

Excerpts from pages 5-12 of Safety Intervention Standards related to protective planning updates and ICWA/WICWA

Tribal Consultation, May 2022

Child Protective Services Safety Intervention Standards

<https://dcf.wisconsin.gov/files/cwportal/policy/pdf/safety-intervention-standards.pdf>

The sections below that are highlighted in yellow were revisions made to protective planning policy. These revisions were the result of collaborative efforts with the Intertribal Child Welfare Committee.

I. Safety Intervention

I.A. Definition and Principles of Practice

Safety intervention refers to all the decisions and actions required throughout CPS involvement with the family to assure that an unsafe child is protected. Safety intervention respects the constitutional rights of each family member and utilizes the least intrusive intervention to keep a child safe. Further, the safety intervention process with Indian children and families requires specific attention to additional federal and state requirements.

Safety intervention consists of:

- collecting information about the family to assess child safety;
- identifying and understanding Present and Impending Danger Threats;
- evaluating Parent/Caregiver Protective Capacities;
- determining if a child is safe or unsafe; and
- taking necessary action to protect an unsafe child.

If a child is unsafe, the following applies:

- engaging parents/caregivers in the development and implementation of a Protective and/or Safety Plan;
- continuously managing Protective and/or Safety Plans that assure child safety;
- assessing Parent/Caregiver Protective Capacities;
- creating and implementing Case Plans or Permanency Plans that enhance Parent/Caregiver Protective Capacities and decrease Impending Danger Threats;
- supporting and empowering a parent/caregiver in taking responsibility for the child's protection; and
- establishing a safe, permanent home for an unsafe child.

When a child is unsafe, CPS must collaborate with the family to develop and implement a Protective and/or Safety Plan. If a Protective and/or Safety Plan cannot be implemented, then CPS must place the child in an out-of-home care placement, in consultation with the district attorney/corporation counsel.

Additionally, CPS must collaborate with Tribes when working with Indian children and families. In all aspects of safety intervention, including implementing and monitoring Protective and Safety Plans, an Indian child's family and tribe must be informed and both the Wisconsin Indian Child Welfare Act (WICWA) [Wis. Stat. § 48.028] and the Federal Indian Child Welfare Act (ICWA) [25 USC §§ 1901-1963] must be followed.

I.B. Court Intervention

If the family is unable or unwilling to control Present Danger Threats and/or Impending Danger Threats through the use of a Protective and/or Safety Plan, CPS must consult with the district attorney/corporation counsel to assure that necessary services (in-home or out-of-home) are ordered by the court and implemented or take other reasonable action (e.g. Temporary Physical Custody) to immediately assure child safety.

If a petition is filed on behalf of an Indian child, as defined in the Wisconsin Indian Child Welfare Act (WICWA) and the Federal Indian Child Welfare Act (ICWA), the local child welfare agency must notify the parents, tribe(s), Indian custodian and/or Bureau of Indian Affairs as required in ICWA and WICWA. When an Indian child is formally placed in an out-of-home care placement by a court order all ICWA and WICWA requirements regarding placement preferences must be followed. All active efforts taken to comply with ICWA and WICWA must be documented in the case record.

II. Safety Management during Initial Assessment

At the onset of the Initial Assessment or at any point of CPS involvement with families when there is a reported crisis or a new referral, CPS will begin a safety assessment by focusing on whether there are Present Danger Threats to a vulnerable child's safety (see [Safety Appendix 1: Present Danger](#) and [Safety Appendix 2: Assessing Child Vulnerability](#)).

Present Danger Threats are the primary basis for assessing child safety at the onset of the Initial Assessment. While it is possible to begin gathering information at first contact with families that may reveal indications of Impending Danger Threats (e.g. prior involvement at either Initial Assessment or Ongoing services provision), Impending Danger Threats can only be identified through the collection of information about the family and family member functioning (see [Safety Appendix 4: Impending Danger](#)).

II.A. Assessing for Present Danger Threats

CPS must complete a Present Danger Assessment (PDA) in order to assess and evaluate the family and home situation to determine whether there is Present Danger at the following points during the Initial Assessment:

- information gathering and screening at Access
- determining the response time at Access
- making the initial face-to-face contact with the child(ren)
- making the initial face-to-face contact with the parents/caregivers

II.B. Protective Planning

A Protective Plan is an immediate, short term strategy in response to the identification of Present Danger Threats. The Protective Plan provides a child with adult supervision and care in order to control for or shield from identified Present Danger Threats and to allow for the collection of information that can be used to assess Impending Danger Threats and Parent/Caregiver Protective Capacities. A Protective Plan is a negotiated arrangement made between a family, a local child welfare agency and Tribal Partners when working with Indian children and families. A Temporary Physical Custody (TPC) request is a court action that is the result of identified Present Danger Threats that cannot be controlled with a Protective Plan.

When implementing a Protective Plan with an Indian child, it is important to include tribal representatives designated by the Indian child's tribe as the tribal representative has substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the tribal community. Tribal representatives may also be a resource in evaluating the circumstances

of the Indian child's family. The tribal representative may also assist in the development of a Protective Plan by identifying the available resources of the tribe and of the Indian community, including traditional and customary support, actions, and services, to address the circumstances of the Indian family.

II.B.1 Creating a Protective Plan

CPS must take protective action the same day that Present Danger Threats are identified. A Protective Plan must include immediate action(s) to control Present Danger Threats while more information about the family is being gathered through the course of the Initial Assessment.

When creating a Protective Plan CPS must:

- inform the parents/caregivers why the child is determined to be unsafe (identified Present Danger Threat(s));
- collaborate with the parents/caregivers to identify what Protective Plan options are available and acceptable;
- inform the parents/caregivers of the role of CPS to assure the child is protected;
- notify and involve representatives of the Indian child's tribe(s) in all aspects of safety intervention and initiate active efforts immediately when Protective Planning with Indian children;
- attempt to use resources within the family network to develop the Protective Plan;
- confirm that there is agreement by all participants, which includes having the participants sign the Protective Plan document;
- put the Protective Plan into place before CPS leaves the family/situation; and
- consult with a CPS supervisor or her or his designee regarding the Protective Plan and have them sign the plan by the next business day.

In cases where resources within the family network are not available, accessible, or appropriate, CPS must use formal resources to develop the Protective Plan. In these situations, it is typical to have a combination of informal and formal protective actions and/or resources that are implemented as part of the Protective Plan.

Prior to implementing a Protective Plan that utilizes separation as a protective action, CPS must assess and evaluate the safety of the identified protective caregiver through direct contact. This also includes a discussion of the expectations and their role in the Protective Plan as well as any issues related to the care of the child.

A Protective Plan cannot be used when Present Danger Threats exist, and the family network or formal resources are not available or accessible or parents/caregivers are unable/unwilling to permit CPS to implement a Protective Plan. In this case, out-of-home placement should be used to control for identified danger threats.

II.B.2 Active Efforts and Protective Planning with Indian Children

Active efforts, as outlined in [Wis. Stat. § 48.028\(4\)\(g\)](#), are required as part of protective planning with an Indian child and his or her family. These efforts include ongoing, vigorous and concerted interventions which are intended to promote communication, collaboration, and coordination with the Indian child's tribe to develop, implement and modify, if needed, Protective Plans involving Indian children.

Active Efforts in Protective Planning include, but are not limited, to the following:

- identifying, notifying, and inviting representatives from the Indian child's tribe(s) to participate in all aspects of Protective Planning;
- notifying and consulting extended family members;
- identifying, offering, and using all available family preservation strategies; and
- identifying community resources and actively assisting or offering active assistance to the Indian child's family in access those resources.

For further requirements regarding Active Efforts, see the [Active Efforts Guide](#) (DCF-P-464).

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.

Given these requirements and casework expectations and considerations, if an Indian child's tribe was not notified of CPS involvement at the point of Access and subsequently engaged to ensure active communication, coordination, and collaboration in any subsequent protective planning process, the CPS professional must contact the Indian child's tribe and provide the Protective Plan document to the Indian child's tribe within 24 hours of the Protective Plan begin date.

For contact information for the eleven Wisconsin Indian Tribes, see [Tribal Information](#) on the DCF website. For contact information for tribes headquartered in other states, see [ICWA Designated Agents Listing](#) on the Bureau of Indian Affairs website.

II.B.3 Documentation

The Present Danger Assessment (PDA) and Present Danger Assessment and Protective Plan (PDAPP) must be documented in eWiSACWIS within two business days if Present Danger Threats are identified or by the end of the Initial Assessment if no Present Danger Threats are identified.

A Protective Plan must contain specific information regarding how protective actions will be implemented to control identified Present Danger Threat(s). Details of a Protective Plan must include a description of:

- the identified Present Danger Threat(s) that result in an unsafe child, and
- how the Protective Plan is controlling the identified threats to each child's safety including:
 - the name(s) of the responsible/protective adult(s) ("Provider Name" on the Protective Plan form) related to each protective action,
 - and an explanation of the person(s) relationship to the family,
 - the identified protective actions/services ("Provider Role" on the Protective Plan form) to assure child safety including frequency and duration,
 - the child's location, alleged maltreater, and parent/caregiver access, and
 - how CPS will oversee/manage the Protective Plan, including communication with the family and providers.

When protective planning with Indian children, the following must also be documented:

- the tribal caseworker's signature on the Protective Plan if they are participating in the plan,
- Active Efforts made to provide the families with the services outlined in the Protective Plan,
- the efforts to collaborate with the tribe, not just to notify or engage the tribe, and members of the Indian child's extended family in the protective planning process and actively assisted in service provision,
- all efforts to comply with placement preferences, and
- all efforts to provide remedial services designed to prevent the breakup of the Indian family [Wis. Stat. § 48.028(4)(d)2].

At the time of implementation of a Protective Plan, the CPS professional must have the Protective Plan document (DCF-F-S2179) signed by all parties who are participating in the plan, including the parents/caregivers, protective adults, supervisor, CPS professional, and tribal caseworker if applicable. A copy of the signed Protective Plan must be provided to the family and, if appropriate the protective caregiver. Tribal caseworkers must receive a copy of the Protective Plan within 24 hours from when it was implemented. If any Protective Plan participant indicates enrollment in the Safe at Home Program, their actual physical address must remain confidential and excluded from the written Protective Plan documentation. For more information regarding the Wisconsin Safe at Home Confidentiality Program, please reference the [Access and Initial Assessment Standards](#).

Within two business days of the Protective Plan being implemented, the Protective Plan document (DCF-F-S2179) must be scanned into eWiSACWIS.

The Present Danger Assessment (PDA) and Present Danger Assessment and Protective Plan (PDAPP) must be approved by a supervisor, or her or his designee.

II.C. Monitoring and Documenting Safety as Part of a Protective Plan

The Protective Plan remains in effect during the Initial Assessment or until information is gathered to either eliminate the need for a Protective Plan, or to develop and implement a Safety Plan based on the identification of Impending Danger Threats, or the case is closed.

For the duration of the Protective Plan, CPS must review the adequacy of the Protective Plan weekly and make modifications, when necessary.

Protective planning and Protective Plans with Indian children must include timely communication, collaboration and coordination with the appropriate tribe(s). Active Efforts provided to the family must continue to be documented.

II.D. Documentation

If modifications, including decisions regarding frequency and duration of separation, are needed to the Protective Plan or new Present Danger Threats are identified, the current Present Danger Assessment and Protective Plan (PDAPP) must be ended and a new PDAPP and Protective Plan form created.

The new PDAPP and Protective Plan document must be signed by all parties, and scanned in to eWiSACWIS within two business days of implementation. When it has been assessed that Present Danger Threats are no longer active in the family and a Protective Plan is no longer needed, the current PDAPP must be ended in eWiSACWIS with the reasoning "Present Danger Threats no longer identified."