, and services.
- Adaptability: Assess the caregivers' ability to recognize and respond to the child's physical, emotional, and developmental needs, which may require the caregiver to adapt their approach based on each child's unique needs.
- Parental Perceptions of the Child(ren): Explore the caregivers' perceptions of the child's strengths, challenges, and developmental needs and how their perceptions influence their parenting. Consider if the caregiver's expectations for the child's behavior, abilities, and achievement align with their age, developmental stage, and individual capabilities. Recognize that expectations may vary based on cultural background, personal experiences, and religious beliefs.
- Prioritizing Child(ren)'s Needs: Evaluate how the parent balances their child's needs with their own well-being, ensuring the child's well-being remains a priority.
- Discipline Methods: Explore caregivers' understanding of discipline, its role in guidance and learning, and the rationale behind their chosen approach. Analyze how their disciplinary philosophy and methods align with the child's age, behavior, and

developmental stage, focusing on safety. Assess the caregivers' ability to maintain self-control and consistency when implementing disciplinary measures. Identify any cultural norms or practices that may shape their approach to discipline.

- Use of Harm Reduction Strategies: Evaluate how caregivers actively minimize potential harm to children. For example, one specific type of harm reduction is related to substance use. This could include strategies such as securing substances out of reach, identifying alternative childcare during use, and developing relapse plans (for those in recovery) outlining safe childcare arrangements. For older children impacted by witnessing substance use, harm reduction may involve individual or family counseling to address their emotional needs and promote healthy coping mechanisms. Harm reduction could be used to protect children from harm related to domestic violence, sexual abuse, self-harming behaviors, unsafe physical environments, etc.

Adult Functioning

This component addresses the overall functioning of adults within the household, examining their daily lives within and beyond their parental roles. Understanding adult functioning is important for establishing a holistic understanding of child safety. How adults function in general can have implications on how they function as a parent and can impact child safety. This component focuses on how the adults in the family navigate daily life events, both personally and within the context of the family.

Considerations

- Individualized Assessment: Recognize that adult functioning can vary widely and should be assessed on an individual basis. Evaluate each individual's strengths, skills, and challenges that may affect child safety.
- CPS Interaction and Emotional State: Acknowledge that a CPS assessment can be stressful for adults, potentially affecting their responses and interactions with CPS professionals. Base the assessment of adult functioning on their general patterns and behaviors rather than solely on their reactions to CPS intervention.

The following areas for assessment and understanding should include an assessment of the impact on the adult's functioning or general impact on children in the household. The CPS professional should gather a sufficient amount of relevant information to be able to have an understanding of the adults' functioning. Not all information gathered is necessary to document in the Initial Assessment. Major areas for assessment and understanding could include:

Overall Functioning

- Behavioral and Physical Health: Gather and assess the adult's behavioral health, including how/if that concern is being managed. Be sure to take into consideration non-Western treatment modalities. Any physical disabilities that affect the adult's daily functioning can also be documented here.
- Substance Misuse: Explore potential concerns related to substances that could impact a child's safety and well-being. This includes how any substance use by caregivers might affect their ability to meet the child's basic needs, provide supervision, and maintain a safe environment. The impact of substance use varies greatly and depends on many factors.

Focus on child safety and avoid relying solely on self-reported information. To gain a holistic understanding, consider gathering information from various sources, including observations, interactions with the family, and potential input from collateral contacts.

- Use of Coping Mechanisms: Evaluate the adults' ability to cope with stress and manage challenging situations, including their coping mechanisms and problem-solving skills.
- Impulse Control, Decision-Making, and Problem Solving: Identify and assess any patterns of difficulty controlling actions/reactions or behaviors that could pose a threat to child safety. Assess their ability to gather and weigh information to make decisions and how they navigate obstacles.
- Social Relationships: Evaluate the adults' social relationships with family, friends, and community members. Assess these interpersonal interactions and their ability to maintain healthy social connections.
- Life Skills and Adaptability: Assess the adults' ability to manage daily living tasks, adjust to changes, and manage challenges in various aspects of their lives. Identify any areas where they may require assistance or support.

Historical and Cultural Context

- Ability to Make Positive Changes: Determine the adults' ability to learn from their past experiences and demonstrate personal growth and resilience.
- Cultural Background and Influences: As part of building a partnership with parents, take the time to recognize the influence of cultural norms, values, and practices on adult functioning, if the family would like to share this information, to understand how cultural factors may shape behaviors, communication patterns, and decision-making processes.
- Criminal Behavior Affecting Ability to Parent: When assessing the criminal behavior of an adult, the CPS professional should think in terms of how/if such behavior impacts the adult's ability to safely parent their child(ren).

By thoroughly assessing these aspects of adult functioning, CPS professionals can gain a comprehensive understanding of the adults' strengths, challenges, and potential threats to child safety. As with other assessment areas, this information can inform whether further CPS involvement is necessary, appropriate interventions, support services, and strategies for promoting child well-being.

Child Functioning

This component focuses on general behaviors, temperament, and effects of possible maltreatment, rather than the child's response to intervention. Child Functioning is also used to establish the child's level of vulnerability. All young children from 0 – 6 are considered vulnerable, as well as older children who, for whatever reason, are not able to protect themselves or seek help from others. The CPS professional should gather a sufficient amount of relevant information to be able to have an understanding of child(ren)'s functioning. Not all information gathered is

necessary to document in the Initial Assessment. Major areas for assessment and understanding could include:

Vulnerability Assessment

- Age and Developmental Level: Consider the child's age and stage of physical, emotional, and cognitive development. Evaluate their ability to communicate needs and respond appropriately to various situations.
- Dependence: Assess the child's level of dependence on caregivers for daily activities, such as bathing, dressing, and eating. Children who have medical condition(s) may also require medication(s) on a regular basis, which may increase their dependence on adults.
- Susceptibility: Identify any factors that may increase the child's susceptibility to harm or exploitation, such as social isolation, dependance on others for care, lack of awareness of safety precautions, or exposure to unsafe environments.
- Disability or Special Needs: Assess for any disabilities or special needs that may require additional support or accommodations. This may include intellectual, physical, sensory, behavioral, or communication disabilities.

For more information, *see CPS Safety Intervention Standards, Appendix 2: Assessing Child Vulnerability*.

Maltreatment Effects, If Applicable

- Emotional and Behavioral Effects: Describe any observed emotional or behavioral effects of possible maltreatment, such as anxiety, depression, aggression, or withdrawal.
- Physical Effects: Identify and document any physical effects of maltreatment, including injuries, developmental delays, or health conditions.
- Link to Maltreatment: Document the basis for any conclusions regarding the link between maltreatment and the child's functioning. While verification by a physician or behavioral health professional is not mandatory, the rationale for the CPS professional's assessment should be clearly explained.

General Functioning

- General Temperament and Behaviors: Describe the child's overall temperament, including their emotional reactivity, adaptability, ability to control actions and reactions, and ability to cope with stress and challenges. Evaluate behaviors in various settings (home, school, etc.) in light of the child's age, developmental level, and cultural background.
- Behavioral Health and Substance Use: Identify any diagnosed and/or undiagnosed behavioral health conditions and evaluate the impact of these conditions on the child's daily life and emotional well-being. Understand any previous traumatic events and whether/how these events affect their daily functioning. For older children and youth, identify any substance use present and its effects on their overall functioning, including physical, emotional, social, and academic aspects.

- Attachment and Relationships: Observe how the child interacts with adults and peers, noting how they express emotions, seek comfort, and build supportive relationships. For older children, explore the nature of their interactions with peers.
- Cultural Norms: Recognize that some behaviors or practices may differ from what the CPS professional is familiar with but may be considered desirable or acceptable within a particular cultural context.
- Involvement in Activities Outside the Home: For older children, consider the child's activities outside the home, such as sports, clubs, or community programs that provide socialization, peer interaction, skill development, and emotional support.

Maltreatment

This component describes the CPS professional's assessment of information gathered from the family, collateral contacts, and other professional evaluations (medical, law enforcement, etc.) pertaining to any alleged maltreatment.

- Substantiated Maltreatment: All types of maltreatment found to be present, per Determinations of Maltreatment and Maltreaters, should be specifically described. Provide clear and concise explanations for the determination of each type of maltreatment.
- Unsubstantiated Maltreatment: Any maltreatment alleged in the CPS report but not found to be present should also be described. Explain why the gathered information does not meet the criteria for substantiating maltreatment.

When explaining maltreatment determinations, provide information that supports decision making. This could include specific information about injuries or medical conditions that resulted from the maltreatment, or a lack of medical findings.

- Injuries may be non-accidental, or a result of the parent's actions but still not be serious enough to meet the statutory definition of physical abuse. Therefore, a CPS professional may document a non-accidental injury in this section, but still determine that maltreatment is unsubstantiated.
- Conditions present and documented here may be concerning, but may not rise to the level to "seriously endanger the physical health of the child," and therefore be unsubstantiated as maltreatment.

This component provides the supporting documentation for maltreatment determinations (substantiated, unsubstantiated, etc.). It also provides documentation that supports a petition Wis. Stat. § 48.13. If a heightened level of detail is needed to support a petition, such as a transcription of an interview with a child, this information might be documented on an audio or visual media, in case notes or in a law enforcement report and cross-referenced here.

Surrounding Circumstances

Maltreatment cannot be viewed in isolation, but must be viewed through the lens of the conditions and surrounding circumstances within the family leading up to or accompanying the maltreatment. Information in this section can assist in supporting the maltreatment determinations made at the end of the Initial Assessment.

- Context and Precursors: Explore the conditions and events that were happening when the alleged maltreatment occurred. Identify any immediate precursors or contributing factors, such as stress, substance use, or other stressors.
- Frequency and Duration: Determine whether the alleged maltreatment was an isolated incident, a situation-related occurrence, or a pattern of behavior that has been ongoing. Assess whether the maltreatment has been escalating or if there have been signs of improvement over time.
- Parental Reaction: Evaluate the parent's reaction after the maltreatment occurred. Assess whether the parent expressed regret, justified their own or the alleged maltreater's behavior, or took responsibility for their actions. When no maltreatment is identified, describe the parent's explanation of the circumstances that support the CPS professional's finding.
- Cultural or Religious Practices: Take into consideration how culturally relevant parenting practices or religious practices impact the family's situation.
    - In accordance with 48.981(3)(c)4., the maltreatment determination may not be based solely on the fact that the child's caregiver "in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has occurred, [the agency] shall give due regard to the culture of the subjects."
- Resource Accessibility: Document conditions that clearly and directly contribute to the risk or occurrence of maltreatment. For instance, if a child is being left unsupervised due to a lack of childcare resources, clearly state this as a contributing factor. Additionally, other stressful conditions that the CPS professional assesses as having directly contributed to the occurrence or risk of maltreatment should be documented.
    - **Neglect cannot be substantiated if the lack of adequate food, shelter, care, etc. is due to poverty.**

APPENDIX 2: RESOURCES FOR WORKING WITH INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY (LEP)

Agencies that receive federal funds are required to develop a language access policy and plan indicating how the agency will provide resources to limited English proficiency (LEP) individuals. These requirements are outlined in the Title VI of the Civil Rights Act of 1964. CPS professionals should check with their supervisor to see what the local child welfare agency's policies and procedures are pertaining to limited English proficiency resources, in addition to becoming aware of the particular limited English proficiency resources in the county.

Definitions

- **Limited English Proficient (LEP)**: A limited English proficient individual is someone who is unable to speak, read, write or understand the English language in a way that allows them to effectively interact with health and social services agencies and providers.
- **Qualified Interpreter**: Qualified interpreters will be proficient in both English and the individual's native language, will have knowledge in both languages of relevant specialized terms, concepts and cultural issues, and be bound by the interpreter code of ethics.
- **Translator**: Refers to an individual who translates the text of a document in one language into the text of another language. This term is often mistakenly used interchangeably with interpreter; interpreters speak, whereas translators write.

Communicating with Limited English Proficient Individuals:

- When it has been identified that an individual has a limited capacity to communicate in English, CPS professionals will make reasonable and documented efforts to provide the individual with information and services, in a language that the individual can understand through the use of interpreters, translators, or other methods that might be needed.
- CPS professionals will carry out reasonable efforts to ensure that limited English proficiency individuals understand, as entirely as possible, all significant CPS actions throughout their involvement with the local child welfare agency.
- Local child welfare agency efforts to provide limited English proficiency individuals with interpreter or translator services may not delay or interfere with actions necessary to protect a child from harm or risk of harm, or act in accordance with legal requirements.

Resources for Working with Limited English Proficient Individuals:

The State Court Office has compiled a roster of trained court interpreters which could be very helpful in interpreting due to the potential legal issues of CPS communication with a limited English proficient individual. The search for an interpreter can be accessed at: https://www.wicourts.gov/services/interpreter/search.htm

Information for Emergency Situations:

CPS professionals need to be aware that even though they have effectively communicated with a bilingual individual in English previously, in an emergency situation the individual may not be comfortable speaking English and might revert back to their native language.

Helpful Tips in Using Interpreters

- Local child welfare agencies should not use family members, friends, or children to interpret, translate, sign, or read for limited English proficient individuals except in emergency circumstances when other resources have been exhausted.
- The interpreter should be culturally appropriate given the age, gender, class, etc. of the individual that you are working with. This will depend on CPS professionals' knowledge of the limited English proficient individual's cultural norms and mores, to be able to determine what interpret characteristics are appropriate given the situation.
- Ensure that the selection of the interpreter maintains the individual's privacy. This can be done by having the interpreter sign appropriate confidentiality forms and be sure to discuss with the interpreter the seriousness of an individual's confidentiality. Local child welfare agencies may need to develop a form for interpreters and translators to sign, explaining confidentiality and ensuring the interpreter/translator understands the legal ramification of breaching confidentiality.
- Ask prospective interpreters several screening questions relevant to the situation, to ensure that their personal bias will not influence the interpretation.
- Speak in short, simple, jargon-free sentences and avoid slang, to make interpretation easier.
- Encourage the interpreter to translate literally rather than paraphrase, although sometimes paraphrasing might be necessary for cultural understanding.
- Look and speak directly to the individual that you are interviewing or meeting with rather than speaking directly to the interpreter.
- Even though the CPS professional might not understand the language be aware of the non-verbal cues given by the person you are interviewing.
- Have the interpreter ask the interviewee to repeat the information being communicated and documented, this will help ensure that there are no gaps in understanding.
- Remember that using an interpreter is not easy for everyone involved and try to be patient.

APPENDIX 3: DOMESTIC ABUSE

There is a significant overlap between domestic abuse and child maltreatment: in families where one form of family violence exists, there is a likelihood that the other does, too. The majority of research studies over the past two decades reveal that in an estimated 30 to 60 percent of families where either domestic violence or child maltreatment is identified, it is likely that both forms of abuse exist. Good CPS practice will address this co-occurrence.

For more information beyond this appendix, see the Domestic Violence Handbook for Wisconsin Child Welfare Professionals.

Access

Interviewing the Reporter to Assess for the Presence of Domestic Violence

As a routine part of gathering information during the Access process, Access professionals should ask questions of the reporter about the possibility of domestic violence in the home. Information gathered at Access will help determine if the report is screened-in as a CPS report. Information about the family will help determine if intervention is needed and at what level. Collecting comprehensive information about possible violence, including reports from law enforcement, is also critical regarding the CPS professional's safety.

The following sample questions can help determine if the reporter has information about domestic violence and can be adapted to your interviewing style.

- Do you know if anyone else in the home besides the child has been hurt or assaulted? If yes, who?
- Have the police ever been called to the house to stop fighting among the family members? If yes, tell me about that.
- Have the children said that one of their caregivers is a victim of violence or is acting violently in the home?
- Do family members appear to be afraid of or intimidated by the alleged maltreater?

If the answers to the above four questions indicate the presence of domestic violence in the home, or if it appears that a family member is violent, aggressive, or controlling, these additional questions can assist with assessing the risk of danger to family members.

- Has the violence changed or increased over time? How often does it happen?
- Has anyone made threats to hurt or kill him/herself, another family member or pets?
- Do you know if there any weapons in the home? If yes, what kinds? Who had access?
- Has the violent parent or caregiver threatened to run off with the child(ren) or threatened to take full custody of the child(ren)?
- Are you aware of circumstances in which the parent/guardian has been criticized or threatened for seeking help or community resources, such as medical, mental health, parenting assistance, childcare, legal action etc.?
- Has a family member stalked another family member? Has anyone ever taken a family member hostage?

Screening of the Report

The presence of domestic violence does not in and of itself indicate that a report should be screened-in for Initial Assessment. Although many children suffer when they are exposed to domestic violence, not every child exposed is in need of child protective services. As with all reports to a local child welfare agency, a decision must be made during the point of Access if information supports a suspicion that the child may have been abused or neglected, or may be at risk of abuse or neglect (threatened harm).

Absent a direct allegation of abuse or neglect to a child, a report of children exposed to domestic violence should be screened-in as a CPS report according to the following criteria:

- A report is made in which there is reasonable cause to suspect there is current domestic violence or the abuser has a history of domestic violence, *and*
    - there is reason to suspect the child is intervening or will intervene, placing him or her at risk of injury, or
    - the child is likely to be injured during the violence (e.g., being held during the violence, physically restrained from leaving), or
    - the alleged perpetrator does not allow the protective parent/guardian and child access to basic needs impacting their health or safety, or
    - the alleged maltreater has killed, substantially harmed or is making a believable threat to do so to anyone in the family, including extended family members and pets, or
    - the child exhibits observable behavioral, emotional or psychological effects.

Other factors to consider in making a decision to screen-in a report include:

- There is serious injury to the non-offending parent (e.g. broken bones, internal injuries, suffocating, strangulation, etc.), limiting protective capacity.
- Violence is increasing in frequency or severity.
- Weapons were used or threatened.
- Threats of kidnapping, suicide, or homicide.

If the information does not rise to the level of a CPS report, the agency may decide to screen the report as a services intake to offer resource and referral assistance to the family or the alleged victim. The offer of services should be made carefully with the consideration that any intervention may be viewed by the abuser as a challenge to their authority and may increase the risk of harm to the children or the adult victim.

Initial Assessment

The dynamics of domestic abuse are based on the abuser maintaining power and control over his or her partner. Domestic abuse is not limited to physical violence, and many victims report that emotional abuse, threats, and coercion can be more debilitating than physical assaults. Challenges to a domestic abuser's power and control, including a CPS Initial Assessment, may increase the likelihood of escalating violence. In addition, a victim faces an increased risk of being harassed, seriously harmed, or killed when an abuser's control is challenged or when the abused leaves the abuser. Children are also more at risk during this time. When domestic abuse is known

or suspected, plan the Initial Assessment carefully and always take into consideration that the Initial Assessment may increase the risk of harm to the child and the adult victim. CPS professionals should routinely inquire about domestic abuse during Initial Assessment interviews, whether or not there are allegations of domestic abuse. Domestic violence can occur in heterosexual or same sex relationships and may be perpetrated by males or females.

General Practice Considerations

- Safety for both the child and the adult victim should be a top priority when CPS professionals conduct an Initial Assessment where domestic abuse may be present.
- Assess for domestic abuse by looking for patterns of power, control, entitlement, and intimidation, in addition to physical violence.
- If there are allegations that the violence is mutual, look at the history of who has been the predominant aggressor. Although Wisconsin law discourages such practice, there are times when both parties may be arrested in a domestic abuse incident. Some things to consider include who is afraid of whom; who controls or makes decisions in the relationship; who is more socially isolated; and who has more access to financial and economic resources. Keep in mind that there are times when a domestic abuse victim may act in self-defense.
- Try to do the assessment with the adult victim when the domestic abuser is not home. If possible, call first to see who is at home and how safe it is to go out. Consider meeting the adult victim in a safe and neutral place. Being unable to talk to an adult victim alone may be a signal of danger and related to the level of control the abuser has over the family. CPS professionals should consult with a supervisor as to how to proceed.
- Do not leave domestic abuse resource information, letters, or voice mail messages asking to speak with the adult victim about the abuse. Such information can jeopardize the victim's safety.
- When domestic abuse is suspected or known, develop a plan for interviewing family members that takes into account the safety of all family members. Be aware of any aspects of the timing of interviews that may put a victim at more risk and help them plan for safety accordingly.
- In each culture there are values, traditions, and practices that facilitate abusive and coercive relationships, and values, traditions, and practices that support and promote functional and respectful relationships. It is important for CPS professionals to become familiar with these aspects of culture and to be able to use the protective resources of diverse cultures in their interventions with families[5].
- Racial and cultural differences in how women and men experience, explain, or justify domestic abuse challenge CPS professionals to become aware of their own culturally based assumptions about domestic abuse and to avoid applying these assumptions with diverse populations.

[5] Mederos, Fernando et al, (2004) *Accountability and Connection with Abusive Men.* Family Violence Prevention Fund, San Francisco, CA.

Interviewing Children About Domestic Abuse

- As developmentally appropriate, ask children questions about what happens when adults in their families disagree.
- Provide an atmosphere that supports children's comfort in discussing domestic abuse. Children receive messages, either directly or indirectly, that domestic abuse is a "family secret." It is usually uncomfortable or frightening for children to talk about the domestic abuse. Some children may be afraid that discussing domestic abuse may cause problems at home or lead to their removal from their home.
- Be aware that some children may align with the abuser or attempt to protect them by not discussing the abuse or by blaming the victim. Assure the child that the domestic abuse is not his/her fault or the adult victim's.
- If an interview with a child reveals domestic abuse, it is important that you contact the adult victim as soon as possible. If the child informs the abuser about this disclosure, the adult victim may be at increased risk for violence and retaliation. The victim needs to have this information and help (if necessary) in planning for safety.
- Tell the child what information you will be sharing and what might happen next.

Sample Questions[6]

Adapt your questions to the developmental age of the child. If children are old enough, questions can be asked of them, including those below. It can be helpful to start with a broad-based statement before asking specific questions about the child's family. For example, "Sometimes when moms and dads (or boyfriends and girlfriends) fight, they get angry. Sometimes even too angry and they may start to yell at each other or even hit. I know fights can be scary. I want to ask you a few questions about when your parents fight and what you think about it".

- What kind of things do mom and dad (or girlfriend or boyfriend) fight about?
- What happens when they argue? How does it make you feel?
- Does anyone ever hit another person? What do they hit with?
- How often do your mom and dad argue or hit?
- Have the police ever come to your home? Why?
- Did you ever see your mom or dad get hurt? What happened?
- Have you ever been hit or hurt when mom and dad (or girlfriend or boyfriend) are fighting? Has your brother or sister ever been hit or hurt during a fight?
- What do you do when they start arguing or when someone starts hitting?
- Do you often worry about mom and dad (or girlfriend or boyfriend) fighting a lot?
- On a scale of 1-10, where one equals very safe and 10 equals very unsafe, how safe do you feel at home?

[6] Questions adapted from "Child Protection in Families Experiencing Domestic Violence", U.S. Dept. of Health and Human Services, Administration for Children and Families, Children's Bureau.

Interviewing the Suspected Adult Victim of Domestic Abuse

- Never ask a victim about domestic abuse in front of their partner. It will not be safe for them to disclose if their partner is in the vicinity.
- If preliminary information suggests that the perpetrator is dangerous, CPS professionals should take appropriate measures to protect their own safety.
- Ask open-ended questions about the adult victim's well-being to start the conversation. However, express concern and ask questions about bruises or other visible injuries.
- Recognize that some victims may initially deny or minimize the abuse or may not identify their experiences as abuse. CPS professionals can build trust and rapport over time to create an atmosphere in which a victim feels comfortable talking about their experiences.
- Affirm to the adult victim that they do not deserve to be abused and that the abuse is not their fault. Point out the abuser's responsibility for the violence. Express concerns for their safety and the safety of their children.
- Ask the adult victim about what strategies she uses to reduce the risk of harm to the child(ren). While personal resources vary among victims, many have developed survival skills, and most have taken action to protect their children. Strategies that look like poor parenting may, in fact, be efforts by the victim to protect their family, based on their assessment of the situation. For example, a victim may comply with the perpetrator to reduce risk to the child.
- An adult victim may have had past experience with agencies or helping professionals that blame them for the abuse, discount the seriousness of their situation, or revictimize them in other ways. This may make CPS intervention more difficult. It may be useful to ask them about previous attempts to get help and the results.
- Avoid "victim blaming" questions or statements that deepen a victim's feelings of shame, guilt, or responsibility for the alleged abuser's behaviors. Examples of victim blaming questions include: "Why don't you leave?"; “Why did you go back?”; "What did you do to make your partner so mad?"; or "Why do you put up with the abuse?"
- Adult victims may be reluctant to talk with CPS because of fears of losing their children and/or retaliation by the batterer. Many times, CPS intervention is the first time that domestic violence is revealed. This is often forced disclosure, not by the victim's choice. Progress in the interview will require open-ended questions, patience, support, and education.
- Work with the adult victim on developing safe alternatives for themself and their children. Do not demand that the victim leave the abusive relationship. Leaving can increase the risk to victims and their children as abusers can become increasingly violent during times of separation. Safety options can include obtaining a restraining order, working and consulting with a domestic abuse advocate, seeking shelter at a domestic abuse program, or developing a Safety Plan that details the steps to take if the abuser becomes threatening or violent.
- Revealing information that the adult victim shares with you to their partner may be dangerous to them. Consult with a supervisor about how to handle and document information that may put them or the children at increased risk.

- Let the adult victim know what will happen with the information gathered during the CPS Initial Assessment. A victim of domestic abuse may be particularly concerned about safety and privacy. Let them know that CPS may be required to share information about their situation in court proceedings should the CPS professional be subpoenaed, or that the results of the Initial Assessment may be shared with the alleged maltreater. Consult with a supervisor about how to handle and document information that may put them or the children at increased risk.

Sample Questions to Ask in All Interviews[7]

The following are some sample questions to ask the adult victim for a general assessment of domestic abuse. Adapt these questions to your style and the situation. For a more thorough assessment of the forms and impact of domestic abuse, see the *Domestic Abuse Handbook*.

- Tell me about your relationship.
- How do decisions get made?
- What happens when you and your partner disagree?
- How does your partner treat your pet? Your property?
- What happens when your partner feels jealous or possessive?
- Have you ever felt afraid of your partner? Tell me about that.
- Has your partner ever threatened to kill or harm themself, you, the children or a pet? Tell me about that.
- Has your partner threatened to take the children from your care if you leave them?
- Has your partner ever used force against you? Pushed? Shoved? Hit? Strangled or choked? If so, tell me about a time that stands out in your mind. Has the violence escalated over time?
- Has your partner pressured or forced you to engage in sexual activity? Tell me about that.
- Most people think of weapons as guns or knives, but other objects can be used to hurt someone. Has your partner used a weapon to threaten or harm someone in the family? Does your partner have access to a dangerous weapon or gun? If yes, tell me about that.
- On a scale of 1-10, where one equals very safe and 10 equals very unsafe, how safe do you feel in your relationship with your partner?

Interviewing the Alleged Maltreater About Domestic Violence

- Do not ask the alleged maltreater about domestic abuse in front of their partner. Do not tell the alleged maltreater any information given by the victim or a child.
- Caution must be exercised regarding information obtained from the victim or the children and redisclosure of that information to the abuser.

[7] Questions adapted from Child Welfare Practices for Cases with Domestic Violence, Oregon Department of Human Services.

- The abuser may not be a reliable source of information about their violent behavior or their use of power and control tactics. Better sources of information include the adult and child victims, police reports, medical reports, and collateral contacts.
- Be aware that perpetrators of domestic abuse often appear very believable and controlled, especially during initial interviews. An abuser may also present themself as a victim of domestic abuse.
- Interview the domestic abuser in a way that encourages disclosure of abusive conduct. Domestic abusers routinely deny, minimize, or blame the victim for their violent behaviors. Ask specific questions about behaviors, as a perpetrator may not think of their actions as violent or abusive. For example, he may believe that "violence" refers to a serious injury requiring medical attention, whereas pushing, slapping or hitting is simply "arguing" or "disagreeing."
- If an alleged maltreater denies domestic abuse, do not try to force disclosure, but move on to other subjects. Angry confrontations with domestic abuse perpetrators can result in retaliation against the child or adult victim. You do not need the perpetrator's disclosure to confirm that domestic abuse has occurred. Such confirmation comes from adult and child victim statements, CPS professional observations and other agency reports.

Sample Questions[8]

The following are some sample questions to ask the alleged maltreater. You may want to reassure the individual that the domestic violence questions are a routine part of family assessment. These questions can also be used to screen for domestic abuse when it was not part of the allegation.

- Tell me about your relationship.
- How do decisions get made in your relationship?
- What happens when you and your partner disagree?
- Does your partner ever seem afraid of you?
- Do you or your partner use alcohol or drugs? How often? How much do you use?
- Has your partner ever been hurt during an argument? What happened?
- Have you ever used force against your partner? Pushed them? Shoved them? Hit them? Choked or strangled them? Bit them?
- If so, tell me about the worst episode. What was the most recent episode? How frequently does this happen?
- Where are the children usually when you and your partner fight?
- Have the children ever been hurt?
- On a scale of 1-10, where one is very safe and ten very unsafe, how safe do you feel in your family? How safe do you think your partner feels? Your children?

[8] Questions adapted from Child Welfare Practices for Cases with Domestic Violence, Oregon Department of Human Services.

APPENDIX 4: COORDINATION AND COLLABORATION WITH LAW ENFORCEMENT AGENCIES

Introduction

Coordination between the local child welfare agency and local law enforcement agencies should fulfill the following purposes:

- Improve safety for children.
- Improve efficiency and effectiveness of information gathering and decision making.
- Reduce trauma to children.
- Improve safety for other family members and the CPS professional, when needed.

Collaboration with law enforcement is intended to result in improved safety for children. Law enforcement officers can enter a home or other private property without permission if there is probable cause to believe that a crime is being committed and there are exigent circumstances and can take children into immediate custody when the circumstances warrant it. Law enforcement officers can also handle dangerous criminal activity that creates risk for a child or makes a child unsafe.

Law enforcement information about alleged maltreaters and family members, as well as community conditions, can improve safety assessment and safety planning. In jurisdictions with an emphasis on community-oriented policing, the relationship that a law enforcement professional has with the principals of the report and collaterals in the community can encourage motivation and commitment to follow through with protective and Safety Plans. Law enforcement actions, such as arrest and incarceration of the maltreater, may also be factored into the Safety Plan.

Law enforcement officers can also help keep everyone safe during the Initial Assessment process. It is not unusual for a CPS professional to find himself or herself confronted by an angry, volatile, or out-of-control family member or family friend. Alcohol or other drug abuse by family members or friends can create volatile, unpredictable conditions that are best handled by law enforcement professionals. In addition, the potential presence of weapons puts CPS professionals at heightened risk.

Law enforcement officers can pursue alleged maltreaters in non-family reports where CPS has limited authority to intervene directly with the maltreaters. In reports of maltreatment by adult non-caregivers, the law enforcement system is the only system that can take action to directly control or restrict the behavior of the maltreater.

Underlying Philosophies of the Criminal Justice and Child Welfare Systems

Coordination between the local child welfare agency and local law enforcement agencies are designed to recognize the different purposes and roles of each system and assure that both systems are able to perform their responsibilities effectively.

The child welfare system views child maltreatment as a result of problems in functioning in the parent role and family functioning which can be exacerbated by stressful societal or environmental conditions (e.g., loss of employment, poverty, racism, etc.). It views child abuse and neglect as the co-occurrence of the rise in risk factors and the breakdown of protective factors. As such, the child welfare system provides supports to stabilize a family and assure safety and treatment services to change those conditions placing children at risk and strengthen the protective capacities of the family.

The criminal justice system and the child welfare system have separate case identification strategies. Law enforcement agencies conduct incident-based investigations to determine if a crime has been committed and a particular person or persons should be held responsible and prosecuted. Child welfare agencies conduct assessments of risk factors and protective factors to determine if agency services or other community services are needed. Both systems act to assess and ensure immediate safety.

In reality, some of the reports of maltreatment referred to local child welfare agencies are the result of criminal behavior (anti-social behavior or other behavior rooted in psychopathologies or personality disorders resulting in criminal acts). Children living in homes where parents operate a methamphetamine lab or children methodically starved by their parents are neglected and endangered through their parents' criminal acts. The sexual abuse of a young child by an adult is also a criminal act. But the majority of families referred to the child welfare system are families who need assistance to provide adequate care for their children.

Law enforcement agencies may use varied approaches, and some have an expanded role of prevention through community policing. These methods are generally more consistent with CPS purposes than is the law enforcement role of enforcement of laws or containment of criminal activity and may result in the ability to coordinate on more case types.

Differences in Definitions of Maltreatment

Law enforcement and local child welfare agencies use different sets of definitions for child abuse and neglect. Local child welfare agencies use the definitions for physical abuse, sexual abuse emotional damage, and neglect, found at Wis. Stat. § 48.02. The definitions of sexual abuse are a cross-reference to certain sexual crimes against children found in ch. 948 and other chapters of the Criminal Code. For purposes of criminal investigation, law enforcement agencies use the definitions and descriptions of crimes against children found in the Criminal Code, primarily in ch. 948. Law enforcement officers tend to focus on the definitions in the Criminal Code; although officers who deal more routinely with children's issues, such as juvenile officers and school liaison officers, are often more aware of the definitions in ch. 48 and use those definitions when performing responsibilities under that chapter.

The differences in definitions for child abuse and neglect need to be discussed in developing Memorandum of Understanding (MOUs) for a variety of reasons. First, there are some crimes against children that are not child maltreatment under ch. 48, and therefore not within the scope or authority of CPS. CPS generally should not be involved in responding to those reports. Second, there are significant differences between the definition of physical abuse in ch. 948 and the definition of physical abuse in ch. 48, in terms of the level of harm to a child.

The level of harm needed to proceed for criminal purposes is **lower** than the level of harm needed for CPS purposes. As defined in Wis. Stat. § 948.03, "physical abuse of a child" includes intentional or reckless "causation of bodily harm." "Bodily harm" is defined as "physical pain or injury, illness, or any impairment of physical condition" [Wis. Stat. § 939.22(4)]. However, in Chapter 48, the level of harm required to substantiate physical abuse is the following: "'Physical injury' includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm, as defined in Wis. Stat. § Wis. Stat. § 939.22(14)," [Wis. Stat. § 48.02(14g)]. "Great bodily harm" is defined as "bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury."

Local child welfare agencies cannot restrict their response to just those reports that rise to the level of harm referenced above because CPS is also responsible for responding to children who are **likely** to be abused or neglected. This significantly expands those situations where CPS has a responsibility to respond and assess the family. Nevertheless, the difference in definitions between ch. 948 and ch. 48 can still result, theoretically, in a situation where a person is convicted in criminal court but unsubstantiated by the local child welfare agency. Therefore, county agencies and DMCPS should discuss these differences with the law enforcement agencies during the process of developing the MOU to assure understanding of each other's responsibilities and limitations.

Balancing the Needs and Responsibilities of Both Systems

Effective coordination cannot be accomplished without a clear understanding of each other's purpose. Coordination is only effective if it allows each system to fulfill its purposes efficiently and successfully. The functions of each system are derived from their purposes. Law enforcement agencies investigate crimes and prepare cases for prosecution; therefore, the collection and preservation of evidence is a law enforcement function. Local child welfare agencies provide and coordinate services to families to assure the ongoing safety and well-being of children; therefore, establishing and implementing safety and treatment plans with the family are CPS functions.

In developing an MOU describing what each agency will do in various circumstances, it is helpful to consider the skill sets of each agency. A report of a young child who is unsafe because the single mother is depressed, overwhelmed and without adequate resources is a good fit with the social work skills of the CPS professional. Conversely, a report of a child who is unsafe because the parent has a methamphetamine lab in the basement is not suited to the CPS skillset and instead needs a primary response from a law enforcement agency, which has the necessary skills to respond.

Although local child welfare agencies and law enforcement agencies are required to coordinate the investigation of reports of sexual abuse and threatened sexual abuse, there is no statutory requirement that the coordination of the planning and execution of these must be handled in a specific way. County departments or DMCPS and law enforcement agencies may develop different procedures and protocols for different types of cases and determine responsibilities for the various activities, while still coordinating the planning and execution of their investigation.

Both systems have statutory responsibilities. The responsibilities of one system do not supersede the responsibilities of the other. In a written response to a request for a legal opinion from a district attorney in 1988, Attorney General Donald Hanaway stated, "Without minimizing in any way the importance of criminal investigations and sanctions in particular cases, I strongly believe that the primary purpose of Wis. Stat. § 48.981, when originally enacted and now, is to assure that appropriate protective and other services are provided to abused and neglected children and their families in order to protect such children from further harm and to promote the well-being of the child in his or her home setting, whenever possible."

There may be circumstances, however, when it is reasonable for one system to take a more prominent, or lead, role in conducting an Initial Assessment. These decisions should be based upon an understanding of the functions that need to be accomplished. For example, in situations where there is a child fatality alleged to be due to maltreatment, if there are no surviving siblings or other children at risk, the only function to be performed is the collection and preservation of evidence, a law enforcement function. In such situations, CPS will have a minor role, such as meeting CPS requirements for a fatality, or possibly making a maltreatment and maltreater decision regarding a licensee or employee who provides care to children. If there are siblings, however, CPS also has a primary role of assessing the safety of the surviving children and implementing Safety Plans as needed. In these instances, both systems have an equal statutory responsibility, and coordination efforts should address this understanding.

Some reports may require very specific procedures to be developed and documented in MOUs. For example, response to reports of methamphetamine labs in a family home requires the coordination of law enforcement agencies, CPS, and hospitals. The initial response to this type of report must be made by law enforcement agencies, immediate assumption of custody and placement of children after law enforcement personnel have handled the emergent criminal issues are a CPS function, and decontamination and medical assessment of the children are a hospital responsibility. Cooperative efforts may also be made to enhance the collection of evidence that may assist in maintaining a child welfare intervention such as law enforcement noting conditions of the home (unhealthy conditions), availability of food, and risks or dangers in the home (drugs, needles lying about). All of the above activities must be efficiently planned and executed in the best interests of the children.

Conducting Interviews

Interviews are a significant part of the Initial Assessment, for both the local child welfare agency and the law enforcement agency. Interviewing requirements vary, depending upon who is named as the alleged maltreater. In Primary Assessment case types, the CPS professional must interview all household members. This includes the parents, all children in the home, any non-maltreating adults in the household, and the alleged maltreater. Any agreements in an MOU regarding CPS conducting or participating in interviews must reflect these requirements.

The variation in the CPS role, depending upon whether the alleged maltreatment requires a Primary Assessment, a Secondary Assessment or Non-Caregiver Assessment, is an additional consideration that must be taken into account in establishing procedures through an MOU. If the alleged maltreatment is being assessed using a Primary Assessment, an interview protocol that starts with the child may be appropriate, as is interviewing the child without parental permission

or knowledge. In such situations, consideration must be given to the location of the child, urgency of the situation, consent by appropriate caregivers if not in a public setting, or other legal authority (e.g., court order, warrant, capias).

However, if the alleged maltreatment is being assessed using a Secondary Assessment or a Non-Caregiver Assessment, the role of CPS during Initial Assessment, is to support the parent in meeting the child's need for protection and/or services and avoid usurping the parents' role, authority, or judgment. Therefore, interviews by CPS should begin with the parent. This may not be consistent with the law enforcement interviewing protocol and will need to be addressed in the MOU.

Interviews may be conducted jointly or separately. Some interviews in certain circumstances may be conducted only by one of the systems, as the other does not need the information to fulfill its purposes. Communities may develop different models, employing a very standardized protocol or a more flexible protocol, depending upon community needs and resources. Generally, however, joint interviewing of children is recommended, particularly if it reduces the number of times that a child victim needs to tell his or her story. Other options may be considered, depending upon the resources available in the community. For example, one person may interview a child in a setting/facility, such as a child advocacy center, that allows others to observe and communicate with the interviewer as needed to assure both systems' questions are answered, and needs are met.

In assessments where joint interviews are conducted, a decision should be made as to who will take the lead in the interview. This decision may be made on a case-by-case basis, based on the skills and experience of the individual professionals involved, and the age, gender and particular needs of the child being interviewed, or the particular history of the adult being interviewed. For example, a woman who has been the repeated victim of domestic violence by her husband/boyfriend may be more comfortable being interviewed by a female CPS professional or law enforcement officer. Some law enforcement and CPS professionals have developed such a level of experience and trust with each other that they are able to trade the lead in an interview back and forth, as needed, to achieve their purposes; a formal decision, when such a working relationship exists, is often not needed.

The CPS system and law enforcement system have similar purposes when interviewing an alleged child victim and are likely to use similar interviewing techniques. When interviewing other principals of the report, such as an alleged maltreater, however, purposes and therefore techniques of the two systems may diverge. As mentioned earlier, establishing and implementing safety and treatment plans with the family are CPS functions. CPS cannot be effective in fulfilling these functions without a working relationship with the family based on trust and mutual respect. CPS must lay the groundwork for this relationship during the Initial Assessment and introduce the agency to the family as a source of help. Trust must be established and maintained over an extended period of time, not just over the course of one or two interviews. This requires honesty on the part of the CPS professionals in interacting with the family, as well as adherence to other social work casework principles, such as client self-determination, non-judgmental approach by the CPS professional, etc. Law enforcement officers, on the other hand, may use an interviewing strategy that employs a level of deception to obtain critical information or confessions leading to convictions. The need to maintain an ongoing working relationship with the family is not

necessarily relevant to their purpose. Agreements in the MOU regarding interview responsibilities should reflect the above understanding.

In those circumstances when separate interviews may be conducted, it is helpful to coordinate the order of the interviews by each system. The MOU should address this to the extent possible. However, the CPS system may not delay its required actions beyond those timeframes specified in statutes. Timelines in standards may only be delayed if the delay results in better adherence to the purposes of the standards and child safety is not jeopardized and it is consistent with chapter 48 requirements. The MOU should also address those circumstances when one system will not be involved in interviewing.

Expanding the MOU

County departments and DMCPS may expand the type of reports that will be routinely referred to law enforcement agencies. The MOU may also address additional procedures related to an Initial Assessment and how they will be implemented. One such procedure is the removal of a child from his or her home. The removal of a child, an action taken to ensure a child's safety, can escalate already volatile emotions in a family, creating a more dangerous situation than that which the CPS professional originally entered. Although the need for emergency removal may not be evident from the referral information, there are times when the referral information is sufficient to suggest this possibility. County agencies and DMCPS are encouraged to develop procedures regarding the participation of law enforcement and social/human services personnel in the removal of children from their homes as part of the MOU.

In addition, other procedures associated with removing a child from a home may be addressed in the MOU, including:

- Measures that decrease trauma to the child and assure a transition that is supportive (e.g., a parent accompanying the child to the placement, assisting the child in bringing some personal belongings, acclimating the child to the placement home, processing the situation with the child).
- Identification of placement options other than licensed care, such as with relatives.
- Steps to assure the basic safety of the temporary placement.
- Obtaining basic health information from the parent so that the foster parent or other caregiver is aware of any immediate medical concerns.
- Notification of the parent if the parent is absent when the child is removed.
- Notification and involvement of the tribe for children who are included in the federal and state Indian Child Welfare Act.
- Other issues the parties to the MOU wish to address.

County departments/DMCPS and law enforcement agencies may choose to enhance the MOUs by including other parties, particularly those who have a responsibility to investigate or assess child maltreatment or take legal action on behalf of the child or the public. For example, local agencies may wish to include the District Attorney in the agreement process. If the county uses a child advocacy center, involvement of that center in the development of the MOU should also be considered. Local agencies may develop the MOU as a broader document if that serves the community’s purpose.

For example, the statute states that "Each sheriff and police department shall adopt a written policy specifying the kinds of reports of suspected or threatened abuse, as defined in Wis. Stat. §§ 48.02(1)(b)–(f), that the sheriff or police department will routinely refer to the district attorney for criminal prosecution" [Wis. Stat. § 48.981(3)(b)3]. Although this does not involve the county department or DMCPS, the involved parties may wish to include this policy in the MOU, particularly if the District Attorney is involved in the development of the MOU.

The statutes include a requirement that "[t]he department, the county departments... to the extent feasible shall conduct continuing education and training programs for staff of the department, the county departments…law enforcement agencies, and… others as appropriate" [Wis. Stat. § 48.981(8)(a)]. County departments and DMCPS may wish to include language addressing training issues involving law enforcement agencies in the MOU. If so, local departments are encouraged to include consideration as to how they will collaborate and support continuing education in families where domestic violence, substance abuse, mental health issues, or developmental disabilities are an issue or where the federal and state Indian Child Welfare Act applies.

County departments are encouraged to develop MOUs with the local law enforcement agencies that reflect the needs and resources of the community. The extent to which community-oriented policing is employed, the skill level and experience level of professionals in the CPS and law enforcement systems, the ability of the CPS system to provide services beyond mandated responsibilities, and the availability of other resources in the community can all impact the content of the MOUs.

APPENDIX 5: STATUTORY DEFINITIONS OF ABUSE AND NEGLECT

Physical Abuse

Physical abuse is defined in Wis. Stat. § 48.02(1)(a) as "physical injury inflicted on a child by other than accidental means. 'Physical injury' includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm as defined under Wis. Stat. § 939.22(14)" [Wis. Stat. § 48.02(14g)].

Neglect

Neglect is defined in Wis. Stat. § 48.02(12g) as "failure, refusal, or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child."

Sexual Abuse

Sexual abuse is defined in Wis. Stat. § 48.02(1), as:

1) "Sexual intercourse or sexual contact under Wis. Stat. § 940.225, Wis. Stat. § 948.02, Wis. Stat. § 948.025, or Wis. Stat. § 948.085" [Wis. Stat. § 48.02(1)(b)].

   "'Sexual intercourse' includes the meaning assigned under Wis. Stat. § 939.22(36) [vulvar penetration] as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required" [Wis. Stat. § 940.225(5)(c)].

   "Sexual contact" means any of the following:

   - Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under Wis. Stat. § 940.19(1).
   - Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.
   - Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.
   - Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually arousing or gratifying the defendant.
   - For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to

ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

[Wis. Stat. §940.225(5)(b) & Wis. Stat. § 948.01(5)].

"Intimate parts" means the breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being" [Wis. Stat. § 939.22(19)].

Wis. Stat. § 940.225 addresses sexual assault of any person, and therefore includes sexual assault of a child aged 17 years old or less. Sexual assault under this section is defined to include when a person:

- Has sexual contact or sexual intercourse with another person without consent of that person.
- Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
- Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of appraising the person's conduct, and the defendant knows of such condition.
- Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

"Consent," for purposes of the definition of sexual abuse means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. The following persons are presumed incapable of consent, but the presumption may be rebutted:

- A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.
- A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

[Wis. Stat. § 940.225(4)].

Wis. Stat. § 948.02 defines sexual assault of a child to include sexual contact or intercourse with a child, aged 15 years or less, even when it is with consent. However, under Wis. Stat. § 948.02 sexual contact or sexual intercourse between a 15-year-old and an individual under the age of 19 years old is not sexual assault if it is consensual and is not by use or threat of force or violence. [Wis. Stat. § 948.02(2) & Wis. Stat. § 948.093]

Wis. Stat. § 948.025 addresses "engaging in repeated acts of sexual assault of the same child" under Wis. Stat. § 948.02(1) or (2) (relating to children aged 15 years or less). However, repeated acts of consensual sexual contact or sexual intercourse between a 15-year-old and an individual who is under the age of 19 years old does not fall within this provision. [Wis. Stat. § 948.02(2) & Wis. Stat. § 948.093]

Wis. Stat. § 948.085 addresses sexual assault of a child placed in substitute care by a foster parent or by an employee or volunteer of a shelter care facility, group home, or other institution for care of certain children as identified in Wis. Stat. § 940.295(2)(m).

2) "A violation of Wis. Stat. § 948.05," [Wis. Stat. § 48.02(1)(c)]. This section addresses "sexual exploitation of a child." "Sexual exploitation of a child" is described as:
    a. when someone "does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child:
        i. Employs, uses, persuades, induces, entices or coerces any child to engage in sexually explicit conduct for the purpose of photographing, filming, videotaping, recording the sounds of or displaying in any way the conduct.
        ii. Photographs, films, videotapes, records the sounds of or displays in any way a child engaged in sexually explicit conduct."
    b. When someone "produces, performs in, profits from, promotes, imports in the state, reproduces, advertises, sells distributes or possesses with intent to sell or distribute, any undeveloped film, photographic negative, photograph, motion picture, videotape, sound recording or other reproduction of a child engaging in sexually explicit conduct if the person know the character and content of the sexually explicit conditions involving the child and if the person knows or reasonably should know that the child engaging in the sexually explicit conduct has not attained the age of 18 years."

3) "Permitting, allowing or encouraging a child to violate Wis. Stat. § 944.30(1m)," [Wis. Stat. § 48.02(1)(d)]. This section addresses prostitution. A violation of Wis. Stat. § 944.30(1m) includes when a person:
    a. Has or offers to have or requests to have non-marital sexual intercourse for anything of value.
    b. Commits or offers to commit or requests to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another for anything of value.
    c. Is an inmate of a place of prostitution.
    d. Masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value.
    e. Commits or offers to commit or requests to commit an act of sexual contact for anything of value."

4) "A violation of Wis. Stat. § 948.055," [Wis. Stat. § 48.02(1)(e)]. This section addresses intentionally causing a child to view or listen to sexual activity. This is defined as when a person "intentionally causes a child who has not attained 18 years of age to view or listen to sexually explicit conduct …if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child."

5) "A violation of Wis. Stat. § 948.10," [Wis. Stat. § 48.02(1)(f)]. This section addresses exposing the genitals or pubic area to a child or causing a child to expose genitals or pubic area. This is defined as when a person "for purposes of sexual arousal or sexual

gratification, causes a child to expose genitals or pubic area or exposes genitals or pubic area to a child."

6) "A violation of Wis. Stat. § 948.051," [Wis. Stat. § 48.02(1)(cm)]. This section addresses the sex trafficking of a child. This is defined as whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts, as defined in Wis. Stat. § 940.302(1)(a).

Methamphetamine Manufacturing

Methamphetamine manufacturing is defined as "[m]anufacturing methamphetamine in violation of Wis. Stat. § 961.41(1)(e) under any of the following circumstances:

- With a child physically present during the manufacture.
- In a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home.

Under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child" [Wis. Stat. § 48.02(1)(g)].

Emotional Damage

Emotional damage is defined as "emotional damage for which the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms" [Wis. Stat. § 48.02(1)(gm)]. "'Emotional damage' means harm to a child's psychological or intellectual functioning. 'Emotional damage' shall be evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety; depression; withdrawal; outward aggressive behavior; or a substantial or observable change in behavior, emotional response or cognition that is not within the normal range for the child's age and stage of development" [Wis. Stat. § 48.02(5j)].

Physical Abuse

"Physical abuse" is defined under Wis. Stat. § 48.02(1)(a), as "physical injury inflicted on a child by other than accidental means." "Physical injury" is defined under Wis. Stat. § 48.02(14g) as "includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm as defined under Wis. Stat. § 939.22(14)." "Great bodily harm" as defined under Wis. Stat. § 939.22(14), means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

Injuries other than those specifically listed may be considered physical abuse if they are similar in degree or nature to the injuries listed. However, additional types of injuries do not need to rise to the level of great bodily harm since the listed types of injury do not rise to that level. Substantial bodily harm under Wis. Stat. § 939.22(38), is a level of harm that falls between "bodily harm" and "great bodily harm." It is defined in the statutes as bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.

This definition seems more similar to the types of injuries included in the definition of physical injuries that constitute child abuse under Wis. Stat. § 48.02(14g). However, some of the injuries listed as physical injuries constituting physical abuse are less severe than substantial bodily harm. For example, physical injuries constituting abuse include any lacerations, but the definition of substantial bodily harm includes more severe lacerations requiring stitches.

Under this definition, physical injury of some sort is clearly an essential element of the abuse. However, physical injury need not necessarily be visible to the unaided eye for example, a broken bone constitutes physical injury, but its existence may not be proven until X-rays have been taken. Since conducting medical tests may be necessary before the existence of actual physical injury can be ascertained, it may be appropriate to screen-in incidents of violence directed against a child even when physical injury, or physical injury of the degree described in statutes, is not immediately apparent.

Physical abuse does **not** include self-injury by a child. See the section under Neglect below for a discussion of self-injurious behavior.

For screening purposes, the information in the complaint must be assessed under the totality of circumstances, including information from any previous CPS reports. Therefore, a reporter cannot be expected to provide sufficient information to support a decision that abuse or neglect has occurred or may occur. Gathering additional information and making a final determination as to whether the child is safe/unsafe and whether the child is in need of protection or services related to maltreatment is the purpose of the Initial Assessment.

For an injury to be considered not accidental, it must meet one of the following criteria:

- the person who inflicted the injury had a conscious intent to harm or injure the child, *or*
- the person knowingly, recklessly, or carelessly engaged in behavior that resulted in the child being injured, regardless of whether he or she intended to cause the injuries.

The following are examples of *non-accidental* injuries:

- Bruises or welts as described in Wis. Stat. § 48.02(14g) that are a result of corporal punishment, even if injuring the child was not the parent's conscious intent.
- Brain injuries that are a result of Shaken Baby Syndrome.
- A dislocated elbow that is the result of a parent roughly jerking a child about.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when one parent/guardian attacks the other parent/guardian.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained when a parent angrily shoves or throws a child aside, even if injuring the child was not the parent's conscious intent.

The following are examples of *accidental* injuries:

- A dislocated elbow that is the result of a parent catching a child to keep him or her from falling.
- Bruises that result from a child falling as part of normal play.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when the parent slips and falls while carrying the child.

- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when hit by a softball while playing with a parent.

Neglect

The statutory definition of neglect includes the following concepts:

- a caregiver is not providing care, food, clothing, shelter, medical or dental care to a child, *and*
- the care the child is not receiving is necessary, *and*
- the lack of care seriously endangers the physical health of the child.

The unmodified term "care" in the definition can be assumed to include, at a minimum, a level of supervision consistent with the child's needs as well as protection from dangers that a caregiver can reasonably be expected to foresee and prevent.

The conditions or behaviors that seriously endanger the physical health of the child may include the child's own behaviors. For example, allegations that a child suffers from anorexia, slashes himself or herself, or plans to commit suicide and the parents, though aware of the situation, neglect, refuse, or are unable to provide the necessary care to protect the child from harm is an allegation of neglect. Depending on the circumstances, such situations might also be alleged emotional damage.

The CPS professional should consider whether a forensic interview at a children's advocacy center (CAC) would be valuable in the Initial Assessment. The risk of physical harm should be considered in any allegation of neglect when the physical well-being of the child is at risk. Many situations of environmental neglect (mold, etc.) seriously impact or are at risk of seriously impacting the physical well-being of the children in the home. If the CPS professional is unsure of the risk, consider consulting with the health care provider resources. Also, consider obtaining the child's medical records. When one type of neglect or abuse is present, there is a strong possibility that other forms of abuse or neglect are present, including medical neglect.

Sexual Abuse

The statutory definitions of sexual abuse include abuse by any other person. Although reports of children being sexually victimized within their own families are of special concern to CPS, reports of children being assaulted or exploited by other persons outside of the family, particularly other caregivers, may also be accepted, and every report that gives reason to suspect child sex trafficking must be accepted.

Under Wis. Stat. § 48.02(1)(b) sexual contact or sexual intercourse between two children who are under the age of 15 falls within the definition of sexual abuse, even if it is consensual and devoid of any elements of assault, exploitation, or coercion. However, Chapter 48 provides local child welfare agencies with the discretion to screen-out allegations of sexual abuse by a non-caregiver (except where there is reason to suspect child sex trafficking). In determining whether to screen-out allegations of mutual sexual contact or intercourse as non-caregiver, local child welfare agencies should ascertain whether there is an allegation of assault, coercion, exploitation, or other condition consistent with Wis. Stat. § 940.225. In addition, local child welfare agencies should determine whether there are protection or service needs even if that involvement is mutual. In particular, reports may be received of one child coercing another child, where the

coercive child's behavior indicates an unusual knowledge of sexual behavior inappropriate to the child's age and development. In such reports, both children should be viewed as a possible victim of sexual abuse. The coercive child's behavior may indicate that he or she has been the victim of another person and is acting out that victimization on another child. The protection and service needs of both children are paramount and are the focus of CPS intervention.

Behaviors or Conditions Likely to Result in Abuse or Neglect/ Threatened Harm

Wis. Stat. § 48.981(2)(a) requires certain persons to report if they have "reason to believe that a child…has been threatened with abuse or neglect and that abuse or neglect of the child will occur." The intent is for CPS to intervene before a child is seriously harmed, if that harm can be reasonably predicted or foreseen to occur, based on reported information and, when applicable, previous CPS reports.

Young children with alleged non-accidental injuries are of particular concern to CPS Access. Oftentimes these injuries may not, on the surface, meet the definitions of child abuse or neglect but the child's age and the nature and the type of the injury necessitate a response from Child Protective Services. Reports of this type (e.g., a small bruise on the face, head, or neck of an infant) meet the definition of threatened abuse or neglect and, should not only be screened-in, but generally require a quicker CPS response.

APPENDIX 6: SUBSTANTIATING THE DIFFERENT TYPES OF MALTREATMENT

Preponderance of the Evidence

The term *preponderance of the evidence* is referenced only once in the child abuse reporting law. It is found under Wis. Stat. § 48.981(3)(c)4. and is presented in the context of identifying the level of proof under which the CPS professional should conclude that child maltreatment has occurred.

The term *preponderance of the evidence* is the level of proof which, as a whole, shows that the fact sought to be proved is more probable than not. It is that level of proof or persuasion which is more credible and convincing to the mind. The term then might be defined as the *amount of proof which would allow an individual to conclude that the maltreatment is more probable to have occurred than not*.

The only definition for *preponderance of the evidence* as used in Ch. 48, Stats., is found in case law. In the case In the Interest of T.M.S., the appellate court specifically stated, "It requires that the fact finder must be satisfied to a reasonable certainty by the greater weight of the credible evidence".

In applying this standard, the CPS professional considers two issues:

(1) *Whether the evidence gathered and reviewed by the CPS professional is* ***credible***. Credible evidence is defined as evidence, which is trustworthy, believable, or dependable. The opposite would include evidence, which is doubtful, unreliable, or untrustworthy. For example, a written medical report reviewed by a CPS professional is credible evidence. The credibility of this report would substantially diminish if the contents of a medical report were read to the CPS professional over the phone by an unknown person. Therefore, in applying this standard, the CPS professional must be satisfied that the evidence being reviewed has indicators of being trustworthy. The ultimate question for the CPS professional which addresses the trustworthiness or reliability of the evidence is, "What about this information makes it credible or reliable?"

(2) *Whether the evidence gathered and reviewed by the CPS professional is* ***persuasive***. Once the trustworthy evidence is reviewed, it must then be weighed by the CPS professional. The CPS professional must determine whether, based on all the evidence presented, the greater weight of the evidence supports the conclusion or persuades the CPS professional that maltreatment has occurred or is likely to occur. Or, in the form of a question: Does the proof lead the CPS professional to conclude that the existence of maltreatment is more probable than its nonexistence?

Assessing both the credibility of the evidence as well as the persuasiveness of the evidence are critical to the CPS professional's assessment. The analysis of both of these concepts leads to a conclusion based on the preponderance of the evidence.

Preponderance of the evidence is a lower standard than clear and convincing evidence, which is the burden required to prove non-delinquency (CHIPS) cases in juvenile court. Therefore, even though there may not be sufficient evidence for a court to find that a child is in need of protection or services, there could be sufficient credible evidence for a CPS professional's finding of

"substantiated." Furthermore, because the role of law enforcement and the standard of evidence for criminal conviction (beyond a reasonable doubt) differ from those of child protective services, law enforcement officers may conclude there is not enough evidence on a particular person(s) to pursue charges. Yet the CPS professional may have sufficient evidence on the same person(s) to make a finding of "substantiated."

Substantiation of Physical Abuse

In order to substantiate physical abuse, a CPS professional will have information that establishes all of the following:

- the child involved is under the age of 18, and
- the child has (or had) an injury, and
- the injury was inflicted on the child by other than accidental means, and
- the injury the child has or had falls within the definition in Wis. Stat. § 48.02(14g) and
- the determination that abuse has occurred is not "based solely on the fact that the child's parent, guardian or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child" [Wis. Stat. § 48.981(3)(c)4.][9].

Physical abuse does not include self-injury by a child.

Identifying Additional Injuries that Constitute Physical Abuse

The statutory definition of physical injury introduces a list of injuries with the phrase "…includes but is not limited to…" Injuries other than those specifically listed may be considered physical abuse if they are similar in degree or nature to the injuries listed under Wis. Stat. § 48.02(14g). Additional types of injuries do not need to rise to the level of great bodily harm since the listed types of injury do not rise to that level. Substantial bodily harm under Wis. Stat. § 939.22(38) is a level of harm that falls between "bodily harm" and "great bodily harm." It is defined in the statutes as "bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth" [Wis. Stat. § 939.22(38)].

This definition seems more similar to the types of injuries included in the definition of physical injuries that constitute child abuse under Wis. Stat. § 48.02(14g). However, some of the injuries listed as physical injuries constituting physical abuse are less severe than substantial bodily harm. For example, physical injuries constituting abuse include any lacerations, but the definition of substantial bodily harm includes more severe lacerations requiring stitches.

Determining Whether an Injury is Accidental/Non-Accidental

For an injury to be considered not accidental, it should meet one of the following criteria:

- the person who inflicted the injury had a conscious intent to harm or injure the child, or
- the person knowingly, recklessly, or carelessly engaged in behavior that resulted in the child being injured, regardless of whether he or she intended to cause the injuries.

[9] Note, these circumstances may still suggest a referral for a CHIPS petition for necessary treatment, services, or care.

The following are examples of *non-accidental* injuries:

- Bruises or welts as described in Wis. Stat. § 48.02(14g) that are a result of corporal punishment, even if injuring the child was not the parent's conscious intent.
- Brain injuries that are a result of shaken baby syndrome.
- A dislocated elbow that is the result of a parent roughly jerking a child about.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when one parent/guardian attacks the other parent.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained when a parent angrily shoves or throws a child aside, even if injuring the child was not the parent's conscious intent.

The following are examples of *accidental* injuries:

- A dislocated elbow that is the result of a parent catching a child to keep him or her from falling.
- Bruises that result from a child falling as part of normal play.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when the parent slips and falls while carrying the child.
- An injury as described in Wis. Stat. § 48.02(14g) that is sustained by the child when hit by a softball while playing with a parent.

Recency of Injury

The statutes are silent on how recent an injury must be to fall under the definition of abuse for purposes of reporting, responding, and making a substantiation decision. If the report of alleged abuse is accepted and investigated, the decision to substantiate or not should be based upon all the pertinent information gathered, as it is with all allegations.

Substantiation of Neglect

In order to substantiate that neglect has occurred, the CPS professional will have information that establishes all of the following:

- the child is under the age of 18, *and*
- the child is not receiving:
  - care,
  - food,
  - clothing,
  - medical or dental care, or
  - shelter, *and*
- this care which the child is not receiving is necessary, *and*
- this lack of care seriously endangers the physical health of the child, *and*
- this lack of care is a result of failure, refusal, or inability to provide the care, *and*
- the lack of care is not due to poverty, *and*

- the parent, guardian, legal custodian, or other person exercising temporary or permanent control is not providing this care to the child, *and*
- the determination of neglect is not made "based solely on the fact that the child's parent, guardian or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child" [Wis. Stat. § 48.981(3)(c)4.][10].

Necessary care, as referenced above, includes protection from behaviors that seriously endanger a child's physical health. A caregiver has a responsibility to protect a child not only from dangerous situations or behavior of others, but also from any behaviors of the caregiver himself or herself that present an imminent threat of serious physical harm. Therefore, lack of necessary care includes when a caregiver negligently, recklessly, or intentionally commits an act against the child that places the child at substantial risk of harm, i.e., an act that a reasonable person could conclude would logically result in injury as defined in Wis. Stat. § 48.02(14g) regardless of the actual outcome. (If the act resulted in actual injury to the child as defined in Wis. Stat. § 48.02(14g) it would be substantiated as physical abuse.)

Neglect does not include an act by a caregiver that is accidental, regardless of whether it results in harm to the child. Every parent on at least one occasion has had a lapse in memory or attention that resulted in a child being at risk. The following are examples of accidents that occur with generally protective, vigilant parents that are not substantiated as neglect:

- A tired, overwhelmed parent forgets that the baby is in the back seat of the car and unknowingly leaves the child unattended in the car while putting away groceries.
- A tired mother unintentionally falls asleep with the baby in her arms and the baby falls to the floor.
- A 3-year-old gets out of the house and into the street without the parent's knowledge when the parent is on the phone, changing the baby sister's diaper, or taking care of some other responsibility, etc.
- A child becomes separated from a parent at the county fair and another adult must assist the child in finding the parent.

The elements set forth above identify each element that needs to be established to support a conclusion that neglect has occurred. Of these elements, the critical and often most difficult issues involve the determination of whether the care in question is necessary and whether the lack of care seriously endangers the physical health of the child.

A determination of necessary care is based upon an assessment of an individual child's needs. For example, a normal 3-year–old needs constant supervision; a normal 13-year-old should be able to handle self-care for periods of time. A determination of conditions or behaviors that seriously endanger a child's physical health should be based upon an assessment of whether the lack of care threatens the child's safety so as to seriously endanger the child's health or is likely to cause long-term or permanent impairment.

[10] Note, these circumstances may still suggest a referral for a CHIPS petition for necessary treatment or care.

The following questions can be used by the CPS professional to help determine if neglect is substantiated:

- What does the child need? (Consider age, physical/emotional/social/cognitive development, current physical and emotional condition, etc.)
- What will happen or is likely to happen if the child doesn't have the need met?
- Will the result be seriously injurious or detrimental to the child's physical health? Could it cause long-term or permanent impairment or harm to the child?
- What specific behaviors or pattern of behaviors on the part of the caregiver(s) result in the child not having this need met?
- What specific behaviors or pattern of behaviors on the part of the caregiver(s) present an imminent threat of serious harm to the child?
- What is the serious harm that will result or is likely to result from these behaviors?
- What role if any is the parent assuming in recognizing the child's needs and providing for those needs?

Considerations for Cases with Domestic Violence

Children may suffer serious injury or have their physical health seriously endangered when one adult commits domestic violence against another. Although all children suffer when they are exposed to domestic violence, the presence of domestic violence in the household does not always mean that children are at imminent risk of harm. In situations where a domestic abuser's violence does pose a significant safety threat to the child, a substantiation of neglect against the abuser may be appropriate.

Criteria to use in making this decision include:

- A child is held during or forcibly exposed to the violence, or restrained from leaving, thereby increasing the likelihood of injury.
- A child is actively intervening in the violence.
- A child is exposed to violent behavior in the home that is increasing in frequency or severity.
- A child is exposed to violence in the home which involves the use of weapons or believable threats of suicide or homicide, or which results in substantial harm to any person present.

Substantiation of Sexual Abuse

In order to substantiate that sexual intercourse or contact constituting abuse occurred, the CPS professional will have information that establishes the following:

The child involved was

- fourteen years old or less, *or*
- 15 years old and the conduct below occurred with an individual who was 19 years old or older, *or*
- under 18 years old and did not freely give consent, was unconscious, was under the influence of an intoxicant to a degree which rendered him or her incapable of appraising

the other person's conduct, or was suffering from a mental illness or deficiency which rendered that person temporarily or permanently incapable of appraising the person's conduct, *or*

- under 18 years old and the conduct below occurred with:
  - the child's foster parent;
  - a worker, manager or volunteer at the shelter care facility, group home or a residential care center where the child was placed,

AND

- sexual intercourse as defined in Appendix 5 occurred, *or*
- sexual contact as defined in Appendix 5 occurred.

Sexual abuse is also defined in the statutes as:

7) "A violation of Wis. Stat. § 948.05," [Wis. Stat. § 48.02(1)(c)]. This section addresses "sexual exploitation of a child." In order to substantiate that a violation of Wis. Stat. § 948.05 occurred, the CPS professional will have information that establishes all of the following:
   - that the child is under the age of 18, *and*
   - that the child was persuaded, induced, employed, used, enticed, or coerced by another person to engage in sexually explicit conduct for the purpose of photographing, filming, videotaping, recording the sounds of or displaying the conduct in any way, *or*
   - that the child was photographed, filmed, or videotaped engaged in sexually explicit conduct or the sounds of that conduct recorded, or the conduct displayed in any other way.
8) "Permitting, allowing or encouraging a child to violate Wis. Stat. § 944.30," [Wis. Stat. § 48.02(1)(d)]. This section addresses prostitution. In order to substantiate that a child was allowed to violate Wis. Stat. § 944.30 the CPS professional must have information that establishes all of the following:
   - the child involved is under the age of 18, *and*
   - the child was permitted, allowed, or encouraged by another person to engage in prostitution.
9) "A violation of Wis. Stat. § 948.055," [Wis. Stat. § 48.02(1)(e)]. This section addresses intentionally causing a child to view or listen to sexual activity. In order to substantiate that a violation of Wis. Stat. § 948.055 occurred, the CPS professional will have information that establishes all of the following:
   - the child involved is under the age of 18, *and*
   - another person intentionally caused the child to view or listen to sexually explicit conduct, *and*

- the person did so for the purpose of sexually arousing or gratifying the actor or humiliating or degrading the child.

10) "A violation of Wis. Stat. § 948.10," [Wis. Stat. § 48.02(1)(f)]. This section addresses exposing the genitals or pubic area to a child or causing a child to expose genitals or pubic area. In order to substantiate that a violation of Wis. Stat. § 948.10 occurred, the CPS professional must have information that establishes all of the following:
    - the child involved is under the age of 18, *and*
    - another person caused the child to expose genitals or pubic area or exposed genitals or pubic area to the child, *and*
    - the person did so for the purpose of sexual arousal or sexual gratification, *and*
    - the child was not the defendant's spouse.
11) "A violation of Wis. Stat. § 948.051," [Wis. Stat. § 48.02(1)(cm)]. This section addresses the sex trafficking of a child. In order to substantiate that a violation of Wis. Stat. § 948.051 occurred, the CPS professional will have information that establishes all of the following:
    - the child involved is under the age of 18, *and*
    - another person recruited, enticed, provided, obtained, harbored, transported, patronized, or solicits or knowingly attempts to do the aforementioned things, *and*
    - the person did so for the purpose of commercial sex acts.

Note, there are additional types of sexual crimes against children which are described in Ch. 948, but which are not cross-referenced under Wis. Stat. § 48.02(1) as sexual abuse or trafficking. They are still crimes, however, and may be dealt with by the law enforcement and criminal justice system.

Substantiation of Methamphetamine Manufacture

Methamphetamine Manufacturing

In order to substantiate methamphetamine manufacturing, the CPS professional will have information that establishes the following:

- the alleged maltreater is manufacturing methamphetamine in violation of Wis. Stat. § 961.41(1)(e) under any of the following circumstances:
    - with a child physically present during the manufacture; or
    - in a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home; or
    - under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child [Wis. Stat. § 48.02(1)(g)].

Note, the use of methamphetamine on its own does not constitute methamphetamine manufacture under the statute.

Substantiation of Emotional Abuse/Damage

In order to substantiate emotional abuse/damage, the CPS professional will have information that establishes all of the following:

- the child involved is under the age of 18, *and*
- the child has suffered harm to his/her psychological or intellectual functioning, *and*
- that harm is evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety; depression; withdrawal; outward aggressive behavior; or a substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development,
- the child's parent, guardian, or legal custodian has neglected, refused or been unable, for reasons other than poverty, to obtain necessary treatment or to take steps to ameliorate the symptoms,
- "due regard to the culture of the subjects" must be given [Wis. Stat.§ 48.981(3)(c)4.].

Although it is very helpful to have a psychological or clinical evaluation to substantiate this form of maltreatment, it is not always absolutely necessary. Information about behaviors, emotional response, or cognition that is outside the normal range of behavior of children and adolescents may be used to determine whether an allegation of emotional damage is substantiated. A CPS professional's knowledge of child development is important in supporting this conclusion. The CPS professional may also use information about how the child used to function to determine if there is a "substantial" change. School personnel are generally an excellent source of information in helping to determine how the child used to function and how the child's psychological or intellectual functioning has been impaired.

An allegation is not necessarily substantiated solely because a parent chooses not to follow the treatment recommendations of educational, mental health, or other professionals. Parents have a right and responsibility to determine what the needs of their children are. If there is a professional determination that treatment is necessary to remedy the harm and the parent fails to provide it and fails to take steps to ameliorate the symptoms, emotional damage is established.

APPENDIX 7: CONSIDERATIONS IN MALTREATER DETERMINATIONS

Primary Assessment Cases

In Primary Assessment case types, the *CPS Access and Initial Assessment Standards* require that the identified child(ren) victim, siblings, parents and alleged maltreater be interviewed by CPS. When harm or the threat of harm is present in a child's family or household, a comprehensive level of interviewing, combined with the application of risk and safety assessment tools, is necessary to determine if a child is in need of protection or services by the child welfare system. It also generally results in a preponderance of the evidence regarding the occurrence of child abuse or neglect and the persons involved.

There may be instances in the Primary Assessment where there is sufficient information to determine that a child has been abused, but not to determine the identity of the person responsible, regardless of interviewing that has occurred. An example is where a child too young to communicate has sustained a serious injury, parents have no explanation as to how the injury occurred, and several people had access to the child during the timeframe within which the injury occurred. In these instances, a maltreatment case finding of "Substantiated" should still be made, even though the agency may not know who harmed the child.

Secondary Assessments - Licensed Caregivers

The local child welfare agency may also make a maltreater determination regarding persons providing care in facilities licensed under Ch. 48. Although this determination generally does not serve a direct CPS purpose (determining the protection and service needs of the identified child), it is important to the state licensing and regulatory program. Persons determined to have maltreated a child are prohibited, by law, from caring for vulnerable persons, unless they have passed a rehabilitation review.

The decision as to whether a secondary caregiver in a licensed facility has violated care requirements, as defined by licensing regulations, for a child in that facility is a regulatory decision. It is the responsibility of regulatory agencies to determine whether a person should be allowed to acquire or maintain a license to care for children or other vulnerable persons, absent mandatory licensing bars under the law.

Other Secondary Assessments and Non-Caregiver Assessments

The *CPS Access and Initial Assessment Standards* do not require that the local child welfare agency interview alleged maltreaters in reports of maltreatment by unlicensed secondary caregivers and non-caregivers. The focus of CPS is on supporting the parents in providing protection or services for their child, if needed. Intervention with non-caregivers or unlicensed secondary caregivers who are alleged to have abused or neglected a child is the responsibility of law enforcement agencies. Each local child welfare agency has a Memorandum of Understanding with law enforcement that specifies how reports of alleged maltreatment by a secondary caregiver or non-caregiver will be referred to law enforcement agencies in order to assure that the law enforcement system is able to carry out its responsibilities.

Even though CPS does not interview all involved parties in assessments of maltreatment by non-caregivers and unlicensed secondary caregivers, there may clearly be a "preponderance of the evidence" to make a maltreatment determination (i.e., substantiate that maltreatment occurred). In these situations, the record should document that maltreatment has been substantiated and the basis for this decision. Reports gathered from other agencies, such as law enforcement agencies and mental health/substance use agencies, as part of the Initial Assessment process may be maintained in the record. Information from those reports and relevant child welfare history may be taken into account in future decision making.

CPS Role with Children Who Harm Other Children

CPS will also be concerned with whether the aggressor child is exhibiting behavior that creates a suspicion that he or she is residing in a violent or neglectful home environment or has been victimized by another person and is therefore in need of protection or services. It is generally inconsistent with CPS purposes under Ch. 48 to make a formal determination that a child is a maltreater. The youth justice system is generally the appropriate system for determining whether a child must be held accountable for abusing another child.

The behavior of such children, however, may prompt the local child welfare agency to identify them as in need of protection or services, which is consistent with CPS purposes under Ch. 48. In these situations, the record should identify the child and the problematic behaviors and document what occurred, reflecting the local child welfare agency's assessment and decisions. [Note: This information may continue to be used along with other pertinent information from the family record, to the extent authorized under Wis. Stat. § 48.981(7) to make appropriate decisions about placement, licensure, and certification, if the child's parents hold or pursue a license/certification to care for other children.]

APPENDIX 8: MODEL PROCEDURES FOR CPS IN REPORTS OF WITHHOLDING MEDICALLY INDICATED TREATMENT FROM INFANTS WITH DISABILITIES WITH LIFE-THREATENING CONDITIONS

Part A: Information for CPS Professionals

The allegations of withholding medically indicated treatment from infants with disabilities with life-threatening conditions are infrequent. Consultation with the county district attorney, the county corporation counsel or the Department of Health Services is recommended.

Information for CPS Assessment of Child's Health Status

- Is the child at the hospital?

Diagnosis:

- What are the child's diagnoses?
- What is the life or health-threatening problem requiring treatment?
- Are immediate actions necessary to keep the child alive?
- Has withholding of life-sustaining treatment been recommended/implemented?

Treatment:

- What, precisely, is the treatment (necessary for the child's life or health) being recommended?
- What is the prognosis with/without the proposed treatments?
- What treatment or sustenance, if any, is being provided the child?
- Will the hospital choose to sustain life-supporting care for the immediate future (24 to 72 hours) while the CPS Initial Assessment is underway?

Physicians:

- How certain are the medical diagnoses among the treatment team?
- Is there unanimity among the treating and consulting physicians?
- Have there been any other opinions, and what are they?
- Has a hospital review process taken place?
- What was the review process?
- What were its recommendations?
- Who, if anyone, has concluded that:
    - The child is irreversibly and chronically comatose?
    - The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening condition, or otherwise be futile in terms of the survival of the infant?

- The provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane?

Information Needed to Assess Parental Decision-Making

- Do the parents agree on the course of action to be followed?
- Were the parent(s) presented with all treatment options?
- Did the parent(s) understand the information?
- What was the nature and degree of parental involvement in the decision to deny treatment or sustenance?
- What is the parent(s)' view of the child's problem?
- What is the parent(s)' major concerns for their child?
- What is the basis of the parent(s)' refusal to consent to treatment?
- Have appropriate counseling services been made available to them?
- Were the parent(s) provided information on how to access services concerned with resources for disabled persons and their families?
- Did the parent(s) participate in or have access to the results of the hospital review process?
- Would the parent(s) agree to consultation with the hospital review committee?

Part B: Information for Local Child Welfare Agencies

It is mandated by the federal Child Abuse Protection and Treatment Act (CAPTA) that states that receive CAPTA funds have in place "programs or procedures" for the use of child protective services agencies in responding to a report of possible medical neglect of infants with disabilities. These guidelines serve, in part, to outline CPS procedures. It does place some requirements in the policies of medical neglect, coordination, and notification requirements.

Resources for CPS Professionals and Local Child Welfare Agencies

Definitions from CAPTA

- **Withholding of medically indicated treatment** means the failure to respond to the infant's life threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment:
  - The infant is chronically and irreversibly comatose;
  - The provision of such treatment would:
    - merely prolong dying;
    - not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

- otherwise be futile in terms of the survival of the infant; or
  - The provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

42 USC § 5016g(a)(5)

Rights of Infants

The statute attempts to address two area related to the rights of infants, parental guardianship, and attitudes toward disability.

Parents have traditionally had the legal right and obligation as well as the personal insight, concern, and love to make decisions regarding the health and welfare of their children. In the vast majority of instances, parents are the most enlightened and thoughtful decision-makers for their children. Government's role, however, is to protect children from abuse or neglect by parents or others. In this role, government recognizes that children have rights of their own to be protected, independent of the guardianship that parents maintain in relation to their children and above and beyond the needs and desires of the parents. In reports of possible medical neglect of infants with disabilities, one of the tensions that may exist is between the rights of parents as guardians to protect and make wise decisions on behalf of their children and the rights of children to be protected as individuals by the government.

Although there are many examples of appropriate medical treatment being provided to infants with disabilities, the legislation came into being to prevent discriminatory non-treatment of infants born with disabilities. The law asserts that all infants have certain rights to medical treatment whether they are born in perfect condition or with a disability.

APPENDIX 9: GUIDANCE FOR CASES INVOLVING SEX TRAFFICKING OF CHILDREN

Background

Federal legislation (Public Law 114-22, Justice for Victims of Trafficking Act), requires the states to investigate allegations of children alleged to be victims of sex trafficking, including reports involving allegations related to non-caregiver maltreaters. In addition, the federal legislation requires states to recognize sex trafficked children as victims of child abuse and neglect. As a result, Wisconsin has aligned state statutes (2015 Wisconsin Act 367) and policies with federal requirements.

This appendix provides guidance and supports increased critical thinking surrounding key decision areas related to child sex trafficking in the practice areas of Access and Initial Assessment. In addition to this guidance, it is important to seek ongoing training related to the dynamics and emerging best practices related to sex trafficked children.

As in all reports of child maltreatment, it is vital to collaborate with law enforcement. The collaboration is in accordance with the agency's Memoranda of Understanding (MOU) with law enforcement agencies and Wis. Stat. § 48.981 (see *XXV. Collaboration with Law Enforcement Agencies* and *Appendix 4: Coordination with Law Enforcement Agencies*).

Information Gathering at the Point of Access

Sometimes a CPS professional will receive information that clearly indicates the presence of child sex trafficking; however, it is more likely that more information will need to be solicited before making a screening decision. Below are some indicators that suggest a child may be sex trafficked. An Access professional may need to ask additional questions about the below listed indicators to determine if sex trafficking may be occurring.

- Confirmed or reported uses of hotels for parties or sexual encounters.
- The child has unusual or unexplained tattoos.
- The child has injuries that are unaccounted for.
- The child has an older boyfriend/girlfriend/significant other or is unwilling to provide information about their sex partner.
- Elements of power and control with a significant other.
- The child is missing, has runaway or is homeless.
- The child has money, electronics, new hair, nails or material items that cannot be explained or accounted for.
- The child has a history of multiple sexual partners (known or unknown).
- The child has sexually explicit pictures of themselves or on the internet.
- The child has a history of sexually transmitted infections or pregnancies.
- Gang affiliation is reported, confirmed or suspected.
- Child has family/friends that have been or are currently involved in the commercial sex industry.

- History of physical or sexual abuse.
- Knowledge of reports that indicate the child has a history of being missing/runaway for 2 or more times within the last 6 months (caregiver doesn't know where/who child is with).
- Travel out of town without caregiver permission or knowledge.

It is important to note that none of the above factors alone is an indicator of child sex trafficking; however, the combination of multiple factors would suggest that more information should be gathered through an Initial Assessment.

When entering the Access report, it is important to include known names of involved individuals, parental involvement, including if the child is currently on a CHIPS, JIPS or Delinquency order, if they are in out-of-home (OHC) and if they have known or suspected Indian Heritage.

The last known location of the child is of critical importance in alleged reports of child sex trafficking, as these children are frequently transient and difficult to locate. Even if a reporter is unsure of a specific address, it is important to ask the reporter to describe the street, house, times they are often in school, the child's cell phone number, which may help the Initial Assessment professional locate the child.

If a report is received on a child currently open for services, refer to *X. Reports on Open Cases and Multiple Reports* and *Ongoing Services Standards*.

Making Screening Decision at Access

In the following circumstances an Initial Assessment is warranted in order to ensure that the child is safe and has access to services, including placement if needed. Additionally, an Initial Assessment will gather information to determine if there is parental involvement.

- The child self-reports being a victim of trafficking.
- The child self-reports "consensually" participating in a sexual act, (otherwise known as survival sex) in exchange for shelter, food, drugs and/or alcohol or money.
- Law enforcement confirms through an investigation that the child has been trafficked.

Due to the progressive nature of disclosures in child sex trafficking cases, it is important to use the totality of information gathered, which may include a history of reports with similar information that was screened-out or unsubstantiated in the past.

Maltreatment Type

Sex Trafficking of a child falls under the definition of sexual abuse. When entering the Access report, the maltreatment allegation will be sexual abuse with a descriptor of sex trafficking in eWiSACWIS. If the reported information suggests that the parent is involved, the CPS professional may add additional maltreatment allegations such as neglect (this would also indicate that the case type should be Primary Initial Assessment).

Sex Trafficking versus Sexual Exploitation

Sex trafficking and sexual exploitation often times are used interchangeably, however there are clear differences between these two descriptions. eWiSACWIS offers both Sex Trafficking and Sexual Exploitation as Maltreatment Descriptions. As such, it is important to understand the

difference when selecting a Maltreatment Description reference value. If elements of sex trafficking and sexual exploitation are both present, both descriptions may be selected.

The current definitions of child Sex Trafficking and child Sexual Exploitation can be found in the statutes as follows:

- Sex Trafficking of a Child Wis. Stat. § 948.051: Whoever knowingly recruits, entices, provides, obtains, harbors, transports, patronizes, or solicits or knowingly attempts to recruit, entice, provide, obtain, harbor, transport, patronize, or solicit any child for the purpose of commercial sex acts.
- Sexual Exploitation Wis. Stat. § 948.05(1): Whoever does any of the following with knowledge of the character and content of the sexually explicit conduct involving the child:
    - Employs, uses, persuades, induces, entices, or coerces any child to engage in sexually explicit conduct for the purpose of recording or displaying in any way the conduct.
    - Records or displays in any way a child engaged in sexually explicit conduct.
    - Whoever produces, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes, or possesses with intent to sell or distribute, any recording of a child engaging in sexually explicit conduct if the person knows the character and content of the sexually explicit conduct involving the child and if the person knows or reasonably should know that the child engaging in the sexually explicit conduct has not attained the age of 18 years (1m).

Initial Assessment Type

Determining Initial Assessment type in sex trafficking reports is a complex decision. In most instances the case type will be a Non-Caregiver Initial Assessment type, however before defaulting to this type of Initial Assessment, the CPS professional needs to first gather information on parental involvement. Every missing, runaway, and homeless child(ren) has parent(s), so it is critical for the Access professional to ask about the parent(s) in every report, regardless of the alleged maltreater's relationship to the child, in order to make an informed decision regarding Initial Assessment type.

The following are examples of factors that would require a Primary Initial Assessment type for screened-in reports related to allegations of child sex trafficking by a non-caregiver:

- The parent contributed to or is unable or unwilling to prevent the child's maltreatment.
- The child's behaviors are too out of control for the parent(s) to maintain the child's safety.
- The parents are not providing the child's basic needs, thus the child has resorted to "survival sex" as a way to have basic needs met.

For more information related to determining parental involvement, refer to *III.D. Additional Information to Gather and Document for Non-Caregiver Assessments*.

Response Time

At the point of Access, the same process should be used with all types of alleged maltreatment, regardless of Initial Assessment type and in responding in a timely manner to these allegations as outlined in *VII. The Timeframe for Response*.

Guidance for Documentation

To ensure appropriate and consistent documentation practices and allow for tracking of alleged maltreaters, victims, and possible connections to other families, it is important to document identifying information in a manner that would be easily accessible across families and counties. Below are some guidelines to support this goal where and when applicable:

- Add the alleged maltreater as a Case Participant in eWiSACWIS if it's not already in eWiSACWIS. This should be their legal name. If their street name is known, add an alias.
- If the alleged maltreater's legal name is not known, add him/her as a Case Participant under the street name.
- If child sex trafficking is found during the course of an Initial Assessment (Primary, Secondary or Non-Caregiver) related to other allegations of sexual abuse, add a new maltreatment line for sex abuse with the description of sex trafficking as currently identified in *Appendix 6: Substantiating the Different Types of Maltreatment.*

APPENDIX 10: GUIDANCE FOR WORKING WITH INDIVIDUALS WITH DISABILITIES

Background

Disability is defined by Wisconsin Statute Chapters 106 and 115 as a "physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. This includes but is not limited to cognitive disabilities, hearing impairments, speech or language impairments, visual impairment, emotional behavioral disabilities, orthopedic impairments, autism, traumatic brain injuries, other health impairments and learning disabilities."

Risk of Maltreatment for Children with Disabilities

National research finds that certain factors increase the risk that a child experiences maltreatment (Goldman et al., 2003). It is important to note that these factors do not cause child maltreatment and the presence of one or more of these factors does not always result in child maltreatment. These risk factors include:

- Parent's experience of maltreatment as a child;
- Parent's negative attitude toward the child or lack of knowledge of child development;
- Parental substance abuse or mental health issues;
- Single parent households;
- Social isolation or lack of support; and
- Family violence or violence in the community.

In addition to the risk factors above, national research finds that children with disabilities face additional risk factors for child maltreatment (Child Welfare Information Gateway, 2012). As noted above, these factors do not cause child maltreatment and the presence of one or more of these factors does not always result in child maltreatment. The risk factors unique to children with disabilities include:

- Lack of services or supports to meet fully the child's unique needs, thereby placing demands and stress on the child's parents;
- Inadequate supports to alleviate the demands on parents or other caregivers while ensuring a safe environment for children with disabilities;
- Financial burden and stress on the family due to the cost of meeting the child's unique needs, which may not be fully covered by other funding sources, such as health insurance;
- Increased risk of social isolation for the child or family due to lack of respite care or in-home supports and due to other families not being comfortable with or interested in socializing with the child and/or family;
- Heightened dependence on paid and/or informal caregivers for the child's care, including intimate personal care, creating potential opportunities for abuse;
- Possible lack of ability by the child to protect him/herself from maltreatment;
- Increased risk of the child being targeted for abuse by some maltreaters due to child's more limited ability to self-protect or self-advocate;

- Due to the heavy emphasis on teaching children with disabilities to be compliant in general, the child may be unwilling or reluctant to communicate maltreatment because he/she will appear non-compliant; and
- Perception that child may not be viewed as credible by law enforcement or other professionals may inhibit individuals from reporting possible child maltreatment.

Assessing Children with Disabilities for Maltreatment[11]

It is important to remember that children with disabilities are children first and are not defined by their disability. Approaches to responding to and serving children with disabilities need to be family-centered and trauma-informed, core values of the Wisconsin Model of Practice.

Regardless of the type of maltreatment experienced or the disability a child presents with, some children may have difficulty communicating their experience of maltreatment due to the symptoms of their disability or the lack of a connection to a trusted adult. Adults may believe that children with disabilities are unable to accurately convey the type of abuse or neglect they experienced. However, treating each child as an individual, avoiding assumptions about a child's abilities, and offering multiple and varied opportunities to report maltreatment can assist children with disabilities in communicating any maltreatment they may have experienced (Palusci et al., 2015). In fact, research has shown that even children with communication difficulties or trouble expressing needs, feelings, or other issues are able to accurately convey their experiences of distress and know what happened to them (Weiss, Waechter, & Wekerle, 2011). Ideally, CPS professionals and service providers should confer with disability professionals or a multidisciplinary group of knowledgeable consultants to obtain expert advice before interviewing children about possible maltreatment. This may be particularly helpful in situations where it is difficult to distinguish between maltreatment and a disability (Corr & Santos, 2017; Lightfoot, 2014; Palusci et al. 2015). For example, a child may exhibit withdrawal due to a disability or due to the effects of maltreatment.

Other issues, such as children's communication limitations or behavioral challenges, may affect assessments for maltreatment. In these situations, CPS professionals, in consultation with disability professionals, may need to adapt the structure or location of the interviews. Interviewers should account for the developmental and mobility abilities of the child as well as the severity of the injuries and underlying medical conditions that could hamper victims from disclosing what happened (Palusci et al., 2015). Information gathering during the Initial Assessment requires advance preparation for all families because of maltreatment allegations, trauma, age of children, and cultural context. These same considerations must be taken into account when working with a child or adult who also happens to have a disability. However, in addition, it is also important to consider additional factors that can contribute to the assessment and protection of these children and adults.

Gathering information from an individual with a disability often requires that some preliminary data be obtained either from records, other professionals that have had contact with the individual, or if necessary, from the alleged victim. Information may not be gathered during interviews if "assumptions" are made rather than gathering "real evidence" regarding the type of disability and level of functioning. As a result, individuals can get frustrated or confused

[11] Information adapted from https://www.childwelfare.gov/pubPDFs/focus.pdf.

unnecessarily by questions, if the CPS professional has not been able to gather preliminary facts related to some basic information.

Below are questions to consider when preparing to gather information from children and/or parents/guardians with disabilities:

- **What is this child's and/or adult's primary disability?** An individual may be described in multiple ways (e.g. having a physical disability, intellectual disability, learning problems, hyperactivity, hearing loss, etc.). Determine which is the individual's primary disability. For children with disabilities, seek to determine what is listed on an IEP in school or used on a more formal testing report.
- **Does the child and/or adult have any accompanying disabilities?** e.g. cerebral palsy, epilepsy, hearing or visual impairments?
- **In what specific way does the disability impact upon their current functioning?** e.g. cognitive, language, memory, social-emotional?
- **Is this person highly distractible?** If "yes," determine what care needs to be taken related to the location and types of materials used when gathering information.
- **Is there any information that communication might be a challenge?** If so, determine the most effective method of communication given these possibilities:
    - Sign Language
    - Language Board
    - Computer assisting devices
    - Facilitative Communication
- **Is there a marked difference in receptive vs. expressive communication?**
- **Does the child and/or adult have behavioral challenges that you know about?** e.g. verbal perseverations, compulsive behaviors, self-abusive behaviors, person assaultive behaviors, object assaultive behaviors, pica behavior (i.e., eating foreign substances compulsively), withdrawal, etc.
- **Are any of the above behaviors being considered as possible indicators of abuse?** If "yes," answer the following questions:
    - What is the history of that behavior?
    - Is there a behavioral "baseline" available?
    - If baseline is there, has there been a clear behavioral change that has taken place during the timeframe in question? Remember, when looking at a change in behavior consider:
        - Intensity of behavior
        - Duration of behavioral episodes
        - Change in behavioral repertoire
- **Will any of the behaviors require support for management during the interview?** If so, what are your plans for management during the interview?

Are there disability-related behaviors or risks to consider? e.g., historical compliance, limited education in self-protection and/or sexuality, interpersonal dependency, family stress issues and/or lack of family resources, apparent individual isolation, etc.

General Strategies for Gathering Information

- Work with someone to validate "impressions" or feelings about a family with a child with special needs, especially if you have limited experience with this population of children. In these instances, "two heads" are usually better than one, and can assist in limiting frustration, and remaining on target regarding the alleged abuse.
- Collaborate with resources immediately, especially related to a specific disability. Oftentimes, that in itself can assist in clarifying impressions of functioning or information given.
- If possible, develop a "multi-disciplinary resource team" in your location that includes all professionals that are knowledgeable about disability related issues. Include a community professional (e.g., teacher, psychologist) who could also be called upon to assist.
- Be constantly aware of disability-related behaviors and risks. For example, the level of information and awareness that these children have regarding their own sexuality and the issues of self-protection may be very different than their "able bodied" or typical peers. Educational practices regarding these issues are changing in the various communities related to the training in sexuality and protection. But in many ways, individuals with disabilities are not always included in those educational experiences.

General Considerations for Interacting with Individuals with Disabilities[12]

- Focus on the individual and the issue at hand, not the disability.
- Always direct communication to the individual with the disability. If they are accompanied, do not direct your comments to the companion.
- Use the same level of formality with everyone present.
- When mistakes are made, apologize, correct the problem, learn from the mistake, and move on.
- If someone needs you to speak in a louder voice, they will ask.
- Let people provide information about their disability on their own initiative. They are not responsible for educating the public by sharing their story.
- People with disabilities, like all people, are experts on themselves. They know what they like, what they do not like, and what they can and cannot do. If you are uncertain what to do; ask. Most people would rather answer a question about protocol than be in an uncomfortable situation.
- It is appropriate to shake hands when introduced to a person with a disability. People who have limited use of their hand or who wear an artificial limb can usually shake hands.

[12] Information adapted from https://ucp.org/resource-guide/disability-etiquette/ & https://www.health.ny.gov/publications/0951.pdf

Shaking with the left hand is acceptable. For people who cannot shake hands, touch the person on the shoulder or arm to welcome and acknowledge their presence.

- People with disabilities are interested in the same topics of conversation in which people without disabilities are interested.
- Do not be embarrassed if you happen to use common expressions like “See you later” or “Got to be running along” that seem to relate to the person’s disability.
- Help in a dignified manner with sensitivity and respect. Be prepared to have the offer declined. If the offer is accepted, listen to and accept instructions.
- Assistive devices (canes, wheelchairs, crutches, communication boards, etc.) should be respected as private property.
- When describing a person with a disability, refer to the person first. Rather than saying or writing “blind man” or “afflicted with blindness” refer to “a person with visual impairment or” a person who is blind.” This also applies when you are describing a group of people with disabilities. Do not label a group of individuals as “The disabled”; which puts the focus on their disabilities. “People with disabilities” or “individuals who use wheelchairs” places people first.
- Use respectful and descriptive words. Examples of acceptable descriptions include “a person who is...”, “a person with a...” or “person who has...”:
    - Blind/visual impairment/blindness
    - Cerebral palsy
    - Communication disorder/speech impairment
    - Deaf/deafness
    - Developmental disability
    - Disability
    - Epilepsy
    - Inability to speak
    - Hearing impairment
    - Paraplegia
    - Psychiatric disability
    - Seizure disorder
    - Wheelchair user

Resources

Preventing and responding to maltreatment in children with disabilities is a cross-system, community-wide responsibility that involves all adults and professionals that interact with children and families. CPS professionals, however, do not have the clinical training and knowledge, and cannot be expected, to be experts in all types of disabilities. For this reason, it is imperative that the child welfare system seek collaboration by other systems, such as the Medicaid and K-12 systems, and access disability-related experts and resources to assist and support them when conducting the Initial Assessment.

The table below includes disability resources available for children and adults in Wisconsin:

Resource	Agency	Population Served		Website/Email Address
		Adults	Children	
General Disability Resources	Child Advocacy Centers of Wisconsin		Yes	http://cacsofwi.org/
	Disability Rights Wisconsin (DRW)	Yes	Yes	http://www.disabilityrightswi.org/
	A Family Friendly Guide to Services for Milwaukee County Special Needs Children & Youth & Their Families		Yes	https://disabilityrightswi.org/wp-content/uploads/2018/03/DRWEASSYBookletFinal_Accessible.pdf
	New Horizon Un-Limited	Yes	Yes	www.new-horizons.org
	Wisconsin Department of Health Services (DHS)	Yes	Yes	http://www.dhs.wisconsin.gov/disabilities/Index.htm
	Wisconsin DHS – Aging and Disability Resource Center (ADRC)	Yes	Yes	https://www.dhs.wisconsin.gov/adrc/index.htm
	Wisconsin DHS – Client Rights	Yes	Yes	https://www.dhs.wisconsin.gov/clientrights/index.htm
	Wisconsin DHS – Services for Children with Delays or Disabilities		Yes	https://www.dhs.wisconsin.gov/children/index.htm
Autism Spectrum Disorders (ADS)	Autism Society of Greater Wisconsin	Yes	Yes	https://www.autismgreaterwi.org/
	Autism Spectrum Disorder Foundation		Yes	https://myasdf.org/
Blind/Visually Impaired	Center for Deaf-Blind Persons, Inc.	Yes	Yes	www.deaf-blind.org
	Deaf Unity – Wisconsin	Yes	Yes	https://www.deafunitywi.org/
	National Federation of the Blind – WI	Yes	Yes	https://www.nfb.org/about-us/state-Affiliates/wisconsin
	Vision Forward	Yes	Yes	http://vision-forward.org/resources-referrals/resources/
	Wisconsin Center for the Blind and Visually Impaired		Yes	www.wcbvi.k12.wi.us/

Resource	Agency	Population Served Adults	Children	Website/Email Address
	Wisconsin Council of the Blind and Visually Impaired	Yes	Yes	www.wcblind.org
	Wisconsin Deafblind Technical Assistance Project (WDBTAP)		Yes	http://wesp-dhh.wi.gov/wdbtap/
	Wisconsin DHS – Office for the Blind and Visually Impaired (OBVI)	Yes	Yes	www.dhs.wisconsin.gov/blind/
	Wisconsin Department of Workforce Development – Division of Vocational Rehabilitation (DVR)	Yes		http://dwd.wisconsin.gov/dvr/
Brain Injury (i.e., Traumatic Brain Injury (TBI))	Brain Injury Alliance of Wisconsin	Yes	Yes	http://www.biaw.org/
	Wisconsin DHS – TBI Units	Yes	Yes	https://www.dhs.wisconsin.gov/guide/tbi.htm
	Wisconsin DHS – Office for the Deaf and Hard of Hearing (ODHH)	Yes	Yes	https://www.dhs.wisconsin.gov/odhh/index.htm
Deaf or Hard of Hearing (DHH)	Wisconsin ASL Interpreting Agencies Listing	Yes	Yes	https://www.dhs.wisconsin.gov/odhh/interpreting/interpreter-agencies.htm
	Sign Language Interpreters	Yes	Yes	https://www.dhs.wisconsin.gov/odhh/interpreting/index.htm
	Registry of Interpreters for the Deaf, Inc.	Yes	Yes	https://rid.org/
	Resources for the Deaf and Hard of Hearing	Yes	Yes	https://www.dhs.wisconsin.gov/odhh/resources.htm
	The ARC-Wisconsin	Yes	Yes	https://arcwi.org/
Intellectual Disabilities (Developmental Disabilities)	Prader-Wili Syndrome Association of Wisconsin	Yes	Yes	http://www.pwsaofwi.org/
	WI DHS – Programs for Adults with Developmental and Intellectual Disabilities	Yes		https://www.dhs.wisconsin.gov/disabilities/adult-Disabilities.htm
	Wisconsin DHS	Yes	Yes	http://dhs.wisconsin.gov/
Medical	Kids With Heart National Association for Children's Heart Disorders, Inc.		Yes	http://kidswithheart.org/
	Wisconsin Council on Mental Health	Yes	Yes	http://www.mhc.state.wi.us/index.htm
Mental Health	Wisconsin DHS – Physical Disability Programs and Information	Yes	Yes	https://www.dhs.wisconsin.gov/disabilities/physical/index.htm

APPENDIX 11: RESOURCES FOR WORKING WITH INDIAN CHILDREN AND ADULTS

Tribes in Wisconsin and Indian Child Welfare Contact Information

In the following link you will find contact information for each tribe as well as inter-tribal organizations and initiatives. https://dcf.wisconsin.gov/tribalaffairs/tribalinformation

Bureau of Indian Affairs (BIA) Contact Information

Midwest Region – Human Services	Department of the Interior Norman Pointe II Building 5600 West American Blvd., Suite 500 Bloomington, MN 55437	P: (612) 725-4500 F: (612) 713-4401

Resources

The table below includes resources available for Indian children and adults in Wisconsin:

	Resource	Website/Email Address
Wisconsin Child Welfare Resources	WICWA Online Resource for Case Workers	https://media.wcwpds.wisc.edu/foundation/WICWA_Online_Resource/
	A Child Welfare Practitioner's Guide for Meeting the WICWA Active Efforts Requirement	https://dcf.wisconsin.gov/files/publications/pdf/464.pdf
	Wisconsin Indian Child Welfare Desk Aid	https://dcf.wisconsin.gov/files/publications/pdf/2536.pdf
	Wisconsin Indian Child Welfare Act (WICWA) eWiSACWIS Desk Aid	https://dcf.wisconsin.gov/files/publications/pdf/423.pdf
	DCF WICWA Website	https://dcf.wisconsin.gov/wicwa
	DCF Contact Information	dcfwicwa@wisconsin.gov
Judicial Resources	Wisconsin Children's Court Improvement Program's (CCIP) WICWA Judicial Checklist	https://www.wicourts.gov/courts/programs/docs/ccipwicwa.pdf
	CCIP WICWA e-Learning	https://wicciptraining.com/ELearningActivities/View/25?name=wisconsin-indian-child-welfare-act&Area=%20
National Resources	National Indian Child Welfare Association (NICWA)	https://www.nicwa.org/
	"A Practical Guide to the Indian Child Welfare Act"	https://www.narf.org/nill/documents/icwa/

APPENDIX 12: ENGAGING FAMILIES IN THE INITIAL ASSESSMENT PROCESS

Engaging Families

Parents are the experts on their own children and therefore have essential information about their child's needs, strengths, and challenges. Their insights provide crucial context for understanding the family's circumstances and the potential threats to the child's safety. Establishing a strong partnership with families is important for CPS professionals conducting Initial Assessments. Creating a collaborative partnership with parents/guardians can bridge the inherent power imbalance during Initial Assessments given that CPS professionals maintain responsibility and professional authority to take action to protect children when necessary. Prioritizing partnership-building strategies can promote trust and mutual understanding, leading to positive outcomes for families. By prioritizing transparency and respect, CPS can shift the dynamic from control to cooperation, ultimately ensuring the best outcomes for the children and the family. A collaborative approach encourages families to actively participate in the assessment process, which can foster trust, openness, and a shared understanding of the concerns and needs identified.

The initial contact with parents is significant, whether it is in person or by phone. It is the first opportunity for the CPS professional to build rapport and meaningfully engage with the family. CPS involvement can be a stressful experience for families and can be compounded by a lack of knowledge about the system /process. Therefore, it is beneficial for the CPS professional to explain the process and where the family is in that timeline. DCF has created a series of helpful resources that can be used to aid in these conversations. Resources can be accessed through a mobile device, as well as printed, and/or emailed. Keep in mind that simply providing resources to the family one time without a conversation is not helpful.

- Information for Parents at the Start of a CPS Initial Assessment (Spanish & Hmong)
    - This resource is designed to assist parents in understanding the IA phase of the CPS process and to guide the CPS professional in providing necessary information and support to parents during this challenging time. This document acknowledges that most initial assessments do not result in a transition to ongoing case management services and aims to provide access to the information that will assist parents and professionals in working together effectively during this time. Keep in mind that sharing CPS information that is not relevant to the specific family could cause additional, unintended anxiety and trauma.
- Wisconsin's Child Welfare Process Explained: Initial Assessment
    - This infographic showcases how a family moves through the Initial Assessment stage of the system.
- An Introduction to Child Welfare: For Parents, By Parents
    - This innovative resource features recommendations by parents who were at some point engaged with the State of Wisconsin Child Welfare System within their local communities. It was created in collaboration with parents who have lived expertise, alongside with county and tribal stakeholders. The topics listed will provide basic information for parents on specific areas that

may come up as they engage with CPS professionals. This document could be used in circumstances where family members are interested in broader information about the CPS process. It should be provided to parents when there is an out-of-home placement or in circumstances where an in-home plan is put in place. Families who are open with ongoing case management services should be provided means to access this document.

- Understanding the Language of Child Welfare: A Resource for Parents
    - This 2-page document was also created in collaboration with parents who have lived expertise, alongside with county and tribal stakeholders. It provides brief definitions of the stages of the CPS process and terms families may hear or see during their involvement with the child welfare system.
- Understanding Wisconsin's Child Protection System
    - This link is a path to the DCF webpage that contains access to pages created for the Access, Initial Assessment, and Ongoing phases of the CPS process. Within these pages are short videos, process maps, and other published documents about the child welfare process.

In addition to explaining the CPS process, CPS professionals typically share what information was reported that brought the family to the attention of CPS during the initial contact with parents. It can be difficult to balance the dynamics between partnership and needing to assess for maltreatment, therefore, it is important to highlight and reinforce that the intention of CPS is not to break up families, but to assess for child safety, plan for any identified safety concerns, and assist in linking the family to services. Initial meetings can often begin with an explanation of what was reported and immediately followed with an invitation for parents to share their point of view. Remember, information contained in Access reports can be incomplete, partially accurate, or false.

By hearing the family's explanation of the event, situation, or circumstance(s), the CPS professional can learn pertinent information and demonstrate that they value the information and perspective of the parents. Valuing the parent's point of view and understanding where they are coming from helps to show CPS's intent to assist or help the family. This starts the process of building trust and rapport, which increases the likelihood of finding successful intervention strategies, when needed.

Families are valuable partners in the assessment process. Engaging families goes beyond polite, civil, and courteous interactions. Some ways to think about engagement include:

- Sharing information: Check in with the family about their understanding of the CPS process and answer any questions they may have. Families involved in an Initial Assessment often feel confused and scared about their family's future. Although the CPS professional cannot make promises as to outcomes and timelines, it is important to share general information about the process and likely next steps for the family. Continue to check in with the family and update the family frequently throughout the assessment period.
    - It is important to consider and share information that will help parents understand CPS, the IA process, and what to expect. Possible points of conversation include:
        - Stages of the CPS process

- Access Report – How and why an access report may be made
- Purpose of IA – What is the CPS professional assessing
- What is the legal responsibility of the CPS professional
- Who will be interviewed?
- When there's a need to collaborate with others (e,g., law enforcement, schools, health systems), who they are and why they're being involved
- Parents rights
- Explain any safety concerns that arise during the course of the assessment
    - If a plan is put in place, what the plan is for, how to address the concern, etc. (e.g., Safety Plan, Protective Plan, Family Interaction Plan)
    - If a child is taken into temporary physical custody, explain the reason(s) for removal, court procedures, etc. At this point, it may be beneficial to provide the parent/guardian with the An Introduction to Child Welfare: For Parents, By Parents document.
- Outcomes of the IA
- Appeal process
- This is not an exhaustive list as the professional should continually ask the family of their understanding and the need for clarification on anything that is occurring during the IA phase.

- Going beyond rapport: Actively listen, respect diverse perspectives, and acknowledge the challenges families face. It's not just about "getting along."
- Normalizing challenging interactions: Recognize that anger, fear, or distrust are natural responses to CPS involvement.
- Flexibility and Adaptability: Be flexible and adaptable in your approach to family engagement. Tailor your methods to the unique needs and preferences of each family.
- Collaboration: Involve families in decision-making to acknowledge the family's autonomy and support their self-determination. Work collaboratively to identify goals, develop plans, and make decisions that reflect the family's wishes and best interests. Collaborative decisions that center on the family's self-identified needs are more likely to be effective and sustainable.
- Focus on strengths and potential: Align with caregivers on the shared goal of maintaining child safety and well-being. Every family has unique strengths that can be leveraged for positive change. Move beyond deficit-based thinking fosters collaboration and empowerment.
- Cultural responsibility: Every family has a unique cultural background that shapes their experiences and needs. Approach engagement with respect and cultural humility. Understand how unconscious bias can affect decision making and mitigate the negative effects of bias on families.

- Empathy and Understanding: Acknowledge the challenges families face and express genuine interest in their story.
- Prevention is a shared goal: By engaging families early, we can connect them with resources and support systems to address concerns before they escalate, potentially preventing future child welfare involvement.
- Celebrate successes: Don't miss an opportunity to point out successes when working with families. Letting individuals know you are seeing progress, no matter how big or small, helps facilitate true engagement with families.

Navigating challenging interactions with parents and caregivers is an inevitable part of a CPS professional's work. Collaboration can be improved by recognizing cues and adjusting the approach when an interaction is not going well. This involves focusing on understanding the parent's perspective without judgment. Considering tone, demeanor, and word choice thoughtfully can help build empathy and respect in communication. A softer stance, open-ended questions, and non-accusatory language encourage rapport. Acknowledging potential differences in perspectives ("It seems we might have different perspectives on this. Can you help me understand yours better?") can open the door to productive dialogue. While de-escalation is crucial, expressing concerns clearly and directly within the context of child safety remains necessary.

Even with dedicated efforts, some interactions might not go smoothly. Reflection on such encounters, noting what worked and what didn't, can improve future meetings. Discussion with a supervisor who can leverage their experience to provide guidance can be valuable for refining the approach. Consider how cultural differences may have played a part in previous misunderstandings and seek to address them with an open mind. Building trust and understanding requires consistent effort and time.

Cultural Responsibility

Culturally responsible practice is described in the Wisconsin Child Welfare Model for Practice:

> *Through a deep commitment to personal responsibility, a genuine respect of oneself and others and our similarities and differences, and other forms of cultural humility, we seek to reduce all biases and disparities at the individual, agency, and system level. We treat children, youth, and their families with fairness and equity and provide service to them within the context of their identities, communities, tribes, histories, cultures, and traditions.*

CPS professionals who practice in a culturally responsible manner:

- Respect Beliefs and Values: Approach families with respect for their cultural backgrounds, values, and beliefs. Invite families to tell their story in their own words.
- Affirm Identities: Asking about demographic and cultural information affirms families' identities and shows we value this aspect of their story.
- Reduce Bias and Disparities: Striving to treat all families fairly and equitably. This involves the ongoing work of recognizing and addressing our own biases and cultural assumptions.

- Tailor Service Referrals: Cultural information allows us to tailor service referrals to families' specific needs and preferences, especially for families who have a strong cultural identity or who are interested in pursuing a closer connection to their cultural identity.
- Engage Cultural Brokers and Interpreters: Utilize cultural brokers and interpreters when necessary to facilitate effective communication across language and cultural barriers.

Connecting Families to Needed Services

Connecting families with resources also fosters effective family engagement. This proactive approach goes beyond simply addressing immediate concerns for safety and maltreatment. It supports families in their efforts to create safer and healthier environments for their children beyond their time with the child welfare system, potentially preventing the need for future child welfare involvement. Most families do not receive ongoing case management services at the end of the Initial Assessment period, but many could benefit from other services offered outside of the services provided by CPS. In addition to building upon families' existing strengths, CPS professionals can connect families with relevant and supportive services and resources to promote long-term stability and well-being.

CPS professionals should work with the family to identify their most pressing needs and to connect them with resources and services that respond to those needs. Many families are already connected to services or have attempted to access services in the past. The CPS professional should take time to understand the parent's existing knowledge of the service array and their experience navigating those services. When possible and desired by the family, collaborate with families to identify and connect them to services that align with their specific needs and cultural values. CPS professionals should be prepared to connect families with relevant and desired services and resources, above any beyond immediate safety needs, which includes, but is not limited to:

- Economic hardship: Facilitating access to economic support programs can alleviate financial stress and empower families to meet their basic needs.
- Housing instability: Connecting families with stable housing programs can create a safe and secure foundation for children to thrive.
- Substance misuse resources and treatment services: Substance use may be present in a family, but not rise to the level of a safety concern. However, that family may still be interested in and benefit from being connected to resources or treatment services to prevent their use from escalating to concerning levels in the future.
- Behavioral health concerns: When needed, connecting caregivers and the children in their care to behavioral health counseling can support families in managing stress, trauma, and other emotional challenges.
- Parenting education: Connecting families to parenting education resources can equip families with skills and knowledge to foster positive child development.

Although many families are adept at finding, applying for, and ultimately receiving benefits and services to support their family, many of these resources are very difficult systems to navigate. Whenever possible, CPS professionals should directly connect families with resources that could improve their ability to support the safety and well-being of their family. CPS professionals should follow the family's lead when determining what level of assistance is needed in connecting to resources. This may include "warm handoffs" to service coordinators, sitting with

caregivers while they make phone calls, providing transportation for necessary office visits, and consistent follow up to check the status of their referral. Wisconsin Wayfinder may assist CPS professionals in connecting families with needed resources.

Additional Resources

The following external resources may be helpful in gaining a better understanding of working with different populations in Initial Assessment.

- 2023 WCWPDS Applied Learning Communities: Strategic Quality Initial Contacts
- WCWPDS Building Effective Partnerships Learning Collaborative
- Quality Matters: Improving Caseworker Contacts with Children, Youth, and Families
- Tribal Best Practices for Family Engagement Toolkit
- Considerations in Conducting Family Assessments
- How to Prepare for a Family Assessment
- Cultural Humility Practice Principles
- Buzzwords: Moving to Behavioral Descriptors
- How to Have Difficult Conversations with Parents/Carers

APPENDIX 13: LOCAL CPS AGENCIES' RESPONSIBILITY TO ENGAGE TRIBAL NATIONS

This appendix was made possible through collaboration with tribal child welfare professionals who generously volunteered their time and shared their expertise to develop this document:

- Alebra Metoxen, Oneida Nation
- Juliet Pierce, Red Cliff Band of Lake Superior Chippewa
- Tibissum Rice, Lac Courte Oreilles Band of Lake Superior Ojibwe
- Erika Traver, Ho-Chunk Nation
- Intertribal Child Welfare Committee

Note: This appendix should not be construed as legal advice. Local agencies should contact their agency's legal counsel with any legal questions relating to ICWA/WICWA.

Importance of Collaborating with Tribal Nations

Effective collaboration between local CPS agencies and tribal child welfare agencies is essential for ensuring the safety and well-being of Indian children and for fulfilling obligations under the federal Indian Child Welfare Act (ICWA) and the Wisconsin Indian Child Welfare Act (WICWA). As citizens of their Tribal Nation and residents of the State of Wisconsin and their respective county, Indian children may be eligible for services from both their tribal nation and their county. Each tribal nation may have their own available services with their own eligibility requirements. Tribal child welfare professionals possess valuable cultural knowledge, can build trust with families, and advocate for children's needs within the child welfare system. Collaboration fosters better outcomes for families through connections to culturally appropriate services and resources, such as kinship care and traditional healing practices.

Building a Strong Partnership

A successful partnership between local agency CPS professionals and tribal child welfare professionals requires mutual respect, open communication, and shared decision making. Regular meetings, timely information sharing, and a willingness to learn from each other are essential. It is crucial to use culturally sensitive language and practices. Tribal child welfare professionals are valued team members with expertise in their field. A strong partnership can facilitate the important – and legally required – work of preventing the breakup of the Indian family and ensuring the child stays connected to their tribal nation(s).

Unique Considerations for Tribal Collaboration

Collaboration with tribal child welfare professionals differs significantly from partnerships with professionals from other agencies, as tribal sovereignty, ICWA/WICWA, and the specific needs of Indian children are involved. According to National Indian Child Welfare Association (NICWA), "Tribal sovereignty is the cornerstone of a tribal nation's ability to govern and protect its people." The United States Bureau of Indian Affairs (BIA) states that "sovereignty ensures that any decisions about the tribes with regard to their property and citizens are made with their participation and consent." ***Given this federal expectation, tribal nations are to be treated as you would treat another country, recognizing that each country has their own set of laws and regulations, cultural customs, and rights.*** Understanding the historical context of the relationship between tribal nations and the federal and state government is vital. Although this appendix is not intended to dive into that complex history, CPS professionals are encouraged to expand their knowledge by seeking out resources and training. The WICWA Online Resource for Case Workers is one possible starting point for exploring this history. Additional resources are listed at the end of this appendix.

CPS agencies are required to comply with ICWA and WICWA requirements, including active efforts. Active efforts are described in WICWA as "an ongoing, vigorous, and concerted level of case work... made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe and that utilizes the available resources of the Indian child's tribe, tribal and other Indian child welfare agencies, extended family members of the Indian child, other individual Indian caregivers, and other culturally appropriate service providers" (Wis. Stat. § 48.028(4)(g)1).

One of the active efforts requirements under WICWA is to include the tribal child welfare professional in assisting with assessing the family and any subsequent case planning (Wis. Stat. § 48.028(4)(g)1.b). Tribal child welfare agencies may have extensive knowledge of family history, and a tribal child welfare agency's involvement may help bridge relationships between the local CPS agency and family. In addition to the requirement to include the tribal child welfare professional, active efforts requirements include notifying and consulting with extended family members of the child, as defined in Wis. Stat. § 48.028(2)(am). The full text of Wis. Stat. § 48.028(4)(g)1.c states: "Extended family members of the Indian child, including extended family members who were identified by the Indian child's tribe or parents, were notified and consulted with to identify and provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child." Although this appendix focuses on collaborating with the tribal child welfare agency from an Indian child's tribe, CPS professionals are encouraged to think of this joint collaboration with the Indian child's family AND Indian child's tribe. CPS professionals are also encouraged to read and refer to Appendix 12 on Engaging Families in the Initial Assessment Process in addition to this appendix.

A Child Welfare Practitioner's Guide for Meeting the WICWA Active Efforts Requirement is a helpful resource for understanding active efforts, potential activities that meet active efforts, and the benefits of engaging the Indian child's tribe to meet these active efforts requirements.

Legal and Operational Considerations

Timely communication between local CPS professionals and Tribal Child Welfare professionals is critical, including prompt notification of CPS and SW Service Reports involving Indian children, per DSP Numbered Memo Series 2023-12. ICWA and WICWA mandate specific procedures and protections for Indian children. Collaborating with the tribal child welfare agency from an Indian child's tribe is necessary for ensuring the local CPS agency is meeting some of the legal requirements under ICWA and WICWA.

Requirements under ICWA and WICWA are fully the responsibility of the local CPS agency. There are no requirements for tribal child welfare agencies under ICWA and WICWA. Tribal child welfare agencies may choose to participate in case work at whatever level they have capacity. Additionally, a tribal child welfare agency's capacity for participating in the CPS process may change throughout the time that the local CPS agency is working with the family. Due to historical and current disparities and funding, a tribal child welfare agency's involvement may vary. However, the tribal child welfare agency's capacity for involvement does not change, reduce, or negate any of the local CPS agency's obligations to fulfill ICWA and WICWA requirements. Additionally, no one may waive ICWA/WICWA requirements. If a question about applicability of ICWA/WICWA requirements arises that supervisors or agency leaders are unable to answer, the best course of action is to work through the local agency's process for contacting the agency's legal counsel.

When court involvement becomes necessary, there are specific court forms that are required for complying with ICWA/WICWA. These forms can be found on the Wisconsin Courts website.

Continuous Review of the Child's Indian Status to Ensure Compliance with ICWA and WICWA

CPS professionals are required to inquire about every family's Native American heritage and eligibility and/or membership with a tribal nation until such status is determined and documented. Ask the parents,

extended relatives, and all collaborative contacts about any known Native American heritage. Under federal regulations, if there is reason to know that a child is an Indian child, the child should be treated as an Indian child for the purpose of ICWA until the child's eligibility status is confirmed by all potential tribes. The CPS professional is responsible for seeking confirmation of the child's status as an Indian child, as defined by Wis. Stat. § 48.02(8g). Additional steps are laid out in XII.B.1. Federal and State Indian Child Welfare Act Requirements: Initial Assessment.

The responsibility of the local CPS agency for confirming a child's eligibility and membership in a tribal nation is not a one-time event. There are multiple points of contact with a child that may necessitate that the local CPS professional seek to confirm the child's eligibility and/or membership with each tribal nation identified. Because tribal membership and eligibility may change over time, confirm tribal membership during each new access report, assessment, case transfer, filing of a new proceeding, when a new child becomes a member of the household, and any time information is received indicating a child's membership may have changed or there is new information regarding paternity. There may be additional times that arise that are not listed here.

Comply with ICWA and WICWA until confirmation is received that a child with American Indian/Alaska Native heritage is NOT eligible for membership or a member of a tribal nation. The following steps are taken to confirm eligibility and/or membership:

- To determine a child's eligibility or membership status as quickly as possible, it is helpful to provide each tribal nation identified with the names of the child's parents, grandparents, and, if possible, the child's great-grandparents, including accurate dates of birth and name spelling. Without thorough information on the child's biological family history form, it may be difficult for the tribal nation to correctly identify the child's membership or eligibility status.
- Use the Indian Child Welfare Contacts for Federally Recognized Tribes in Wisconsin document to find contact information for tribal nations within Wisconsin's borders.
- The Bureau of Indian Affairs tool for locating tribal nations may be helpful in finding contact information for tribal nations across the United States.
    - Although the BIA may be helpful for locating a tribal nation, sending notice or requesting confirmation of the child's eligibility or membership to the BIA directly is discouraged, as the BIA does not keep a list of tribal members for each tribal nation. Additionally, this action does not fulfill ICWA or WICWA requirements.
- If the tribal nation does not respond to various attempts to confirm eligibility and/or membership (e.g., via mail, phone, email, etc.), the local CPS agency is responsible for complying with ICWA and WICWA requirements, including ongoing efforts to invite the tribal nation to collaborate, until membership/eligibility is confirmed or proven otherwise.
- If the tribal child welfare agency indicates the child is a member or eligible for membership and the tribal child welfare agency will not be involved as part of the local CPS agency's intervention with the family, the local CPS agency is still responsible for continuously complying with ICWA and WICWA.
- **NOTE:** There may be instances where a child may be eligible for membership in more than one tribal nation. Throughout this appendix, we refer to the "Indian child's tribe." However, if the Indian child is not a member of any tribe, this may refer to more than one tribal nation with which the child is eligible for membership.
    - If the Indian child is a member of a tribal nation, all requirements of ICWA/WICWA pertain *only* to the Indian child's tribe.
    - If the Indian child is eligible for membership with more than one tribal nation, all ICWA/WICWA requirements pertain to each of the tribal nations.

Cultural Responsibility

Effective collaboration requires cultural competence and sensitivity, which includes avoiding the use of stereotypes, microaggressions, and misusing cultural terms. Respectful communication and a willingness to learn are essential for building trust with tribal communities. Stay open and curious about cultural differences, without being intrusive or requiring tribal child welfare professionals to do extra work to educate the CPS professional. CPS professionals are encouraged to become familiar with the resources included in this appendix and prioritize learning from any resources provided to them by tribal child welfare professionals and tribal members. When working with a tribal child welfare professional, CPS professionals are encouraged to have conversations with the tribal child welfare professional to discuss how they prefer to navigate conversations that arise about cultural customs.

Each federally recognized tribal nation is a distinct sovereign nation, comparable to working with child welfare system professionals from different countries. Avoid assuming that practices, terminology, or protocols that work with one tribal nation will apply to another, even when tribal nations are geographically close. This respect for each individual tribal nation's identity is essential, whether working with tribal nations headquartered within Wisconsin or across state lines.

When collaborating with tribal nations, it is important to clarify terminology, ask questions rather than make assumptions, and approach each tribal partnership as unique. While you can apply strong collaboration practices from past experiences, it is critical to remember that each tribal nation maintains its own distinct cultural identity, governmental structure, and child welfare practices that are to be understood and respected on their own terms.

Local CPS professionals can take the following actions to build capacity and demonstrate willingness to engage with tribal nations with cultural competence and sensitivity.

- **Seek out information on tribal nations:** Given that there are 574 federally recognized tribal nations across the United States, no one person is expected to become an expert in all tribal customs. However, it is beneficial to seek out information when working with an Indian child from a specific tribal nation. See the end of this appendix for resources to learn about the eleven federally recognized tribal nations headquartered within the borders of Wisconsin. Additionally, the Bureau of Indian Affairs tool for locating ICWA agent contact information may be a helpful first step in learning more about a specific tribal nation.
- **Attend cultural responsibility training:** Local CPS professionals benefit from ongoing training on Native American culture, history, and the impact of historical trauma. Local CPS professionals can also take responsibility for educating themselves on the cultures of different tribal nations.
- **Respect for tribal customs:** Best practice includes incorporating tribal customs and traditions into case plans whenever possible, such as involving extended family members or spiritual advisors. It is especially important to understand the role of family in the tribal nation's tradition and how CPS involvement can disrupt these vital relationships. Topics to keep in mind may include, but are not limited to:
    - Cutting hair (including for hair follicle testing)
    - Menstruation
    - Ceremonies
    - Native American religions and religious practices
    - Rights of passage
    - Funerals
    - Kinship systems, including language around familial titles
- **Language:** Use culturally sensitive language and make an effort to learn and use appropriate terms as they relate to tribal nations and tribal communities. Remain open to feedback on the use of language and make an effort to respect requests received to change language.
    - For example, using language such as "Wisconsin's tribes" or "our tribes" implies some type of ownership. The tribes are sovereign nations and do not belong to Wisconsin;

therefore, it is more appropriate to use phrases such as "tribal nations who share borders with Wisconsin."

- **Considerations for supporting LGBTQ+ youth and family members:** Youth and family members who identify as LGBTQ+ may have unique needs related to their sexual orientation and gender identity or expression (SOGIE).
    - To become more familiar with terminology that may be encountered when working with LGBTQ+ individuals, see the Definitions section of Working with LGBTQ+ Youth and Families in Child Welfare.
    - Two-Spirit: This is a third gender found in some Native American cultures, often involving birth-assigned men or women taking on the identities and roles of the opposite sex. A sacred and historical identity, Two-Spirit can include but is not limited to LGBTQ+ identities.
    - The following resources may be helpful for Native American children and youth who identify as LGBTQ+ or Two-Spirit, or who are learning about or exploring their gender identity and sexual orientation. Child welfare professionals or other service providers may consider sharing these resources directly with children and youth they work with.
        - National Indigenous Women's Resource Center
        - You Are Made of Medicine: A Mental Health Peer Support Manual
        - Two Spirit Support Boat
        - DCF LGBTQUIA2S+ Resource Hub

Maintaining the Indian Child's Connections to Their Culture

Preserving an Indian child's connections to their tribal culture is essential for their holistic development and sense of identity. These connections provide them with a foundation of traditional knowledge, language, customs, and spiritual practices that have been carefully maintained across generations despite historical attempts at erasure. Beyond personal identity, these cultural ties offer children a supportive community network, resilience through shared values, and the opportunity to become stewards of unique cultural heritage.

- Seek to connect Indian children with cultural activities, especially children who are in out-of-home placement outside of their tribal nation. This may include arranging for the child to attend social events or community gatherings, sharing cultural resources (e.g., tribal websites, newsletters, other media forms), and/or providing access to culturally relevant, age-appropriate books, music, and other media.
    - Tribal child welfare professionals and family members may be a resource for identifying activities and resources to maintain the Indian child's connections to their culture.
- Tribal child welfare professionals may have knowledge of how to connect families to spiritual advisors that families may request.

Supervisory Support

CPS supervisors play a pivotal role in ensuring staff practice in a manner that is ICWA/WICWA-compliant, as their guidance directly impacts CPS intervention with Indian children. In order to carry out this responsibility, supervisors need to be familiar and keep current with all ICWA and WICWA provisions, including but not limited to requirements for active efforts, placement preferences, and the tribal nation's right to intervene with families. Awareness and understanding extends beyond basic legal requirements

and include understanding the historical context of ICWA, the importance of cultural preservation, and the unique sovereignty of tribal nations. It is important for supervisors to be familiar with the contents of the WICWA Online Resource for Case Workers. When CPS professionals have questions around ICWA or WICWA compliance, this presents an opportunity for supervisors to explore this appendix and the WICWA Online Resource together with the CPS professional.

Supervisors should also be prepared to address any hesitation or misconceptions their staff might have about working with tribal representatives, and help CPS professionals to understand that this collaboration is not just a legal requirement but a vital component of serving Indian children effectively. Importantly, supervisors have a role in ensuring CPS professionals understand and respect the vast knowledge tribal child welfare professionals have regarding ICWA and WICWA, as well as their tribal nation's child welfare policies and practices. This includes ensuring local CPS staff understand the significance of tribal customs, traditions, and child-rearing practices in case planning and placement decisions. Supervisors should be having conversations around ICWA and WICWA during individual supervision/consultation to ensure CPS professionals are effectively collaborating with the tribal nation and fulfilling the legal requirements under ICWA and WICWA. If supervisors require additional help in supporting their staff, they may contact DCF Tribal Affairs: dcfwicwa@wisconsin.gov.

Higher Level Leadership Responsibilities

By modeling respectful partnership with tribal representatives and actively supporting staff in building these collaborative relationships, managers and directors from local CPS agencies, including county social or human service agencies and the DCF Division of Milwaukee Child Protective Services, help create a system that truly serves the best interests of Indian children and their families. Local CPS agencies can actively create opportunities for staff to build relationships with tribal child welfare professionals by arranging joint training sessions, establishing regular communication channels, and developing protocols for shared decision making. Leaders are encouraged to discuss their efforts to collaborate with tribal child welfare agencies in group meetings such as team meetings, local trainings, transition staffings, etc. Topics may include but are not limited to best practices for collaboration and continued active efforts.

Higher level leaders may also foster positive relationships with tribal child welfare agencies through:

- **Information sharing:** Local agency leaders can ensure that tribal child welfare agencies are made aware of new programs and services offered by the local CPS agency, or services they become aware of outside of the department. Conversely, local agency leaders may be a rich source of information for their staff regarding services available for families through the tribal nations, including eligibility requirements for accessing tribal services/resources.
- **Communication planning:** Local agency leaders can prepare their team members to communicate robustly with tribal child welfare professionals by emphasizing the importance of creating a communication plan and ensuring team members understand the technology available to them to communicate through alternative means, such as virtual meeting platforms and messaging applications.
- **Resource allocation:** Agency leaders can collaborate with tribal child welfare agencies to allocate resources effectively, ensuring that both state and local funds, if available, are used to support Indian families. As citizens of their Tribal Nation and residents of the State of Wisconsin and their respective county, tribal members may be eligible for services through the local CPS agency and the local county social or human service agency. Additionally, children who are eligible for membership or who are tribal descendants may also be eligible for services through their tribal nation. Although tribal nations are not required to provide any services, these additional supports may also be available to the family. Whenever a tribal nation provides resources to a family, the local CPS agency is still responsible for making active efforts. Regardless of what the tribal child welfare agency does or does not do, this does not replace active efforts requirements on the part of the local CPS agency.

Considerations for Successful Collaboration Between Local CPS and Tribal Child Welfare

Early and Consistent Communication

- **Immediate notification:** The local CPS professional is responsible for promptly informing the tribal agent of the Indian child's tribal nation of any CPS report or Child Welfare Services report involving an Indian child. (See Wis. Stat. § 48.981(3)(bm) and XI.A. Required Notifications for Applicable Cases.) An Indian child may be eligible for membership with more than one tribal nation.
    - The CPS professional may receive information that a child has American Indian/Alaska Native heritage at any point while working with a family. In the event that this information is received later than the point of Access, act immediately to confirm membership and notify the tribal nation of the agency's involvement with the child.
    - Use the Indian Child Welfare Contacts for Federally Recognized Tribes in Wisconsin document to find contact information for tribal nations within Wisconsin's borders.
- **Initial safety decisions:** Include a tribal child welfare agency professional from the Indian child's tribe in decision making around initial and ongoing safety interventions, including the use of a Protective Plan or taking a child into Temporary Physical Custody (TPC). Should disagreements arise regarding the decisions related to safety interventions, the CPS professional may request that their supervisor reach out to the tribal child welfare professional and their supervisor to facilitate a collaborative discussion regarding safety.
    - See the section on Collaborative Safety Decision Making below for more information on collaboration with the tribal child welfare agency when making initial safety decisions.
- **Communication planning:** Develop a plan for communication with the tribal child welfare professional, including the level of involvement the tribal child welfare agency is requesting, the methods and frequency of communication, the tribal child welfare professional's capacity to participate in interviews and visits with the family, and the plan for continued collaboration and shared decision making.
    - Communication planning also includes any need for using a virtual meeting platform or phone calls to facilitate the ability for the tribal child welfare professional to participate due to travel and time constraints.
- **Continued tribal engagement and regular communication:** Establish and follow consistent communication channels to discuss developments with the family and progress towards goals; share information; and address concerns that arise.
- The ability for tribal child welfare professionals to be involved may change over time, based on the facts or other contributing factors. Continue to invite professionals from the tribal child welfare agency to participate, even if there is an initial indication that they are unable to participate. Robust communication plans also include any circumstances where the tribal child welfare agency may wish to revisit their involvement, how often they would like to receive updates, and in what format.
- For any document that will be submitted to court, share a draft of the document with the tribal child welfare professional prior to submitting to the court to ensure they have an opportunity to provide input before finalizing the document. **Remain open and adjust to feedback from the tribal child welfare professional**.

Shared Decision Making and Information Sharing

Collaborative Assessments

- Invite tribal child welfare professionals to conduct joint assessments. Tribal child welfare agencies may choose to participate in case work with Indian families at the level they have the capacity for.
- Immediately contact the Indian child's tribe to invite them to participate in the assessment prior to the initial face-to-face contact with the family.
    - Plan a time to visit the family together for the initial face-to-face contact.
        - This may require the use of a virtual meeting platform or phone call for the tribal child welfare professional to attend due to travel and time constraints, which is at the discretion of the tribal child welfare professional.
    - If the tribal child welfare agency is unable to participate in the initial face-to-face contact or unable to be involved with the family, this first conversation can be used to set up a plan for communication to discuss the level of involvement the tribal agency is requesting in the process, methods and frequency of communication, ability to participate in interviews and visits with the family, and a plan for shared decision making.
- Continue collaborating with the tribal child welfare professional to plan joint face-to-face contacts with the family.
- Follow the plan for communication throughout the assessment process by sharing information gathered and decisions made outside of joint face-to-face contacts with the family to ensure that the tribal child welfare professional has access to all available information.
    - Share relevant information between agencies in a timely and secure manner, respecting confidentiality requirements.
- Collaborate with the tribal child welfare professional on all decisions made throughout the assessment process.
- Collaborative assessments include collaborative decision making throughout the course of the IA and about findings at the end of the IA, including the safety decision, maltreatment determination, case disposition, and service recommendations, which may necessitate additional conversations outside of visits with the family.
- CPS professionals need to balance meeting timelines and controlling for safety with the timelines on which tribal child welfare professionals are available for collaboration.
- Tribal nations have **no** requirements under ICWA or WICWA.
    - Tribal nations are not required to answer the phone; they are not required to attend visits; they are not required to participate with the agency.
    - Tribal nations are not required to use the Wisconsin State CPS Standards. Each tribal nation may have their own set of laws with different criteria and expectations when working with families involved in child welfare, which may be different from the Wisconsin State CPS Standards.

Collaborative Safety Decision Making

Protective Plans

- For considerations around protective planning with Indian children, see the WICWA Online Resource for Case Workers.

- Invite the tribal child welfare professional to collaborate to identify resources to support the family when implementing a Protective Plan. Tribal child welfare agencies may choose to participate in case work with Indian families at the level for which the agency has capacity.
- The tribal child welfare professional may have additional information about the family and their supportive network that could be helpful in identifying providers for the Protective Plan.
- Solicit and act upon advice from the tribal child welfare professional as soon as possible. Protective Plans are typically developed and implemented on an emergency basis, and the tribal child welfare professional may not have been able to accompany the CPS professional on the visit that resulted in the creation of the Protective Plan. Receiving input from the tribal child welfare professional may require the use of a virtual meeting or phone call to include the tribal child welfare professional in conversations taking place about the family in the moment. If the tribal child welfare professional is unable to be reached, follow up as soon as possible to inform them of decisions made.
- Whether or not the tribal child welfare professional was able to be part of the initial planning process, all Protective Plans must be provided within 24 hours of the Protective Plan begin date to the tribal child welfare professional, per Child Protective Services Safety Intervention Standards section II.B.2 Active Efforts and Protective Planning with Indian Children. The tribal child welfare professional may have feedback on the arrangements made in the Protective Plan. **Remaining open and adjusting to feedback from the tribal child welfare professional is imperative.**
- Per CPS Safety Intervention Standards section II.C. Monitoring and Documenting Safety as Part of a Protective Plan, Protective Plans are required to be reviewed at least weekly and modifications made when necessary. The tribal child welfare professional's advice is solicited and acted upon at each review period. All updated plans are sent to the tribal child welfare professional.
- While the Protective Plan is in place, the CPS professional continues to be responsible for meeting ICWA and WICWA requirements, including but not limited to continuing to make active efforts to prevent the breakup of the Indian family per Wis. Stat. § 48.028(4)(g), complying with placement preferences when separation is used per Wis. Stat. § 48.028(7)(b), etc. The use of separation of an Indian child from their family home in a Protective Plan does not meet the active effort requirement to prevent the breakup of the Indian family because the children are separated from their parents/guardians. Therefore, additional efforts to keep Indian children safely in their homes must be made to meet the ICWA and WICWA requirements around active efforts.
    - For more information on active efforts, see A Child Welfare Practitioner's Guide for Meeting the WICWA Active Efforts Requirement.
- If separation is used on a Protective Plan and it is determined that the child will not be able to return to their parents' care and a formal TPC is required, it is best practice for the CPS professional to contact the tribal child welfare professional to discuss next steps, including placement preferences.
- Once it is determined that the children will need to be formally removed from the home under a Temporary Physical Custody (TPC) order, act immediately to implement the TPC order.
    - Separation and formal placement with kin and like-kin feel the same to a child and their family. However, separation does not include the additional rights that come along with court involvement, which may include legal representation.
- Once a Protective Plan is no longer necessary or effective, it is to be terminated as soon as possible to avoid infringing on the rights of the Indian child. Communicate to the tribal child welfare professional/agency that the plan has ended.

Safety Plans

- When impending danger is identified and it is determined that a Safety Plan can and will be implemented, the implementation occurs as soon as possible. This is especially important if a Safety Plan will be replacing a Protective Plan utilizing separation.
- Per the active efforts requirements set out in Wis. Stat. § 48.028(4)(g), the local CPS agency is responsible for soliciting input from the tribal child welfare professional. For the purpose of safety planning, collaborate with the tribal child welfare professional to identify resources to support the family when implementing a Safety Plan. The tribal child welfare professional may have additional information about the family and their supportive network that could be helpful in identifying providers for the Safety Plan.
    - Advice is solicited from the tribal child welfare professional and acted upon as soon as possible. The tribal child welfare professional is included in any discussions around safety planning for the family. The tribal child welfare professional may be available to join in person, or it may be necessary to use a virtual meeting or phone call to include the tribal child welfare professional in conversations.
- Prior to implementing a Safety Plan, it is best practice to share a draft of the plan with the tribal child welfare professional to ensure they have input before finalizing the plan.
- The tribal child welfare professional's advice is solicited and acted upon any time a Safety Plan is reviewed and/or updated. All updated plans are sent to the tribal child welfare professional/agency.
- Once a Safety Plan is terminated, communicate to the tribal child welfare professional/agency that the plan has ended.

Placement

- When placement becomes necessary, active efforts under Wis. Stat. § 48.028(4)(g)1.b. and Wis. Stat. § 48.028(4)(g)1.c. require that the Indian child's tribe and the extended family members identified by the Indian child's tribe be notified and consulted with to identify additional family members and offered an opportunity to provide support to the Indian child. This does not fulfill the notice requirement as outlined below.
    - Under Wis. Stat. § 48.028(4)(a), the designated agent for the Indian child's tribe must be noticed by registered mail, return receipt requested, of any involuntary proceeding involving the out-of-home placement of an Indian child, regardless of whether the tribal child welfare agency had previously stated that they were unable to be involved in work with the family.
    - Extended family members, as defined in Wis. Stat. § 48.028(2)(am), may include both Indian and non-Indian family members and may or may not be members of the tribe. Consult with the tribal child welfare professional to discuss family members' eligibility for placement under placement preferences.
- Placement preferences are a specific set of statutory requirements under ICWA and WICWA designating the order that must be followed when attempting to place the child outside of the home. The local CPS agency is responsible for ensuring placement preferences are followed. The local CPS agency partners with the tribal child welfare professional to identify appropriate placement options that are in compliance with the placement preferences outlined in ICWA and WICWA.
    - Although ICWA and WICWA identify an order of placement preference, some tribal nations have their own placement preferences, which takes precedence over the general order as set out in ICWA and WICWA to the extent provided in Wis. Stat. § 48.028(7)(c). This provision is nuanced; therefore supervisors and agency leaders may be in the best position to assist CPS professionals. Legal counsel may be sought to ensure the agency is complying with this statute.

    - It is best practice for the CPS professional to continue seeking placement resources that are higher on the placement preference list in accordance with the requirements of active efforts, even in situations where a placement has been made that satisfies a placement preference. If a tribal child welfare professional puts forward a placement resource that is higher on the list of placement preferences than the current placement, this resource should be seriously considered. This practice reduces the likelihood of delays in proceedings and is a means of continuing to keep the child connected to their tribal nation.
    - Placement preferences cannot be deviated from without good cause, as determined by the judge, per Wis. Stat. § 48.028(7)(e).
- In every proceeding involving the out-of-home placement of an Indian child, the petitioning party must obtain a qualified expert witness (QEW) to provide testimony, per Wis. Stat. § 48.028(4)(d) and Wis. Stat. § 48.028(4)(f).
    - For more information on qualified expert witnesses, see the WICWA Online Resource for Caseworkers and the Qualified Expert Witness Implementing Guidelines.
- The CPS professional continues to be responsible for carrying out practices that meet ICWA and WICWA requirements while the child is in placement, including continuing to make active efforts to prevent the breakup of the Indian family.
- Family interaction planning is required to take place in accordance with active efforts, as appropriate to goals of the Permanency Plan (Wis. Stat. § 48.028(4)(g)1.d).
- For more information on active efforts, see A Child Welfare Practitioner's Guide for Meeting the WICWA Active Efforts Requirement.
- More information about placement preferences can be found in the WICWA Online Resource for Case Workers.

Communication Planning when the Tribal Child Welfare Agency is Unable to be Directly Involved:

In situations where the tribal child welfare professional is not able to be directly involved in case work for the family, continue sharing information in accordance with the plan for communication, especially during critical moments . The tribal child welfare agency may decide to change their level of involvement with a family based on new information that is learned throughout the course of an assessment or later.

Regardless of the tribal child welfare agency's ability to be directly involved in case work for the family, the local CPS professional continues to be responsible for fulfilling the requirements under ICWA and WICWA. ***Requirements under ICWA and WICWA are fully the responsibility of the local CPS agency. There are no requirements for tribal child welfare agencies under ICWA and WICWA.***

Resource Sharing and Coordination

- **Service referrals:** Local CPS professionals should be knowledgeable of culturally relevant services within or near their community. Refer families to culturally relevant tribal programs and services, such as mental health, substance abuse treatment, or early intervention. Consult with tribal child welfare professionals to identify services offered and who may be served by the tribal nation. Actively assist the family to access services by removing barriers to their participation or seeking alternative ways of addressing identified needs when services do not exist or are not available to the family.

    - As citizens of their Tribal Nation and residents of the State of Wisconsin and their respective county, Indian children and their parents can receive services where they *choose* to receive services. Some tribal members may prefer to use services offered by the tribal nation, whereas others may prefer county services, even if such services are available through the tribal nation.
    - Tribal nations may have differing service areas. For example, some tribal nations serve only those children/families located within the boundaries of the tribal nation's land base, whereas others may be able to serve all tribal members and descendants.
- **Avoiding duplication of services:** Seek to understand what services the family is already receiving through the tribal nation to avoid duplication of services, which places a higher burden on families to navigate multiple systems.

Collaboration with Tribal Nations Whose Borders are Not Shared with Wisconsin

- The Bureau of Indian Affairs tool for locating tribal nations may be helpful in finding contact information for tribal nations across the United States.
- ICWA and WICWA apply for all Indian children regardless of the location of the Indian child's tribe. The principals of good collaboration laid out in this appendix are applicable to all federally recognized tribal nations, not only those that are within the borders of Wisconsin.
- Tribal child welfare agencies of tribal nations headquartered in Wisconsin are likely to be familiar with WICWA requirements; however, tribal child welfare agencies of tribal nations headquartered outside of Wisconsin may not have an in-depth understanding of WICWA or WICWA requirements. These tribal nations may be familiar with federal ICWA or child welfare codes for other states that may have different requirements.
    - Several forms, such as the Request for Confirmation (which can be found in eWiSACWIS), are unique to Wisconsin. Given that tribal nations headquartered outside of Wisconsin may not be familiar with these forms, it may be beneficial to create a cover letter to send along with the form to explain its purpose.
- Tribal nations headquartered outside of Wisconsin may have different ways of collaborating with local CPS agencies than the tribal nations who are headquartered in Wisconsin.
    - Some tribal nations may choose not to formally intervene or participate with the agency. This could be due to not having the resources or capacity to participate in all aspects of an ICWA or WICWA proceeding.
    - The ability for tribal child welfare professionals to be involved may change over time, based on the facts or other contributing factors. Continue to invite professionals from the tribal child welfare agency to participate, even if there is an initial indication that they are unable to participate. Robust communication plans also include any circumstances where the tribal child welfare agency may wish to revisit their involvement, how often they would like to receive updates, and in what format.
- When working with a tribal nation headquartered outside of Wisconsin, one difficulty child welfare professionals may run into is locating a qualified expert witness (QEW) who is knowledgeable in the customs of the Indian child's tribe, as required for hearings related to out-of-home care placement and termination of parental rights, per Wis. Stat. §§ 48.028(4)(d)-(f). Due to this difficulty, taking immediate steps to identify a QEW will reduce delays in proceedings.
    - For more information on QEW, see the WICWA Online Resource for Caseworkers and the Qualified Expert Witness Implementing Guidelines.

Documentation

Documentation in eWiSACWIS, the statewide automated information system used by local CPS professionals, provides necessary evidence that actions were consistently taken to comply with ICWA/WICWA requirements. Additionally, continuing to document efforts could prevent unnecessary disruptions if/when a tribal nation becomes involved in proceedings with the family at a future date.

- Any contact and attempted contact with the tribal child welfare professional can be documented in eWiSACWIS with a detail type of "Tribal Collaboration" in the Case Note. Information that may be valuable to document includes but is not limited to:
    - The plan for ongoing communication.
    - What questions were asked.
    - What cultural insights were learned.
    - How services are best suited for the family and give preference to tribal resources.
    - What was discussed around child safety and protective or safety planning.
    - Any unresolved issues or concerns and plans to address them.
    - Active efforts made to prevent the breakup of the Indian family.
        - Active efforts are statutorily defined as "an ongoing, vigorous, and concerted level of case work… made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe and that utilizes the available resources of the Indian child's tribe, tribal and other Indian child welfare agencies, extended family members of the Indian child, other individual Indian caregivers, and other culturally appropriate service providers" (Wis. Stat. § 48.028(4)(g)1).
        - Documentation in case notes does not negate the requirements for completing comprehensive documentation of active efforts in specific formal documents, such as the Initial Assessment or the Active Efforts Statement, or other formal documents related to ICWA and WICWA. "See case notes" is not an adequate means of completing formal documents regarding active efforts.
    - Efforts to confirm eligibility and/or membership status for each child.
    - Efforts to engage the Indian child's tribe.

For more information on steps to take at specific points while working with the family, see the WICWA Online Resource for Case Workers.

Additional Resources

Wisconsin-Specific Resources for Complying with ICWA/WICWA Requirements

- WICWA Statute
- WICWA Online Resource for Case Workers
- A Child Welfare Practitioner's Guide for Meeting the WICWA Active Efforts Requirement
- Qualified Expert Witness Implementing Guidelines
- Indian Child Welfare Contacts for Federally Recognized Tribes in Wisconsin
- Missing Threads: The Story of the Wisconsin Indian Child Welfare Act
- Children's Court Improvement Project Wisconsin Learning Module on Wisconsin Indian Child Welfare Act

- WICWA Judicial Checklist
    - This resource is being provided to ensure child welfare professionals are aware of the required judicial findings. This resource is not inclusive of all required or best practice actions for child welfare professionals related to ICWA/WICWA compliance.

National Resources

- The Bureau of Indian Affairs ICWA Designated Agent Listing
- National Indian Child Welfare Association
- Tribal Information Exchange through the Capacity Building Center for Tribes
- Capacity Building Center for Tribes YouTube
- Eagle Mapping
- National Indigenous Women's Resource Center
- You Are Made of Medicine: A Mental Health Peer Support Manual

Resources for Learning about Tribal Nations Sharing Borders with Wisconsin

- Great Lakes Inter-Tribal Council (GLITC)
- Great Lakes Indian Fish & Wildlife Commission (GLIFWC)
- Bad River Band of Lake Superior Chippewa
    - Bad River History
    - PBS Tribal Histories: Bad River Ojibwe History
- Forest County Potawatomi
    - Forest County Potawatomi Website
    - PBS Tribal Histories: Potawatomi History
- Ho-Chunk Nation
    - About the Ho-Chunk Nation
    - PBS Tribal Histories: Ho-Chunk History
- Lac Courte Oreilles Band of Lake Superior Chippewa
    - History of Lac Courte Oreilles
    - PBS Tribal Histories: Lac Courte Oreilles Ojibwe History
- Lac du Flambeau Band of Lake Superior Chippewa
    - Lac du Flambeau Tribe Website
    - PBS Tribal Histories: Lac Du Flambeau Ojibwe History
- Menominee Indian Tribe of Wisconsin
    - Menominee Indian Tribe of Wisconsin Website
    - PBS Tribal Histories: Menominee History
- Oneida Nation
    - Oneida Nation Website
    - PBS Tribal Histories: Oneida History

- Red Cliff Band of Lake Superior Chippewa
    - Red Cliff Band: Miskwaabikaang History
    - Red Cliff Band: Origins and History
    - PBS Tribal Histories: Red Cliff Ojibwe History
- St. Croix Chippewa Indians of Wisconsin
    - A History of the St. Croix People
    - PBS Tribal Histories: St. Croix Ojibwe History
- Sokaogon Chippewa Community
    - Sokaogon Chippewa Community History
    - PBS Tribal Histories: Mole Lake Ojibwe
- Stockbridge-Munsee Community
    - Stockbridge-Munsee Community Band of Mohican Indians Website
    - PBS Tribal Histories: Stockbridge-Munsee Mohican History

APPENDIX 14: RESPONSE TIME CRITICAL THINKING GUIDE

When a CPS report is screened in, a response time decision is made to determine how quickly a CPS professional must make contact with a family. Not all CPS reports require an immediate response. This guide aims to support the critical thinking needed to identify when a faster CPS response is required and when there is more time to plan the first contact with a family. There may be instances when information is not known at the time of the report, and CPS professionals and supervisors should be intentional about making response time decisions based on the information that is known instead of the absence of information. CPS professionals and supervisors should also consider how both their own and the reporter's personal biases and view of the family may be impacting the reported information and how it is interpreted.

When considering the response time decision, the Response Time Factors and critical thinking prompts are intended to read as plain language. There are no additional definitions outside of this guide that need to be referenced. The content within this guide is not intended to reflect every possible scenario. CPS professionals should use this guide to think critically about the reported information and use their best judgment to determine when a faster CPS response is required.

24-Hour Response Time Factors

If one of these factors is present and no mitigating factors are present, the assigned response time is Within 24 Hours.

- **A report of sexual abuse and the child is likely to have direct contact with the alleged maltreater in the next 24 hours or exposure to the alleged maltreater is unknown.**
    - Here and elsewhere in the 24-Hour Response Time Factors, assessing the child's potential contact with the alleged maltreater is intended to consider if the child could experience abuse again and how soon.
    - Is there a parent/caregiver or another adult in the home aware of and protecting the child? For example, when the allegation is sexual abuse by another child or sibling in the home, is the family taking steps to prevent further abuse from occurring again in the immediate future? If so, consider mitigating factors.

- **Child needs immediate medical attention for a potentially life-threatening condition and needed treatment is not being received.**
    - Consider the medical condition, the timing of the need, and whether the child will experience severe harm in the next 24 hours if medical treatment is not received.
    - "Life-threatening condition" is intended to reflect the status of the situation <u>now</u> – circumstances that have already become or are escalating quickly to the point of becoming life-threatening. This is not intended to include conditions that would only become life-threatening if treatment isn't received over a long period of time.

- The focus for the response time decision is whether the immediate medical need has been resolved, regardless of what led to the situation. A response time of Within 24-Hours is only needed if there continues to be an urgent, unmet medical need for a potentially life-threatening condition.

  The degree to which a parent's/caregiver's actions contributed to the child's condition and/or lack of care is a matter to be considered at the point of screening (i.e., determining whether the report relates to child maltreatment) and decision-making during the Initial Assessment process (e.g., substantiation, safety determination, protective planning).

- **Child has a serious physical injury that appears to be non-accidental, unexplained, or explanation appears inconsistent with injury, and the child is likely to have direct contact with the alleged maltreater in the next 24 hours or exposure to the alleged maltreater is unknown.**
  - Injuries are considered serious due to either the severity of the injury itself or the vulnerability of the child. Severe injuries are more than minor cuts, scrapes and bruising; examples include broken bones, skull fractures and brain bleeds. Minor injuries to non-mobile children with no explanation, such as a small bruise on an infant's face, would be considered serious due to the age and vulnerability of the child.
  - An injury to the head or face is not automatically considered serious (e.g., scratch above the eye, bloody nose). If there are multiple physical injuries, take into account the totality of injuries when considering if the child has been seriously injured.
  - Did the reporter provide the parent's/caregiver's explanation of the injury? If so, what is the parent's/caregiver's explanation of the injury?
  - Consider how both your own and the reporter's personal biases and view of the family may be impacting the reported information and how it is interpreted. Pay attention to your emotional and physiological response to the reported information. Are the circumstances incongruent with your or the reporter's beliefs about how children should be raised? Was a child disciplined in a way that is unfamiliar or feels uncomfortable? Consider how these factors and biases may be influencing reactions, thought processes and decision making about response time.

- **There is no parent/caregiver providing essential care or immediate supervision and this poses imminent potential of serious physical harm to the child based on their age, ability, or developmental status.**
  - This is not intended to include a family's challenges to secure housing, nutritious food or other basic needs.
  - Examples of essential care that could result in serious physical harm if not provided include, but are not limited to, inconsistently feeding an infant (e.g.,

could result in failure to thrive), failing to administer medication to a medically fragile child, etc.
    - This is not intended to include situations where the immediate need has been resolved (e.g., child was found wandering alone and the parent/caregiver has since been located) or when a different caregiver is temporarily meeting the child's needs (e.g., parent's/caregiver's whereabouts are unknown, but family member is willing to keep the child for the time being).

- **Child's immediate and direct access to drugs could be lethal or result in significant physical harm and there is no parent/caregiver taking necessary steps based on the child's age and development to prevent access.**
    - This is not intended to include every situation when a household member is using drugs or whenever drugs are located in the home.
    - Consider whether steps are being taken to keep the potentially dangerous substances out of the child's immediate environment. Does the reported information indicate, for example, that items are left out on a coffee table where a toddler is playing, or are they stored away in a closet or nightstand in the parent's/caregiver's bedroom?
    - Consider the potential impact on the child if they ingested the substance. For example, very small amounts of fentanyl can be lethal. Not all instances of a child having access to substances would result in significant physical harm. Examples of significant physical harm include seizures, coma, or severe respiratory distress.

- **Child is directly, physically involved in domestic violence that could be lethal or involves a dangerous weapon, and the alleged perpetrator's location and access to the family indicates the child may experience violence again in the next 24 hours.**
    - Being "directly, physically involved' is more than being exposed to, witnessing, or being in the same home where domestic violence is occurring. Examples include a child intervening in a physical altercation, an infant being held by a parent/caregiver being physically attacked, a gun being pointed at the family, erratic driving with children in the vehicle, etc.
    - When determining a response time, "could be lethal" refers to domestic violence that is extremely dangerous and could cause death to the adult victim and/or child, such as strangulation (asphyxiation), physical altercation while driving, threatening use of a deadly weapon, a directly stated threat or intent to kill the child, etc.

Mitigating Factors

Consider mitigating factors whenever one or more of the 24-Hour Response Time Factors above is selected. If a mitigating factor is selected, this results in a 5-day response time.

- **Parent/caregiver or another adult in the home is demonstrating protective action.**

    - Recognizing protective action does not require assessing for Parental Protective Capacities (PPCs) and does not need to include a guarantee or formal commitment by any person (i.e., such as occurs with a protective plan). This mitigating factor is meant to recognize when a family/household is naturally taking actions or precautions intended to keep the child safe in the immediate future.
- **Child is in an alternative safe environment.**
    - When a child is reported as being in a safe place (e.g., hospital, with a relative), the judgment about the timing of the response takes into account the location of the safe place, how long the child will be there, and access the alleged maltreater has to the child at that location.
- **Alleged maltreater will not have contact with the child in the next 5 business days.**
- **Other reason 24-hour response is not needed.**
    - This is selected when the agency determines a 24-Hour Response Time Factor is mitigated by additional information not covered by the mitigating factors listed above.

Discretionary 24-Hour Response

If the 24-Hour Response Time Factors do not indicate a need for a response within 24 hours but the agency determines a quicker response is needed, the agency may use their discretion to select a Within 24-Hour response.