

CHILD PROTECTIVE SERVICES ACCESS AND INITIAL ASSESSMENT STANDARDS

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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. 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 Assessment¹, 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 plans, and providing services and case management until cases can be safely closed. The goal of the child protective services system is to support parents/caregivers 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 caseworkers between protecting children and preserving the rights of individuals. The primary responsibility of CPS during the initial assessment process is to identify children who are in need of protection or services and assure that unsafe children are protected by engaging parents/caregivers in implementing an in-home or out-of-home safety plan. It is at this point in the case process that assessing and planning for the safety and permanence for children begins.

CPS professionals have challenged themselves and those who grant them the authority to intervene in families to articulate the fundamental principles upon which practice should be based.

Embodied in these Standards are the following beliefs:

- *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 Service reports in order to assure that children are safe and protected.
- *Parents/caregivers 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/caregivers is based on the principles of respect, honesty, equity, and self-determination.

¹ Throughout this document, the term initial assessment refers a comprehensive assessment of individual and family conditions, functioning, and dynamics in response to a report of alleged child maltreatment and includes the CPS investigation process as defined in s. 48.981(3)(c), Stats.

- *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.
- When a child has been maltreated by an individual outside of the family, CPS acts as consultants and advocates for the parents/caregivers in meeting their child's need.

In order to enhance statewide consistency in practice, the CPS Access and Initial Assessment Standards provide CPS agencies and caseworkers with more specific direction in screening and assessing reports of child maltreatment² than is offered by Wisconsin statutes alone. Rather than an incident based approach, this process relies on gathering, understanding, and assessing family information and dynamics that contribute to the threats to child safety or the maltreatment in order to make decisions about which families receive CPS Ongoing Services.

These Standards outline requirements for CPS Access and Initial Assessment for county agencies and the DMCPSDivision of Milwaukee Child Protective Services (DMCPS).The CPS role differs in cases of familial and non-familial maltreatment and these Standards articulate the role for CPS and other community professionals in response to the broad range of reports which are made to CPS in Wisconsin. The requirement for county agency staff to act in keeping with these Standards is referenced in s. 48.981(3)(c)1, Stats.

CPS agencies have discretion in investigating reports of alleged child maltreatment by a person who is not a specified caregiver.³ These Standards also outline requirements for CPS Access and Non-caregiver Investigation when agencies choose to screen in and respond to reports of alleged maltreatment by a non-caregiver.

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 the terms “child maltreatment” and “child abuse or neglect” have the same meaning and are used interchangeably.

³ As defined at s. 48.981(1)(am), Stats.

Section 1: CPS Access Caseworker and Supervisor Responsibilities

Introduction

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

1. receive and document reports of alleged maltreatment from the community,
2. identify families that the CPS system must respond to,
3. determine the urgency of the response time, and
4. 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 agencies are expected to document all reports whether the child resides in their own or another county.

Chapter 1: Receipt of Access Report

I.A. Information Received at Access Defined

Information received by the agency is an Access report as covered by this Standard if the reporter **either**:

- makes a report in accordance with s. 48.981, Stats., and the reporter suspects or states a suspicion that a child has been abused or neglected or is likely to be abused or neglected, regardless of whether the reported information constitutes child abuse or neglect as defined in the Ch. 48 of the Wisconsin statutes, **or**
- states a suspicion that a child needs agency intervention in order to be safe, in accordance with requirements Chs. 46 and 48 of the Wisconsin statutes. These include but are not limited to:
 - ◆ relinquished infants, [s. 48.13(2m), Stats.]
 - ◆ newborn children with illegal substances in its system [s. 46.238, Stats.]
 - ◆ lack of necessary care due to poverty
 - ◆ parent fails to provide necessary care for religious reasons [s. 48.981(3)(c)4, Stats.]

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 staff 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 worker knows or suspects that the report will be screened out. Screening an Access report is a formal agency decision that is completed by the CPS agency and documented in the case record. Pursuant to state statutes, the agency also provides feedback to the mandated or relative reporter regarding the screening decision, when applicable.

Controlled Substances in an Infant's System

The Federal Child Abuse Prevention and Treatment Act requires states 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 and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, 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 (CAPTA, section 42 U.S.C. 5 106a(b)(2)(a)*" (Emphasis added.)

Therefore, the existence of controlled substances or controlled substance analogs in an infant's system does not by itself constitute maltreatment under federal law. A report may be documented and assessed as a CPS report or a Service report depending on the specific information provided. Information to consider in making a decision of whether to respond to reported information as a CPS report includes family history and criteria related to threats to

child safety (e.g. severity, out-of-control family conditions). A CPS report is documented as a Primary Assessment.

I.B. Availability to Receive Access Reports

- The 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 agency uses a recorded message during business hours in the event that the 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 staff perform a gate-keeping function by determining which children and families receive further attention from the 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 staff should have training in gathering information, interviewing reporters, and determining what information is significant to the CPS Access purpose. CPS Access staff should also have expertise in the dynamics of abuse and neglect since many reporters, especially non-mandated reporters, may not have the expertise.

The CPS agency staff 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 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 cases, the family/household where there are threats to safety or allegations of maltreatment.
 - For Secondary Assessments and Non-Caregiver Investigations, the family/household that is the child's primary residence.
- In Primary Assessment cases, when the reported information indicates that there are safety threats or 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 Section II.A.)

Determining the Household(s) to Create an Access Report

Children sometimes spend significant time in more than one parent/caregiver'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 threats to child safety or risk concerns in a specific household. For example, in a case 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 there are identified threats to child safety and risk concerns. 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.D. Creating and Documenting a Report of Maltreatment in a Foster Home

When an agency receives a report of alleged maltreatment in a foster home, treatment foster home, or family-operated group home the CPS report is recorded with the foster parent as the reference person.

I.E. Creating and Documenting a Report of Maltreatment in a Residential Care Center

When an agency receives a report of alleged maltreatment by staff of a residential facility (i.e., a shift-staff group homes, shelter care, or residential care center), the CPS report is documented as a secondary assessment in the family case record.

Chapter 2: Multi-County Reports

II.A. Responsibilities of Each Agency in Access Reports for a Child and Family that Reside in Another County

One function of CPS Access is to receive reports from the community. At times, information is reported to a CPS agency when a child and his or her family reside in another county.

- The CPS agency that receives the report must gather all information as required in *Chapter 3: Information Standards* and complete the Access report regardless of jurisdiction.
- If known at the time the report is made, CPS Access staff must inform the reporter that the information will be forwarded to the responsible CPS agency for a screening decision.
- The same day the report is received, CPS Access staff who receive the report must contact the appropriate agency Access staff person by telephone to provide notification of the

pending report and determine the person to send the report to.

- The pending report must be documented in eWiSACWIS and sent to the appropriate agency by the next business day.

Present Danger Threats to child safety require immediate notification.

- The same day a report is received; CPS Access staff who receive the report must contact the appropriate agency staff person, document the report in eWiSACWIS and send it to the appropriate agency.
- When a report indicates there are Present Danger Threats to child safety, the county where the child is located must take emergency action, if warranted.
- The agency responsible (where the family resides) for the initial assessment will make the screening and response time decisions and will notify law enforcement, when appropriate.

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

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

CPS Access receives reports when a child resides primarily or part-time in one county and the alleged maltreatment occurred in another county. The following are requirements for these cases of alleged maltreatment:

- When a report indicates there are Present Danger Threats to child safety, the county where the child is located must take emergency 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 county where the alleged maltreatment occurred and safety threats exist 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 county where the child attends school or child care will assume primary case responsibility. If the child is not in school or daycare, the county where the child is present at the time of the Access report will assume primary case responsibility.

In Secondary and Non-Caregiver cases, the county where the child resides will assume primary case responsibility for initial assessment activities.

Chapter 3: 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 Investigation is conducted.

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

The following must be gathered from the reporter, if available, in all cases as referenced in *Chapter 1, Section I.A.: Access Report Defined*:

1. Description of the allegations. This includes current and past maltreatment allegations, the surrounding circumstances, and the frequency of the alleged maltreatment **or** the intervention or services needed for the child.
2. The child's injury or condition as a result of the alleged maltreatment and, if known, the services needed.
3. Information that the child may be of American Indian heritage. Unless the agency already has information in its records to verify that the child is or is not an Indian child, the Access worker 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.
4. Description of the child's current location, functioning, including special needs, if any, and current vulnerability.
5. Description of any Present Danger Threats (*Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety*) including a description of possible/likely emergency circumstances.
6. 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.
7. The presence of domestic violence (see *Appendix 5: Domestic Abuse*), if applicable, including the demonstration of power, control and entitlement within the home environment.
8. How the family may respond to intervention by the agency, including the parental protective capacities.
9. The reporter's name, relationship to the family, motivation and source of information, if possible.
10. The names and contact information of other people with information regarding the child or family.

Emergency Doctrine

It is critical that the Access worker obtain as much information as possible to make judgments about Present Danger Threats and likely emergency conditions in order to determine a response time sufficient to control threats to child safety. This information assists the agency in determining not only what actions it should take, but also whether the options for an emergency response under s. 48.19, Stats., apply and are available to the agency.

Emergency circumstances are when a child is in imminent danger of physical harm and the CPS caseworker responds immediately to prevent harm. These emergency situations are defined as “instances in which the child is immediately threatened with harm, where there exists an immediate threat to the safety of the child, or where the child is left bereft of care and supervision, or where there is evidence of serious ongoing abuse and the officials have reason to fear imminent recurrence.” [October 2003, “Constitutional Restrictions, Case Law, and State Legislative Provisions, on Investigative Actions by Child Protective Services,” Howard Davidson and Jeannine Henderson, American Bar Association Center on Children and the Law.]

While an emergency does not have to equate to a "life or death situation", the CPS caseworker has to have reasonable cause to believe that, if she or he does not act, the child will be put or remain at imminent risk of serious physical harm. These are situations that constitute Present Danger Threats to a child’s safety. This means that there is an immediate, significant, and clearly observable threat to a child occurring in the present that requires an immediate CPS response. Law enforcement, school or medical personnel, or others are often in a position to observe Present Danger Threats prior to the response by CPS. (See *Child Protective Services Safety Intervention Standards Appendix 1: Definitions and Examples of Present Danger Threats to Child Safety*).

The Co-Occurrence of Domestic Violence and Child Maltreatment

Research indicates that up to 60 percent of cases 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 agency in understanding safety threats and risk to the child, provides critical information relevant to relationship building with the caregiver/non-offending parent in cases where domestic violence is present, determines how CPS should proceed (including safety concerns for CPS staff), and provides information pertinent to assessing the protective capacities of the caregivers. (See *Appendix 5: Domestic Abuse*)

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

In addition to the requirements of *Chapter 3, III.A.*, the following information must be gathered from the reporter, if available:

1. The current location, functioning, parenting practices, and views of the child of the parents or adults in the parenting role.
2. Description of family functioning, strengths, and current stresses.
3. Information that may indicate possible/likely Impending Danger Threats to child safety (See *Child Protective Services Safety Intervention Standards Appendix 7: The Safety Threshold and Impending Danger Threats to Child Safety and Child Protective Services Safety Intervention Standards Appendix 8: Parent/Caregiver Protective Capacities*).
4. The name of the alleged maltreater and his or her relationship to the child.
5. 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 Cases

In addition to the requirements of *Chapter 3, III.A.*, the following information, if available, must be gathered from the reporter:

1. 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.
2. Parental involvement and contribution to the alleged maltreatment, if any.
3. Parental knowledge of the incident.
4. Parental action in response to the incident.
5. 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 Investigations

In addition to the requirements of *Chapter 3, III.A.*, the following information, if available, must be gathered from the reporter:

1. 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.
2. Parental involvement and contribution to the alleged maltreatment, if any.
3. Parental knowledge of the incident.

4. Parental action in response to the incident.

Determining if the Parent May Have Contributed to the Alleged Maltreatment

This decision is made at the point CPS Access receives a report since it dictates whether a primary assessment, secondary assessment, or non-caregiver investigation is conducted by the agency. When there is information that creates a reasonable belief 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 belief 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 reasonable and credible information at the time the report is received by the 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 *Child Protective Services Safety Intervention Standards Appendix 8: 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.E. Records Search

1. CPS Access must review a family's relevant CPS and child welfare records as well as CPS records of any person named by the reporter as a suspected maltreater. Agencies must assure that relevant past agency records are readily available to assist with and meet screening and response time requirements. (See: *Chapter 6: The Screening Decision and Chapter 7: The Timeframe for Response*)
2. CPS Access must review records in the Consolidated Court Automation Program (CCAP) of household members who are age 17 or older and any person named by the reporter as a suspected maltreater.
3. Relevant 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, threats to child safety, responsiveness of the parents) will assist in analyzing the reported information to determine how quickly CPS responds. At CPS Access, the purpose of reviewing case history is to understand conditions within the family and to determine if a pattern of behavior can be identified regarding safety or risk concerns. 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 cases where no specific type of abuse or neglect has been reported, may be indicative of threats to child safety.

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

Chapter 4: Reports with Special Requirements

There are four types of reports that have special requirements because of their unique circumstances:

- Unborn child abuse,
- Medical neglect of a disabled infant,
- Relinquished infants, and
- Child death due to alleged maltreatment when there are no other children in the household.

Unborn Child Abuse

IV.A.1. Unborn Child Abuse Defined

Unborn child abuse is defined as "serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree." [s. 48.02(1)(am), Stats.] The mandatory reporting laws do not apply to instances/suspicions of unborn child abuse. However, if suspected unborn child abuse is reported, the agency must document the report, make a screening decision and, if screened in, make a response time decision.

The definition of unborn child abuse requires the presence of all three of the following conditions:

1. pregnancy,
2. habitual lack of self control in the use of alcohol or drugs, exhibited to a severe degree, and
3. information to support the belief that there is substantial risk to the physical health of the unborn child due to the substance use.

The Access worker should gather information that assists in making the judgment as to whether there is a reasonable suspicion that the above conditions are present. All of the above

conditions are generally best determined by medical or AODA professionals. This level of information cannot be expected at the Access stage of the case process. It is important for CPS staff to discuss unborn child abuse cases with their agency attorney and local medical professionals.

IV.A.2. Information that Must be Gathered and Documented

In addition to the requirements in *Chapter 3, Sections III.A. and III.B.*, the following information must be gathered from the reporter, if known:

1. Verification of pregnancy or information to support that the woman or girl is pregnant and, if possible, what month of the pregnancy she is in.
2. A description of the substances and quantity of substances she is alleged to be using.
3. A description of the behaviors that lead the reporter to believe that the expectant mother is demonstrating a habitual lack of control or that her substance abuse is exhibited to a severe degree.
4. The history of her substance abuse, treatment received and previous children who were born with the effects of alcohol or other drugs used during pregnancy.
5. 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.
6. A description of the expectant mother, highlighting individual functioning and her parenting practices, if other children are residing in the household.

Medical Neglect of a Disabled Infant

Federal regulations require that states have procedures within their CPS system “for responding to the reporting of medical neglect (including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

- coordination and consultation with individuals designated by and within appropriate health-care facilities;
- prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and
- 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 disabled infants with life threatening conditions;” [42 U.S.C. 5106a]

The federal legislation was enacted to prevent discriminatory non-treatment of infants born with disabilities. Wisconsin's statutory definition of neglect under s. 48.981(1)(d), Stats., extends protection to all children under the age of 18, both able-bodied and disabled, who are alleged to be neglected medically. Petitions may be filed under s. 48.13(10), Stats., to initiate legal proceedings in appropriate cases.

IV.B.1. Medical Neglect of a Disabled Infant Defined

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 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.

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 cases 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

In addition to the requirements in *Chapter 3, Sections III.A. and III.B.*, the following information must be gathered from the reporter, if known:

1. Description of the child's development, functioning and needs, highlighting the current life or health-threatening problem requiring treatment.
2. Where the child is hospitalized and whether the child is being transferred to a perinatal center in another county.

3. Description of the parents' views of the child and actions or response by the parents to their child's life threatening condition.
4. How the family might respond to intervention or treatment for the child.
5. Description of any action taken or recommended by hospital medical personnel.
6. Names and contact information of medical personnel with information relevant to the report.

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

1. The current health status of the child and the timeframe within which treatment to address the child's life-threatening condition is required.
2. Whether life-sustaining treatment is recommended or currently implemented.
3. Whether the hospital will sustain life-supporting care for the immediate future while the CPS initial assessment is underway.
4. 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.

Relinquishing Custody of a Newborn Child

IV.C.1. Relinquishing Custody of a Newborn Child Defined

Section 48.195(1), Stats., provides that "...a child whom a law enforcement officer, emergency medical technician, or hospital staff member reasonably believes to be 72 hours 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 technician, or hospital staff member and does not express an intent to return for the child....A law enforcement officer, emergency medical technician, or hospital staff member who takes a child into custody under this subsection shall, within 24 hours after taking the child into custody, deliver the child to the intake worker under s. 48.20, Stats.,..." Further provisions regarding the relinquishment of a newborn are found in s. 48.195, Stats., and Ch. HFS 39, Adm. Code.

The person to whom custody of the newborn is given, according to statute and administrative code, is the court intake worker under s. 48.067, Stats. The CPS agency, however, is responsible for placing the newborn when he or she is released from the hospital. The court intake worker may or may not be an employee of the local CPS agency, and the Access worker 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 child welfare 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 or law enforcement officer, the Access worker must function as the court intake worker, if authorized to do so, or assure that the intake worker receives the required information immediately. As counties vary in who functions as a court intake worker, agencies may determine how much information the Access worker gathers and documents in order to assure that the requirements under s. 48.195, Stats., and Ch.39, Adm. Code, are fulfilled.

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

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.” [s. HFS 39.09(3), Adm. Code]. This includes the following information:

1. Current location of the newborn.
2. The age or estimated age of the newborn.
3. 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.
4. 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.
5. Any other relevant information relating to the relinquishment given to an employee or agent.
6. Information on the general health of the newborn.
7. Any non-identifying observations concerning the relinquishment made by an employee or agent who was present or involved in the relinquishment.
8. 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.
9. Whether the newborn is believed to have been abused or neglected, and, therefore, whether the relinquishment is allowable.
10. Whether a birth certificate has been filed and the name on the certificate.

11. Whether the parent or person assisting the parent refused to accept any information offered.
12. Whether the parent or person assisting the parent, if applicable, voluntarily provided any identifying information, or if any identifying information is known.
13. Whether the parent was informed about his or her right to remain anonymous and the confidentiality provisions related to relinquishment.
14. 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.
15. If the parent(s) chose to be identified or were willing to provide information on the ethnicity and race of the newborn, including whether the newborn is of American Indian heritage and, if so, any tribal affiliation, any information related to those issues.

**Child Death Due to Alleged Maltreatment
When There Are No Other Children in the Household**

IV.D. Information that Must be Gathered and Documented

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

1. Nature of the alleged maltreatment and surrounding circumstances.
2. 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.
3. Reporter's name, relationship to the family, motivation for reporting and source of information, if possible.
4. Law enforcement involvement with the alleged maltreater, if known by the reporter.

Chapter 5: Decisions at CPS Access

V.A. Decisions at CPS Access

The responsibility for making decisions at CPS Access is that of the agency which has the primary case responsibility as described in *Chapter 2: Multi-County Reports*.

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

- Is this a report that the child protective services agency must respond to?

- Is the assessment of this report a :
 - 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 Investigation; or
 - Required Service Report (e.g., relinquished infant, lack of necessary care due to poverty, parent fails to provide necessary care for religious reasons)?
- What is the response time to the report?
- Does the report need to be referred to a law enforcement agency in accordance with s. 48.981(3)(a)3., Stats. or the CPS/law enforcement MOU? [Reports of alleged sexual abuse or threatened sexual abuse, including reports of alleged sex trafficking, must be referred to a local law enforcement agency within 12 hours of receipt by the CPS agency, exclusive of Saturdays, Sundays, and legal holidays.]
- Has the tribe, when applicable, been notified of the report?

V.B. Additional Decisions Required for Possible Medical Neglect of a Disabled Infant

The following decisions must be made at Access:

- Are immediate actions necessary to keep the child alive or to prevent serious harm?
- What is the agency’s timeframe for contact with the principals of the report or with medical personnel?
- Does another county agency or a tribe need to be notified of the report? (The infant may be hospitalized in a county other than that of the family’s residence.)

Chapter 6: 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 CPS agency accepts for initial assessment any report which suggests that there is reason to believe a child under 18 years of age may have been subjected to treatment which meets a definition of abuse at s. 48.02(1), Stats., or the definition of neglect at s. 48.981(1)(d), Stats., or has been subjected to treatment that threatens the child with abuse or neglect and there is reason to believe that abuse or neglect will occur.

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 believe that physical abuse

has occurred or the child is at substantial risk of abuse. The reporter may be able to describe behavior towards the child that a reasonable person could conclude would result in injuries as described in s. 48.02(1), Stats., or would likely escalate and result in such injuries.

Reports that do not constitute a reasonable belief of maltreatment but describe some behavior that the reporter or the agency believes is inappropriate are not screened in for an initial assessment, regardless of whether the agency has extra time or staff to respond to such concerns. The authority to conduct initial assessments extends to those cases 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 s. 48.02(1) or s.48.981(1)(d), Stats. There are constitutional protections against unjustified intervention in family life.

VI.A. Screening of an Access Report

The **initiation of a diligent investigation** 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 1: Statutory Definitions of Child Abuse and Neglect*).

The screening and the response time decisions must be completed within a timeframe that assures that the immediate threats to child safety, if present, of any child in the report are addressed. The screening and response time decisions must be completed, **in all cases**, within 24 hours of receipt of the report.

- Upon receipt of a report, the agency must immediately analyze the information to screen for Present Danger Threats, as defined in *Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety*, and other emergency conditions. If Present Danger Threats or other emergency conditions are identified, the agency must take necessary action to initiate a response in accordance with the child's needs and *Section VII.C.1. Timeframe for Response*.
- The screening decision is the formal decision to accept or not accept a report of alleged child maltreatment or other report (See *Chapter 2: Multi-County Reports*) for further assessment. The screening decision must be documented in the family case record.
- Supervisory approval (or that of her/his designee) is required for all screening decisions.

VI.B.1. Criteria for Screening In an Access Report

- 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 believe that abuse or neglect as defined in the statutes has occurred (See *Appendix 1: Statutory Definitions of Abuse and Neglect*), or

- behaviors or conditions that create reason to believe a child has been threatened with abuse or neglect as defined in the statutes and that the child is unsafe (See *Appendix 1: Statutory Definitions of Abuse and Neglect, Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety and Child Protective Services Safety Intervention Standards Appendix 7: The Safety Threshold and Impending Danger Threats to Child Safety*), or
- behavior or an action or inaction that a reasonable person would conclude may have resulted in maltreatment of a child, or
- injuries to or a condition of the child that a reasonable person would construe to be a result of maltreatment, or
- conditions, behaviors, or actions that resulted in a child's death due to maltreatment.

VI.B.2. Criteria for Screening In a Report of Unborn Child Abuse

- There is sufficient information to make it possible to either identify or locate the expectant mother.
- The allegations support a reasonable suspicion that the individual is pregnant (i.e., is an expectant mother).
- The allegations describe behaviors that support a reasonable suspicion of habitual lack of self-control of the expectant mother in the abuse of alcohol, controlled substances or controlled substance analogs to a severe degree.
- The abuse of the named substance(s) could cause serious physical harm to the unborn child or risk of serious physical harm to the child when born.

VI.B.3. Criteria for Screening In a Report of Possible Medical Neglect of a Disabled Infant

- 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 and appear unable to make a decision to do so.

Generally, CPS receives reports of disabled infants 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 Disabled Infants with Life-threatening Conditions*)

VI.C.1. Criteria for Screening Out an Access 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 and do not describe behavior or conditions that constitute a threat of abuse or neglect in the future (See *Appendix 1: Statutory Definitions of Abuse and Neglect*), or
- The report of alleged abuse is by a person who is not a “caregiver” as defined in s. 48.981(1)(am), Stats. and the agency has decided to not investigate such reports, except in reports alleging Sex Trafficking of a Child (s.948.051, Stats.) by an individual in a non-caregiving role [48.981(3)(a)2.bm., Stats.].

Except when one individual is in a caregiving role, reports of sexual contact, as defined in *Appendix 1: Statutory Definitions of Abuse and Neglect*, between peers can be screened out under the following circumstances:

- There is no allegation of assault, coercion, exploitation, or other condition consistent with s. 940.225, Stats.
- The minor’s sexual activity with a peer is developmentally normal and does not create 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 s. 48.981(3)(c)6 and 6m., Stats.
- Refer screened-out reports of alleged maltreatment under s. 48.02(1)(b) to (f), Stats., to law enforcement.

A report cannot be screened out solely because the reporter is anonymous or because maltreatment information is not current.

The decision to screen out an Access report must include justification and documentation of why the report does not warrant a CPS response.

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

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

- 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 that the expectant mother is currently severely abusing alcohol, controlled substances, or controlled substance analogs.
- There is no credible information that the abuse of the named substance(s) could cause serious physical harm to the unborn child or risk of serious physical harm to the child when born.

Screening Out a Report of Possible Medical Neglect of a Disabled Infant

There are no specific criteria for screening out a report of possible medical neglect of a disabled infant. A report that does not fit the definition in *Chapter 4* would not automatically be screened out, but rather is screened using the criteria under *Section VI.C.1 : Criteria for Screening Out an Access Report*.

Chapter 7: The Timeframe for Response

VII.A. Determining the Timeframe for Response

The timeframe for response is when a CPS caseworker will have initial, face-to-face contact with the alleged child victim and/or parent(s) and will further 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). For alleged cases of maltreatment in a foster home, treatment foster home, or family-operated group home, after the Requesting Agency has assessed Present Danger Threats to child safety and, when applicable, implemented a protective plan the maximum timeframe for face-to-face contact by the Investigating Agency is within three business days of receipt of report.

Response time criteria are as follows:

1. Present Danger Threats to child safety (See *Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety*)
 - Immediate to within the same day response time.
2. Information that indicates the presence of Impending Danger Threats to child safety. (See *Child Protective Services Safety Intervention Standards Appendix 7: The Safety Threshold and Impending Danger Threats to Child Safety*)
 - Response within 24-48 hours of receipt of report, including holidays and weekends.

When a report has been assigned a 24-48 hour response time and the day the report is received falls on a Friday or the day before a holiday, contact with the child and parent(s) and the requirement to conduct an assessment of threats to child safety must not be deferred until the next business day.

3. No Present or Impending Danger threats to child safety identified
 - Response within five business days of receipt of report.

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

The specific case 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. The response time is when face-to-face contact with the identified child victim and/or parent(s) occurs in order to complete an assessment of the threats to the child's safety. (See *Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety* and *Child Protective Services Safety Intervention Standards Appendix 7: The Safety Threshold and Impending Danger Threats to Child Safety*)

“Immediate” refers to making face-to-face contact with a child and/or parent(s) the same day the agency receives the report and depending on the circumstances this may require action at the very moment and not later in the day. It means that there is a Present Danger Threat to a child's safety, a screen-in decision is made, and immediate action may need to be taken to protect the child. When a report of maltreatment includes Present Danger Threats, it is not unusual to include law enforcement in the response as outlined in the agency's MOU with law enforcement. In emergency or exigent circumstances, the appropriate law enforcement agency may be in a better position to first respond to an urgent report. Regardless of the involvement of law enforcement, CPS must still meet its required response time based on the assessment of threats to child safety.

“Within 24-48 hours” refers to completing face-to-face contact with the child and/or parent(s) prior to the end of the second day following the receipt of the report. A case is assigned a 24-48 hour response time due to concerns of Impending Danger Threats to child safety.

VII.B. Determining the Timeframe for Response - 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 identify threats to the safety of any other children in the home. (See *Child Protective Services Safety Intervention Standards Appendix 1: Present Danger*

Threats to Safety and Child Protective Services Safety Intervention Standards Appendix 7: The Safety Threshold and Impending Danger Threats to Child Safety).

If emergency conditions are alleged, the agency must immediately contact the appropriate law enforcement agency to coordinate the response to the report. If the expectant mother is currently hospitalized, the agency must work with hospital staff to jointly plan a discharge response.

VII.C. Determining the Timeframe for Response - Possible Medical Neglect of a Disabled Infant

A report of possible medical neglect of a disabled infant requires an immediate CPS response.

The response time in these cases is not the timeframe for face-to-face contact with the child or parent to assess threats to child safety. 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.D. Determining the Timeframe for Response – Relinquishing the Custody of Newborn Children

These reports must be immediately screened in and a response must be immediately initiated to comply with Ch. HFS 39, Wis. Adm. Code.

There is no immediate need to screen for the child’s safety in these cases, as care is being provided by hospital staff. However, s. HFS 39.09(3)(b), Adm. Code, requires that “Upon accepting custody of a relinquished newborn, the intake worker shall immediately request that the appropriate law enforcement agency investigate and determine, through the Wisconsin Missing Children Information Clearinghouse, 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 Access worker, if functioning as the intake worker, must complete the above responsibility. Otherwise, the Access worker must immediately notify the intake worker of the report so that the intake worker can fulfill this requirement.

Request from a Parent to Have the Child Returned

If the agency receives a request from a parent who relinquished a newborn or the other parent of the newborn stating he or she would like have the newborn returned to them, the request must be screened in as a Service Report. (See *Chapter 24: Procedures for Reclaiming Parental Custody of a Newborn Child*)

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

Chapter 8: Exceptions

VIII. Exceptions

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 case 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.

Exceptions to Response Time Requirements

When a child is reported as being in a safe place (e.g., school, hospital), the judgment about the timing of the response takes into account the location of the safe place, how long the child will be there, access that others have to the child at that location, and a plan to keep the child safe until CPS can respond.

In Secondary Assessments and Non-Caregiver Investigations, if the reported information identifies Present Danger Threats to child safety but the information suggests that the alleged maltreater has intermittent access to a child, contact with the parent/caregiver is made the same day to assure that there is an adequate plan for protection. This contact may be a telephone call to the parent/caregiver.

Consultation will occur with a supervisor, and the information and the rationale for the delay in the response time are documented in the Access report.

The response time in cases where there is a child death due to alleged maltreatment and there are no other children in the household is not the timeframe for face-to-face contact with the alleged maltreater. Rather, it is the timeframe that contact will be made with law enforcement to gather necessary information.

Chapter 9: Independent Initial Assessment

IX.A. Applicability

An independent initial assessment is required when the agency receives a report of alleged maltreatment or threatened harm of a child who is:

- placed in a foster home or treatment foster home which the agency has licensed, or
- placed under the supervision of the agency in a foster home, treatment foster home, group home, or residential care center licensed by another agency, or

- in the household of an agent or employee of the agency required to investigate under s. 48.981(3)(c), Stats., or
- in the household of a person that, because of the relationship between the agency and the subject of a report, there is a substantial probability that the agency would not conduct an unbiased assessment.

If an agency receives a report of alleged maltreatment in a foster home or treatment foster home licensed by another county, the DMCPs, a tribal agency, or a private agency and there are no children placed in the home by the 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

Requesting Agency must:

- Refer the CPS report to a supervisor (or designee) of another county to make the screening and response time decision within 24 hours.
- Notify, by the next business day, any other agency that has a child placed in the facility of the CPS report.
- Notify the appropriate licensing and regulating agency(ies) of a screened out CPS report on a facility licensed under Ch. 48 for consideration of possible licensing violations.
- Notify, by the next business day, the licensing agency of a report of maltreatment in a facility it has licensed. [s. 48.981(7)(a)9. and s. 48.981(7)(a)2., Stats.]

There are times when an 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 CPS agencies.

Consulting/Assessing Agency must:

- 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 agency, if other than the investigating agency.

In cases of maltreatment alleged within a licensed facility, the response time cannot exceed 3 days.

Additionally, s. 46.22, Stats., allows the DMCPs, child welfare agencies under contract with or under the supervision of the DMCPs, or a county department under s. 46.22, Stats., to conduct independent initial assessments in cases where there is alleged maltreatment in a foster home. The DMCPs Access supervisor will make the screening decision. When the report of maltreatment is screened out, the Access supervisor will discuss the screen-out decision with the designated Program Evaluation Manager (PEM) within four hours of the screening

decision. The PEM will review the screening decision and either approve or not approve the decision.

Substantial Probability of Bias

When the occupation of the alleged maltreater is such that it necessitates an ongoing, working relationship with the CPS 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 staff.

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 county agency. In instances where the child of an employee or volunteer of the 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 case does not, in itself, justify an independent initial assessment. There must be additional information to suggest that the relationship between the subject and the CPS 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 county 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 agencies are unclear in making determinations related to the probability of bias, consultation with the agency attorney is appropriate.

Alleged Maltreatment in a Foster Home, Treatment Foster Home, or Family-Operated Group Home

Screening decisions of reports of alleged maltreatment by foster parents or individuals who share a foster home are often complex. Foster children are in their current placement as a result of the action of the DMCPs or social/human services 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 CPS 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 1) screen out - no alleged maltreatment, or 2) screen out - no alleged maltreatment, rule violation, or 3) screen in - independent initial assessment.

Chapter 10: Reports on Open Cases and Multiple Reports

X. Repeated or Multiple Reports on Open Cases

An agency may receive repeated or multiple reports on the same family, generally alleging the same concerns or escalating concerns.

- When a new CPS report is received by the agency on a case currently open for an initial assessment or in ongoing services (See *Appendix 1: Statutory Definitions of Abuse and Neglect*), the information documented and the screening decision must be in accordance with *Chapter 6: The Screening Decision*. The timeframe for response to a new report that is screened in must be in accordance with *Chapter 7: The Timeframe for Response*.
- When a CPS report has not yet been screened and the 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.
- Reports that are screened in or out as a new CPS report must be linked to the existing eWiSACWIS case.
- If a CPS caseworker 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.
- 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 caseworker for case planning purposes.

The response to new CPS reports on open cases may be made by the Ongoing Services caseworker (or in her/his absence another Ongoing Services caseworker), may be referred to an Initial Assessment caseworker for the response, or may be teamed and responded to by an Ongoing Services caseworker and an Initial Assessment caseworker.

Chapter 11: Notifications

XI.A. Required Notifications for Applicable Cases

1. The CPS Agency must notify the following agencies that a report has been received and document the notification in the family case record:
 - Law Enforcement within 12 hours in cases of alleged sexual abuse, including cases of alleged sex trafficking. (Also, refer to the local Memorandum of Understanding for

guidance.)

- Bureau of Regulation and Licensing, if maltreatment in a facility licensed under s. 48.60 or 48.625, Stats., is reported.
- Other CPS Agency (Inter-county issues).
- Placing county, if alleged child victim in a placement was placed by another county.
- Division of Safety and Permanence when there is an egregious incident of maltreatment resulting in serious injury to the child, or the child dies.
- In reports of medical neglect of a disabled infant, the county where the infant resides or the county where the infant is hospitalized, if not the same county that received the report.

2. In addition to the notification required pursuant to eWiSACWIS procedures, each county must fulfill the following notification requirements in accordance with s. 48.981(3)(bm), Stats.:

When a report is received pertaining to a child or unborn child which the agency knows to be an Indian child or Indian unborn child and the child or expectant mother resides in the county, “the county department shall provide notice, which shall consist only of the name and address of the child or expectant mother and the fact that a report has been received about that child or unborn child, within 24 hours, to one of the following:

- a. The tribal agent for the tribe or band with which the child is or unborn child will be affiliated, if known.
 - b. The tribal agent for the tribe where the child or expectant mother resides or the Bureau of Indian Affairs (if the county department does not know with which tribe or band the child is or unborn child will be affiliated, or the child or expectant mother is not affiliated with a Wisconsin tribe or band).
 - c. If neither 2.a. nor 2.b. applies, the Bureau of Indian Affairs or any tribal agency serving a tribe located in Wisconsin.
- When screening out a CPS report, the Indian Child Welfare Screened Out Report letter must be sent to the identified tribe.
 - When screening in a CPS report the CPS Report to Tribal Agent must be sent to the identified tribe
 - The notice must be made within 24 hours from the receipt of the report and include the eWiSACWIS case I.D. The CPS Report must be sent as part of the notice for the Menominee Nation, only. In order to meet the 24-hour deadline, notice must be given by fax, phone or e-mail. The notice must also be officially submitted to the tribe or Bureau of Indian Affairs via certified mail.
 - Pursuant to s. 48.981(7)(a)2., Stats., the CPS agency must develop an agreement with the tribe(s) regarding what additional information will be disclosed to the tribal social services department in order to support tribal staff in clearly identifying the child, facilitate a county-tribal collaborative response whenever possible, and facilitate the

delivery of prevention and supportive services by the tribe.

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

CPS agencies are required to inform a person required to report under s. 48.981(2)(a), Stats., 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 cases.

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

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

A relative who makes a report of alleged maltreatment may make a written request to the 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 20 days after the agency receives the written request from a relative, 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 s. 48.981(7), Stats., and of the penalties for failure to do so. [s. 48.981(3)(c)6m., Stats.]

Section 2: CPS Initial Assessment Caseworker and Supervisor Responsibilities

Introduction

The CPS Initial Assessment Standards outline requirements for three types of assessments or investigations: Primary Assessments, Secondary Assessments, and Non-Caregiver Investigations. The Standards are more prescriptive and detailed for Primary Assessments and allow for more discretion in Secondary Assessments and Non-Caregiver Investigations. The type of assessment or investigation is based on the relationship between the child and the suspected maltreater because the role of CPS is different in cases of maltreatment by parents/caregivers 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 or day care licensing staff. The nature of this collaboration is described throughout this document.

Primary Assessments

Primary Assessments include maltreatment by parents, caregivers, others living in the child's household, and an unknown maltreater. Due to their relationship, these individuals are generally in a position of trust and have a high degree of access to the child with little outside observation. These are, in general, the people upon whom the child depends for meeting their physical and emotional needs. Maltreatment by someone who shares a home with the child is a violation of basic trust. If physical or emotional needs are not met by parents or caregivers, the child may have no one else to turn to. Child Protective Services is the public agency with the authority to respond to threats to child safety.

The role of the CPS caseworker in a Primary Assessment is to:

- Conduct a comprehensive assessment in order to:
 - assess and analyze present and impending danger threats to child safety.
 - take action, when necessary, to control threats to child safety.
 - determine the need for CPS ongoing services (voluntary or court-ordered).
 - determine whether maltreatment occurred.
 - assist families in identifying community resources.
- Engage families in providing protection for their children.
- Explain the initial assessment process to the family including the purpose of the interview(s) and any needed collaboration with other agencies (e.g., law enforcement, regulatory agency).
- Identify children who may be subject to the Indian Child Welfare Act.

Secondary Assessments and Non-Caregiver Investigations

In response to reports of maltreatment by individuals outside the family, 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).

The role of the CPS caseworker in a Secondary Assessment and Non-Caregiver Investigation is to:

- Explain the initial assessment process to the family including the purpose of the interview(s) and any needed collaboration with other agencies (e.g., law enforcement, regulatory agency).
- Notify the family of their right to consent to an interview of their child as well as themselves.
- Explain how information obtained during the initial assessment may be used (e.g., court proceeding).
- Conduct an assessment in order to:
 - assist parents in managing any present danger threats to child safety, when needed.
 - determine the need for CPS ongoing services (voluntary or court-ordered).
 - in secondary assessments, determine whether maltreatment occurred, and
 - assist families in identifying community resources, and arranging services for their child, when needed.
- Collaborate, as appropriate, with law enforcement, licensing, regulatory, or administrative agencies.
- Identify children who may be subject to the Indian Child Welfare Act.

The CPS caseworker may also need to collaborate with facility (e.g., group home) staff to assist them in recognizing, understanding, and managing present danger threats to child safety and providing protection.

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 caseworker 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 caseworker should proceed with a Primary Assessment.

Agencies sometimes receive reports of suspected maltreatment in which there is no specific suspected maltreater. These reports are legitimate and are accepted by the agency, barring any

other reason for screening out the report. If there is no specific suspected maltreater, agency staff 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 caseworker follows the Secondary Assessment or Non-Caregiver Investigation process.

Chapter 12: Requirements Applicable To All Cases

XII.A. Safety Intervention

The CPS caseworker must follow all requirements of the *Child Protective Services Safety Intervention Standards*.

XII.B. Indian Child Welfare Act Requirements

In all aspects of CPS intervention, an Indian child's family and tribe must be informed and the Indian Child Welfare Act (ICWA) must be followed. [25 USC 1901 to 1923]

During the course of the initial assessment, CPS must seek to determine whether the child has American Indian heritage and might be affiliated with a tribe or tribes.

If a petition is filed on behalf of an Indian child, as defined in the Indian Child Welfare Act, CPS must notify the tribe, tribes, or Bureau of Indian Affairs when the tribe or tribes are not known as required in ICWA and in accordance with the policy "Identification of Indian Children and Proper Notification in Cases Subject to the Indian Child Welfare Act."

When an Indian child is placed in out-of-home care all ICWA requirements regarding placement preferences must be followed. All actions taken to comply with ICWA must be documented in the case record.

Additionally, the ICWA requires notification to the appropriate tribe when an Indian child is removed from his or her parent or Indian Custodian for temporary placement in out-of-home care or the home of a guardian or conservator where the parent or Indian Custodian cannot have the child returned upon demand.

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. There are likely to be differences in child rearing practices, family dynamics, and communication styles, which, if misunderstood, could affect the information-gathering process. The initial assessment should reflect accurate perceptions of behavior in an unbiased manner.

Information gathered should be understood within its cultural context. For example, a number of 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 take responsibility for different aspects of the parenting role. In this context, it may be erroneous to conclude that the parents are not fulfilling their role and are being neglectful. Traditional home cures used by many Hmong are another example. They include gentle pinching, cupping or coining and can leave bruises on the skin. The bruising is typically neither severe nor frequent and, therefore, is not physical abuse.

XII.C. Effective Communication

Throughout the Initial Assessment, the CPS caseworker 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 4: Effective Communication*)

If an adult interpreter or translator cannot be accessed in a timely manner, CPS may need to proceed to implement a protective plan to control for present danger threats to child safety.

XII.D. Confidentiality of CPS Records

CPS reports and records must only be disclosed in accordance with s. 48.981(7), Stats.

XII.E. Collaboration with Law Enforcement

In cases where reported information suggests that a child has injuries due to maltreatment or in cases of suspected or threatened sexual abuse, including cases of suspected sex trafficking, CPS must collaborate with law enforcement as outlined in its Memorandum of Understanding (MOU). State statutes require that each county department “adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities.” [s. 48.981(3)(a), Stats.] (See *CPS Access and Initial Assessment Standards Section 3, Chapter 25 and Appendix 6: Coordination with Law Enforcement Agencies*)

XII.F. 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 s. 48.981, Stats, the CPS caseworker 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 caseworker 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 CPS agency screens out a referral but contacts the family for the purpose of offering voluntary agency services or referral to voluntary community services.

XII.G. Foster Homes and Treatment Foster Homes Licensed by Another County, the DMCPs, a Tribal Agency or a Private Agency

- When the initial assessment is for the operators of a foster home or treatment foster home licensed by another county, the DMCPs, a tribal agency, or a private agency, the county where the home is located is responsible for coordinating the initial assessment.
- If there are no children placed in the home by the county in which the foster or treatment foster home is located, an independent initial assessment is not necessary (unless there is a substantial probability of bias) and that agency is responsible for the entire initial assessment.
- When it becomes necessary to remove foster children due to threats to safety, the agency conducting the initial assessment must coordinate the removal with the placing agency(ies). If any children have already been moved by the licensing or placing agency, the placing 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.

The agency responsible for the initial assessment must provide the placing and licensing agencies the completed assessment.

XII.H. Responsibilities of Agencies in Independent Initial Assessments

The Requesting CPS agency must:

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

The Assessing CPS agency must:

- Conduct the initial assessment in accordance with the *Child Protective Service Access and Initial Assessment Standards*.
- Inform the parent/caregiver of the case finding determination.
- Provide information to mandated or relative reporters pursuant to s. 48.981(3)(c)6., Stats. and s. 48.981(3)(c)6m., Stats.
- Conduct the appeal process.

XII.I. Court Intervention

When court intervention is needed to control Present Danger or Impending Danger Threats to child safety, the process must be initiated within 40 days from the receipt of the report. CPS must adhere to Ch. 48, Stats., to petition and provide services to abused and neglected children, when needed.

XII.J. Feedback to a Mandated Reporter

CPS agencies are required to inform a person required to report under s. 48.981(2)(a), Stats., 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 cases.

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

XII.K. Feedback to a Relative Reporter

A relative who makes a report of alleged maltreatment may make a written request to the 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 20 days after the agency receives the written request from a relative, 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 s. 48.981(7), Stats., and of the penalties for failure to do so. [s. 48.981(3)(c)6m., Stats.]

XII.L. Supervisory Approval and Documentation

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

Chapter 13: Consent Requirements

Authority To Interview A Child or Visually Observing A Child's Body For Evidence Of Maltreatment

Section 48.981(3)(c)1., Stats., states in part that “the 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 caseworkers do not have the same legal authority to interview children on certain private property that they have in public settings. The Seventh Circuit Court of Appeals has narrowed the application of s. 48.981(3)(c)1., Stats., to apply only when a child is in a public setting unless there is a court order or emergency or exigent circumstances exist.

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 caseworker 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 day 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. County 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.

Cases in which a Parent, Guardian, or Legal 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 child caring or parenting responsibilities.

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

XIII.A. Access to a Child in a Public Setting when the Parent, Guardian, or Legal 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 child care), 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 requiring medical personnel can be done when there is authority to take a child into custody under s. 48.08, Stats., 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. Access to a Child in a Private Setting when the Parent, Guardian, or Legal 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.
- Emergency circumstances or exigent circumstances.
- A court order for the interview or for physical custody of the child.

If the child is in his or her dwelling, the caseworker 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 caseworker to do so. [Ref. s. 48.981(3)(c)1., Stats.].
- Probable cause to believe there are emergency or exigent circumstances.

If the alleged maltreatment is by a parent, guardian, legal custodian, or an unknown person and the child is in a private setting, the caseworker must have reasonable suspicion to believe that the child has been maltreated and one of the following conditions must be met in order for the caseworker 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., school principal, child care 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 related to the specific information reported to CPS, 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 caseworker 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, not for the purpose of gathering evidence (e.g., interviewing the child).

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

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

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

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

When consent to interview in a private setting is not given, the CPS caseworker 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 caseworker that there are emergency or exigent circumstances. If consent is not given or there is no court order, the CPS caseworker 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 caseworker to proceed with the interview by taking the child into custody as provided under s. 48.08(2), Stats., unless time and the nature of the emergency or exigent circumstances do not permit prior consultation.

Once the child is in custody or CPS has a court order, CPS 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 CPS agency, law enforcement agency, child advocacy center, medical facility or other suitable place.

**Cases in which the Parent, Guardian, Legal Custodian, or Indian Custodian
is not the Alleged Maltreater**

**XIII.D. 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, CPS 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 caseworker 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 caseworker 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 caseworker 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 caseworker 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 caseworker should consult

with a supervisor, supervisor's designee, or agency attorney, if possible, before taking further action.

Visually Observing a Child's Body for Evidence of Maltreatment

Except for cases of visually observing an infant or toddler's body as described in *XIII.F. Procedure for Visually Observing a Child's Body for Evidence of Maltreatment*, CPS staff 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 caseworker 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 caseworker. 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.

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.F. 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 caseworker 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 caseworker is able to examine the child's body for evidence of maltreatment. The CPS caseworker 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, or legal custodian is present, the CPS caseworker will ask them to undress the child, including removing the child's diaper.
- When the parent is not present, the CPS caseworker will request that an individual with whom the parent has entrusted the child's care (e.g., child care provider) to undress the child, including removing the child's diaper.

School-Aged Children

- When the child's parent, guardian, or legal 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 caseworker must ask older children to lift their own clothing, consistent with this policy.
- The caseworker 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 caseworker 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 caseworker 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 caseworker 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 caseworker 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 caseworker must either:

- have a parent, guardian, or legal custodian transport the child to the appropriate medical facility;
- obtain the consent of a parent, guardian, or legal 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 s. 48.08(2), Stats, and proceed as required by Ch. 48, Stats.;

- obtain a court order under s. 48.19(1)(c), Stats.

Chapter 14: 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, step-parent, 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.

The Primary Assessment process also applies when the agency decides to respond to cases of infants born with controlled substances or controlled substance analogs in their system as determined by a physician pursuant to s. 146.0255, Stats. and there is a CPS report rather than a Service report. Agency policy dictates the responses to these cases by documenting the information as either a Service Report or a CPS report. In either situation, the CPS purpose is to assess the safety of the infant and to develop a plan of safe care.

Joint Initial Assessment

There are instances when more than one county department is involved in conducting a Primary Assessment, generally when caregivers (e.g., parents, guardians, Indian custodian) live in different counties. In these cases, county departments 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. Protocol for Inter-county Primary Assessments

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

The county where the child primarily resides will assume the lead in coordinating the initial assessment and must collaborate with 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 county where the alleged maltreatment occurred and safety threats exist will assume primary case responsibility.

Either county has the authority to conduct the entire initial assessment. The county that assumes responsibility for the initial assessment must notify the other county of the outcome.

When a joint initial assessment is initiated, the following protocol must be followed:

County With Primary Case Responsibility

CPS must:

- Contact the 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 agency will interview the parties residing or currently present in its county.
- Document in the family case record the agreed upon plan, identifying each county'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/caregiver, any identified maltreater, and the county agency where the maltreatment occurred.

County With Secondary Case Responsibility

CPS must:

- Collaborate with staff from 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 lead county in the initial assessment.

Inter-county reports of child abuse and neglect require collaboration, communication, and coordination between the agencies involved as well as law enforcement and other professionals. These cases are a priority for both child protective services agencies involved to assure that children are safe and families receive necessary services and supports. As such, neither agency is conducting "courtesy interviews" for another agency; rather the result is a joint initial assessment that meets all state statutes, standards, and policies.

This type of collaboration may result in one 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 city but in two counties.

XIV.C. Interview Contacts

In Primary Assessment cases, all household members must be interviewed to assure that accurate and thorough information is gathered. If a child is too young to be interviewed or is non-verbal, the child must, at a minimum be observed. The order of interviews must take into consideration preserving information and minimizing the anxiety felt by the child. A visit to the home where the alleged maltreatment occurred or threats to child safety exist is required. When conducting a Primary Assessment, refer to *CPS Access and Initial Assessment Standards, Chapter 13: Consent Requirements*.

Face-to-face contact is required with the following individuals:

- Identified Child(ren)
- Sibling(s) and other children in the home
- Non-maltreating adults (if any)
- Alleged Maltreater

When known to CPS, collateral sources of information (e.g., physicians, treatment providers) must be contacted during the initial assessment process in order to use this information to analyze and understand threats to child safety or risk concerns.

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. Additionally, information from collateral sources should be pursued in order to understand family strengths and problems and to assist in making case decisions. These interviews may occur at any point during the initial assessment process as is appropriate.

VIV.D. Interviewing Non-Custodial Parents

The CPS caseworker, in accordance with s. 48.981(3)(c), Stats., must interview non-custodial parents, if possible, in the course of a primary initial assessment.

Non-custodial parents may have valuable, unique family information that should be considered during the course of the initial assessment. A non-custodial parent, for example, may be aware of the child's Indian status, CPS history in another state, past interventions with the family, specific child needs, or other family resources. Non-custodial parents may have a legal right to know about their children's health and safety needs.

The decision to interview a parent who does not reside in the home of the child can be a sensitive decision for the agency and for the family. Issues such as the best interest of the child, history of domestic violence, and the safety of the child or other family members should be considered before attempts are made to interview and engage a parent not residing in the home of the child.

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 CPS process and should include supervisory consultation.

XIV.E. Information that Must be Gathered and Analyzed

A thorough assessment is necessary to understand Present or Impending Danger Threats to child safety, parent/caregiver protective capacities, and risk concerns to develop and implement protective or safety plans and to make decisions about case opening or referrals to community resources.

Information must be gathered and analyzed in the following areas:

- Maltreatment (alleged maltreatment, and any other type of maltreatment occurring within the family, including domestic violence).
- Surrounding Circumstances (circumstances leading up to maltreatment and the parent's/caregiver's response).
- Child Functioning (general functioning of children in the household and effects of any maltreatment).
- Adult Functioning (including both enhanced and diminished parent/caregiver protective capacities) (*See Child Protective Services Safety Intervention Standards Appendix 8: Parent/Caregiver Protective Capacities*).
- Parenting Practices (including both enhanced and diminished parent/caregiver protective capacities).
- Family Functioning (including strengths and current stresses).

The assessment of an infant born with controlled substances or controlled substance analogs in his or her system must also include any effects of identified substances on the infant and a focus on the mother's use of controlled substances and the impact on her to care for the infant. (When conducting a Primary Assessment refer to *Appendix 3: Information to Be Gathered and Analyzed in Primary Assessment Cases and the CPS Safety Intervention Standards*)

XIV.F. Child Death Due to Maltreatment-No Other Children

When a child dies due to alleged maltreatment and there are no other children in the household, the CPS caseworker gathers information related to the maltreatment and surrounding circumstances. The CPS caseworker 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 day care license or has children in the future and there is a new report of alleged child maltreatment.

XIV.G. Conclusion of the Initial Assessment

The CPS caseworker must make the following decisions and share the information with the parent/caregiver:

- Whether the child is in need of protection or services, including the need for any court intervention.
- Whether there are any identified threats to child safety and the plan to control those threats.
- How identified threats to child safety are related to the parent/caregivers ability to provide protection (diminished protective capacities).
- The responsibility of the agency to provide CPS Ongoing Services when a child is unsafe (*See CPS Safety Intervention Standards*).
- The maltreatment determination.
- The maltreater determination, when applicable.
- The process to appeal a substantiated maltreater determination.
- If the case is going to be closed with CPS, how to access community resources, if needed.

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. The agency is responsible for assuring that family interaction occurs. The initial 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.

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.

Additionally, children shall have other family interaction (e.g., telephone calls, letters, etc.) with their parents at least weekly.

Chapter 15: Unborn Child Abuse

XV.A. Information that Must be Gathered and Analyzed

In addition to the requirements of the Primary Assessment Standard (*See Chapter 14: Primary Assessment Standard*), the following information must be gathered and analyzed:

- The unborn child's fetal development as reported by a physician (including the effects of the expectant mother's substance abuse).

- The expectant mother's current use of substances and the impact it is having on her, the unborn child and, when applicable, other children in her care.
- Any substance abuse history and treatment, criminal history, and, when applicable, any history of other children born with the effects of alcohol or other drugs used during pregnancy.

If there are no other children in the home, information must be gathered to assess the expectant mother's capacity to care for an infant.

The CPS caseworker must collaborate with other professionals, as permitted by statute, in the assessment of and provision of services to the expectant mother and unborn child.

Chapter 16: Medical Neglect of a Disabled Infant

XVI.A. Interview Protocol and Information that Must be Gathered and Analyzed

Information must be gathered in accordance with the requirements of the Primary Assessment Standard (*See Chapter 14: Primary Assessment Standard*).

The first interview contact by the CPS caseworker 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/caregiver'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 case.

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 a disabled infant.

Collaboration

Depending on the case, the caseworker 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 Disabled Infants with Life-Threatening Conditions*). If the CPS caseworker, 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 caseworker should seek court intervention under s. 48.295, Stats.,

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 case, a meeting should be initiated and the CPS caseworker may request to be included. The CPS caseworker may want to talk with the committee chair to explain that the reason for the CPS caseworker'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 s. 48.13, Stats. alleging that the child is medically neglected. During the initial assessment the CPS caseworker should continue to be available to provide the family with supportive services or referrals as appropriate.

Chapter 17: Maltreatment by Foster Parent or Treatment Foster Parent⁴

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/caregiver's homes often have special needs or challenging behaviors to which their foster parents respond to and manage. Foster families are held to higher parenting standards 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 caseworker 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 family and birth family/caregivers. The CPS caseworker should also assess any unmet service needs of foster parents and 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 Chapter 14: Primary Assessment Standard*), Independent Initial Assessment Standard (*See XII.G: Independent Initial Assessments*), and the *CPS Safety Intervention Standards* must be followed when CPS responds to a report of alleged maltreatment by foster parents, other adults living in the home in a caregiving role, or caregivers in a family operated group home.

Collaboration

The response to a report of maltreatment by foster parents involves collaboration between the requesting agency that licensed the home or placed the child and the agency that is conducting the independent initial assessment. Collaboration with law enforcement and a private licensing agency may also be necessary in these cases.

⁴ For the purpose of simplicity, in this section the term "foster parent" means foster parent and treatment foster parent.

XVII.B. Responsibilities of Each Agency

In addition to the requirements in *XII.H.: Independent Initial Assessments*, the following applies:

Requesting Agency

The CPS caseworker must:

- assure that Present Danger Threats to child safety are assessed for all children in the home and when necessary, implement a protective plan 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/caregiver of the allegations and explain the independent initial assessment process.

Assessing Agency

The CPS caseworker must follow the requirements of *Chapter 14: Primary Assessment Standard* and the *CPS Safety Intervention Standards*.

When conducting a Primary Assessment: Maltreatment by Foster Parent, refer to *CPS Access and Initial Assessment Standards, Chapter 13: Consent Requirements*.

If the requesting 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 agency to accompany the caseworker from the investigating agency on their first face-to-face contact with the foster parents to explain the independent initial assessment procedure.

If the foster parents maintain its license status, any placements may remain intact if it is in the children's best interest and a protective plan, if necessary, can be developed and implemented in the foster home to control for present danger threats during the initial assessment.

XVII.C. Conclusion of the Initial Assessment

The **requesting agency** must discuss the following with the *foster parent(s)*:

- any identified unmet services needs for the child.
- any identified unmet service needs for the foster family.
- any identified licensing issues and the corrective action plan. If the requesting agency is not the licensing agency, the requesting agency must inform the private agency of identified licensing issues.

The **requesting agency** must discuss the following with the *child's parent/caregiver*:

- 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 unmet service needs for the child.

The **assessing 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 parents.
- explain to the foster parents the process to appeal a maltreater determination, when applicable.
- conduct the appeal process

Chapter 18: Secondary Assessment Standard

XVIII.A. Applicability of Secondary Assessment

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 day care program.
- teachers and other school personnel.
- residential facility staff.
- 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 caseworker must collaborate with law enforcement personnel in accordance with the agency's Memoranda of Understanding (MOU) with law enforcement agencies. (See *CPS Access and Initial Assessment Standards Section 3, Chapter 24.*)
- When the alleged maltreatment is in a facility licensed under Chapter 48 or a state facility, CPS must also coordinate with the licensing and regulation staff of the Department of Health and Family Services (DHFS) 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 CPS caseworker must notify the school district superintendent or her/his designee of the report within 24 hours. CPS must coordinate with school administration as allowed by State statutes.

[Ref. s. 48.981(7)(a)17., Stats.]

XVIII.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 Secondary Assessment, refer to *Chapter 13: Consent Requirements*.

Interviewing the alleged maltreater is optional. However, a specific individual can be identified as a maltreater only when CPS has interviewed that individual or when there is other credible evidence. CPS must obtain a copy of the police report or other evidence on which the finding was based and include it in the 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 agency uses a child advocacy center 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 caseworker in transporting the child, when possible.

If the child is interviewed by another person, with CPS observing (either in the room or via two-way mirror or an electronic device), and the interview supports CPS 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:

- Maltreatment (alleged maltreatment and any relevant medical information/findings).
- Surrounding Circumstances (circumstances leading up to maltreatment and the responsible adult's/facility's explanation of circumstances).
- Child's and Family's Response to Maltreatment (the child's and the parents'/caregivers' reactions, parental/caregiver 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)

CPS 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 child by the alleged maltreater, strategies the parent might use to assure protection of child.

XVIII.F. Group Living Situations

Corporate (i.e., Shift-Staffed) Group Homes and Residential Care Centers

When maltreatment is alleged by staff in a group home or residential care center the county where the facility is located is responsible for the Secondary Assessment. When CPS receives specific information that other children are alleged to have been maltreated, a separate initial assessment must be conducted for each child/family. The county where the facility is located must notify 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.

Caregivers in family-operated group homes are assessed using the Primary Standard. (See *Chapter 17: Maltreatment by Foster Parent Section XVII.A. Applicability*)

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 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 DHFS or DOC licensing specialists. The licensing staff 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 licensing staff, is also appropriate. Section 48.981(7)(a)17., Stats., states that reports and records under s. 48.981, Stats., 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."

Section 48.981(7)(a)17., Stats., allows CPS record information to be shared with licensing staff in the Department of Public Instruction and with the public school district superintendent (or her/his designee), as they have a responsibility to assure a safe environment for students. County 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 gathered information 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 (*CPS Access and Initial Assessment Standards, Chapter 14: Primary Assessments*).

In order for a report of alleged maltreatment by a secondary caregiver or non-caregiver to be handled as a primary assessment, there must be reasonable and credible information that the parent contributed to the maltreatment. When making a decision related to the parent's contribution, it is important for the CPS caseworker to gather information related to parental 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 effect a safe environment on his or her own. For example, a parent cannot assure that a child care teacher has no contact with the child without the cooperation of the child care 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. Therefore, 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, licensed day care program, or other facility or entity regulated by Chapter 48 of the state statutes, the agency must notify the DHFS licensing specialist 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 and Family Services, the agency must notify the DHFS licensing specialist of the agency's maltreatment determination, the basis for the decision, and, if applicable, the maltreater determination. If requested, the agency must provide information from the CPS record in accordance with s. 48.981(7)(a)17., Stats.
- In cases of alleged maltreatment by staff of a secured correctional facility or juvenile detention facility, the agency must notify the Assistant Administrator of the Division of Juvenile Corrections of the agency's maltreatment determination, the basis for the decision, and, if made, the maltreater determination. If requested, the agency must provide information from the CPS record in accordance with s. 48.981(7)(a)17., Stats.
- In cases of alleged maltreatment of a student by a public school employee, the agency must notify the school district superintendent or her/his designee of the agency's maltreatment determination, the basis for the decision, and, if applicable, the maltreater

determination. If requested, the agency must provide information from the CPS record in accordance with s. 48.981(7)(a)17., Stats.

Chapter 19: Non-Caregiver Investigation Standard

XIX.A. Applicability of the Non-Caregiver Investigation

CPS agencies have discretion in investigating reports of alleged child maltreatment by a person who is not a caregiver as defined in s. 48.981(1)(am), Stats., except in cases of alleged Sex Trafficking of a Child, [48.02(a)(cm)]. When reports of alleged child maltreatment by a non-caregiver are received, agencies that do investigate these reports must comply with the requirements of this Standard and statutes.

XIX.B. Coordination and Collaboration with Law Enforcement

The CPS caseworker must collaborate with law enforcement personnel in accordance with the agency's Memoranda of Understanding (MOU) with law enforcement agencies and s. 48.981. (See *CPS Access and Initial Assessment Standards Section 3, Chapter 24 and Appendix 10: Coordination with Law Enforcement.*)

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 Investigation, refer to *Section 2, Chapter 13: Consent Requirements.*

Interviewing the alleged maltreater is optional. However, a specific individual can only be identified as a maltreater only when CPS has interviewed that individual or when there is other credible evidence. CPS must obtain a copy of the police report or other evidence on which the finding was based and include it in the 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:

- Maltreatment (alleged maltreatment and any relevant medical information/findings).
- Surrounding Circumstances (circumstances leading up to maltreatment and the responsible adult's/facility's explanation of circumstances).
- Child's and Family's Responses to Maltreatment (the child's and the parent/caregiver's reactions, parental/caregiver actions to provide protection and services)

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

CPS 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.

Chapter 20: Determinations of Maltreatment and Maltreaters

When making case finding determinations as required in s. 48.981(3)(c)4., Stats., the term “maltreatment” or “child maltreatment” refers to child abuse as defined in ss. 48.02(1) and 48.02(14g), emotional damage as defined in s. 48.02(1)(gm), Stats., and child neglect as defined in s. 48.981(1)(d), Stats.

Purpose of Making Maltreatment Determinations

The maltreatment determination is made as part of the county agency's process in determining who may need services. Section 48.981(3)(c)7., Stats., states: "...The county department shall coordinate the development and provision of services to abused and neglected children and to families where abuse or neglect has occurred or to children and families where circumstances justify a belief that abuse or neglect will occur."

XX.A. Requirements in Making Maltreatment Determinations

Within 60 days after receipt of a report of child maltreatment the CPS 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 county department shall give due regard to the culture of the subjects...". [Ref. s. 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.” [Ref. s. 48.981(3)(c)4., Stats.] (See *Appendix 2: Substantiating the Different Types of Maltreatment*)

The maltreatment determination “Unsubstantiated/Unable to Locate Source” is used when the agency was unable to access critical sources of information; therefore, the 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.B. Criteria for Services Needed Determinations for Allegations of Unborn Child Abuse

All of the following criteria must be met in order to determine services are needed in unborn child abuse cases:

- An unborn child is at risk of serious harm.
- The risk of harm is caused by the habitual lack of self-control of the expectant mother in the use of alcohol beverages, controlled substances, or controlled substance analogs.
- The habitual lack of self-control in the use of the substances is exhibited to a severe degree.

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

The CPS 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:
 1. the child (if the child is too young to be interviewed, the child must be observed).
 2. at least one parent.
 3. 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 CPS 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 case record contains the conclusion by the 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 case 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 are made, rather than substantiation, no maltreater will be identified in the data tracking portion of the family case record.

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

Chapter 21: 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.

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/caregiver, and whether the child is residing in the family home or is placed in out-of-home care, the CPS caseworker must do the following:

- Explain the Birth –to- 3 Program to the parents/caregivers.
- Request that the parent/caregiver sign a consent for release of information.
- Make the referral to the Birth –to- 3 Program.

When the parent/caregiver does not give consent to release information to the Birth -to– 3 Program, the CPS caseworker must:

- Advise the parent/caregiver that a referral will be made to the program, but that the parent/caregiver is not required to accept these services.

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

All activities associated with the referral to and ongoing coordination with the Birth –to- 3 Program must be documented in the family case record.

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 caseworker must do the following:

- Explain the Birth-to-3 program to the parents/caregivers.
- Assist the parent in making a referral to the Birth-to-3 Program.
- Request that the parent sign a consent form if they would like assistance.
- Document all actions related to providing Birth-to-3 Program information to the family in the case record.

The referral to the Birth-to-3 Program does not need to be in writing. However, the local CPS agency and Birth-to-3 Program may jointly develop a policy that requires a formal written referral.

CPS 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. CPS 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.

Chapter 22: Exceptions

XXII.A. Exceptions

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 case 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, CPS receives 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 cases 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 the cases of concern here, 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 a case where an exception might be advisable is the following:

A child care 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 caseworker sees the child and interviews the mother who informs the caseworker that the child has Mongolian spots. This is verified by the family's pediatrician. The child is observed by the caseworker and by child care 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.

CPS 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 caseworker goes to the address given, there are only teenagers living in the home, and no preschoolers are cared for in that home. In such cases, the 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.

Chapter 23: Referral to Voluntary Services

XXIII.A. Applicability

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

- the case is closed at the conclusion of the initial assessment.
- the initial assessment identifies possible service needs.
- the family requests information regarding services.

XXIII.B. Information and Referral

When the criteria in XXIII.A. are met, CPS 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.

Chapter 24: Procedures for Reclaiming Parental Custody of a Relinquished Infant

XXIV.A. Applicability

This applies to newborns who were relinquished and the parent is now attempting to regain custody (Ref. s. 48.195, Stats., and Ch. HFS 39, Adm. Code, Relinquishing Custody of a Newborn Child).

As outlined in Ch. HFS 39, Adm. Code, within 24 hours after a specified individual has accepted custody of the relinquished newborn, this individual must refer the child 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 County Department of Human/Social Services or the DMCPS. The intake worker requests a CHIPS petition.

There are circumstances where a parent who has relinquished custody of his or her newborn under s. 48.195, Stats., or another parent of the child⁵ makes the decision to rescind the relinquishment and seek custody of his or her child. If this occurs, it is important for the CPS agency to assess the parent/family in terms of strengths and needs of the parents to provide for the safety and care of the child.

This standard is designed to provide additional information regarding the requirements of Ch. HFS 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 Custody

If a parent of a child who was relinquished wishes to reclaim custody of the relinquished child, 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 Division of Milwaukee Child Protective Services or the County Department 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 involuntary termination of parental rights process currently underway, if other grounds for TPR do not exist.
- request the court to order the person identifying himself or herself as the parent to obtain a genetic test indicating that the person is the newborn's parent.

⁵ For the purpose of simplicity, the term "parent" refers to either a parent who has relinquished custody or another parent of the child.

Genetic Testing

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

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

XXIV.C. CPS 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 CPS 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 child would be residing.
- An assessment of threats to child safety and an assessment of risk of maltreatment to the newborn if returned to the parent or parents and placed in his or her home.

CPS should consult with the agency attorney to determine if different requirements apply for a child subject to ICWA.

Based upon the information obtained through the initial assessment, the CPS agency shall make a determination as to whether or not the child is in need of protection or services and, as appropriate, make reasonable efforts to reunify the child 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 risks concerns are identified, the case must be opened for ongoing services in accordance with the *Child Protective Services Safety Intervention Standards* and the *Ongoing Services Standards and Guidelines for Child Protective Services*.

XXIV.D. Information to Be Gathered and Analyzed

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

1. Factors that may have contributed to the relinquishment, including how those factors have been eliminated or resolved (*Nature/Surrounding Circumstances*).
2. The child's general functioning, including any identified special need (*Child Functioning*).
3. 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*).
4. The parenting practices of the parent or parents, including understanding of the child's needs and capabilities, ability to provide for the physical and emotional needs of the child, expectations of the child, nurturing, discipline, and satisfaction with the parenting role regarding both the relinquished child and any other child of the parent or parents (*Parenting Practices*).
5. 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*).
6. 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 child, including any available information regarding potential safety issues for the child or for the parent seeking to reclaim custody of child if the other parent becomes aware of the existence of the child and the relinquishment (*Family Functioning*).
7. The existence and description of any circumstances that suggest a threat to the safety of the child if the child were to be returned to the parent and placed in his or her home/care.
8. The existence and description of any circumstances that suggest a risk of maltreatment of the child in the family.
9. A description of any services or supports that would support family reintegration.
10. The need to open the case for ongoing services or to refer the family to community services to support the safe return of the child.
11. If applicable, the efforts the agency will undertake to contact, locate, or notify the other biological parent of the existence of the child and the relinquishment.

XXIV.E. Case Determinations

Based upon the assessment of the parent and home, the CPS agency must determine the following:

- The need to continue jurisdiction of the court under s. 48.13, Stats.,
- If the child is placed outside of his or her home, the need to develop or revise a permanency plan for the child, 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 child.

XXIV.F. 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 child. In order for the DHFS Vital Records Office to issue a revised birth certificate, the agency must provide the following:

- a summary of the case.
- 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 work sheet, to be signed and completed by the parent(s) reclaiming custody with the assistance of the birthing hospital or the caseworker assigned to the case.

Section 3: CPS Agency Responsibilities

Chapter 25: Collaboration with Law Enforcement Agencies

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

All cases of suspected or threatened sexual abuse received by the county department shall be reported to law enforcement agencies. For all other cases of suspected maltreatment (i.e., physical abuse, neglect and emotional abuse), the county department shall have a written policy for what it will routinely refer to law enforcement. [Ref. s. 48.981(3)(a)3., Stats.]

Wisconsin statutes require mandatory reporters of alleged child abuse or neglect to make such reports to the county department or the Division of Milwaukee Child Protective Services (DMCPS) or to local law enforcement agencies. The statute states: "A person required to report ... shall immediately inform, by telephone or personally, the county department ... 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..." [Ref. s. 48.981(3)(a)1., Stats.].

The statutes require communication between law enforcement agencies and county social/human services departments. 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 cases reported to it. The county department, department or licensed child welfare agency may require that a subsequent report be made in writing." s. 48.981(3)(a)2., Stats.

The statutes further 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 cases of suspected or threatened abuse, as defined in s. 48.02(1)(b) to (f), Stats., reported to it. For cases of suspected or threatened abuse, as defined in s. 48.02(1)(a), (am), or (gm), Stats., 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." [Ref. s. 48.981(3)(a)3., Stats.].

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

"If the report is of suspected or threatened abuse, as defined in s. 48.02(1)(b) to (f), Stats. 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." [s. 48.981(3)(a)4., Stats.].

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 s. 48.02(1)(b) to (f), Stats.], 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 child protective services 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 county department or DMCPD. 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 county agency or DMCPD 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.D. Development of MOU

County agencies and DMCPD shall develop written memoranda of understanding (MOU) 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 county agency or the DMCPD to develop an MOU, the county agency shall develop “a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities” [s. 48.981(3)(a)3., Stats.], send or give the policy to the law enforcement agency and document its efforts to meet with the law enforcement agency.

Since county departments, the Department, and local law enforcement agencies all have statutory responsibilities in cases of child maltreatment, and since coordination is statutorily required in the planning and execution of a subset of cases, it is critical that the local written policy be in the form of a memorandum of understanding (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.

County 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.

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 county agency to operate efficiently. Multiple MOUs can create a situation where the county agency must frequently review an MOU throughout the initial assessment process in order to determine whether a law enforcement agency should be notified, how a case should be coordinated, whether joint, parallel or independent interviewing should be done, whether written reports will be shared, etc. One MOU will allow the 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 cases 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 county agency’s practice and procedures do not vary from one MOU to the next.

XXV.E. MOU Content - Coordination with Law Enforcement Agencies

The MOU must contain an agreement regarding the following:

- the types of cases when CPS and law enforcement will collaborate.
- how planning and execution of investigations/assessments will be accomplished.
- how parallel or joint investigations/assessments will be conducted.
- when and how joint interviewing will be conducted considering the safety of all parties.
- how changes in case 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 cases of alleged child maltreatment. The role and responsibilities of the county department or DMCPs must be consistent with the child protective services purposes as outlined in state statutes, standards, or policy, as applicable.

The county department or DMCPs 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 and the child's safety is not compromised by the delay.

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 s. 48.981(7), Stats., 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. County departments and DMCPS are encouraged to develop greater clarity and specificity in these provisions and all of the above requirements through discussion with law enforcement agencies.

Chapter 26: Independent Initial Assessment Agreements

Section 48.981, Stats., acknowledges the need for a mechanism for assessment of reports of child abuse and neglect when concerns arise as to the county 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

County agencies must:

- have written agreements with the county, or counties, or licensed child welfare agency which conduct their initial assessments.
- send copies of original or revised agreements to the DHFS Regional Office.

The regional office:

- may designate a county agency or board established under s. 46.215, 46.22, 46.23, 51.42, 51.437, Stats., or a licensed child welfare agency to conduct the independent initial assessment.
- can make recommendations regarding the use of reciprocal agreements and the balance of workload among reciprocating county agencies, upon request.
- may review agency decisions or actions and make recommendations, upon request of either agency.

Glossary

“Agency” means a county department of social services under s. 46.22, Stats., a county department of human services under s. 46.23, Stats., or the Bureau of Milwaukee Child Welfare.

“Agent” means, but is not limited to, a foster parent, treatment foster parent, or other person given physical custody of a child or a human services professional employed by a county department under s. 51.42 or 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 the Department in a county having a population of 500,000 or more or a county department under s. 46.22. [. 48.981(d)(1), Stats.]

“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 or “CPS” is the public agency with the authority to respond to threats to child safety.

“County department” means a county department under s. 46.215, 46.22, or 46.23, Stats., and, for the purposes of child welfare, the Department in Milwaukee County.

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

“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, Stats.

“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:

1. 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
2. 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.
 - (b) “Controlled substance analog” does not include:
 1. A controlled substance;
 2. A substance for which there is an approved new drug application;

3. 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
4. Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance [s. 961.01(4m), Stats.].

“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 a vulnerable child is left without necessary care and supervision, or
- where there is evidence of serious ongoing abuse and the CPS caseworker 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 have believed 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” means situations, for which probable cause exists, where the caseworker would be unable to examine a child's body for evidence of maltreatment unless the caseworker acts swiftly and without seeking prior judicial authorization in order to preserve evidence. “Exigent circumstances,” when they exist, allow a 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 caseworker 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), foster child(ren), any birth or adoptive children 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 homes, treatment foster homes, family-operated group homes and licensed respite homes. [s. HFS 37.03(10)]

“Household” means all individuals living together in the same dwelling.

“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).

“Maltreatment” means child abuse as defined in s. 48.02 (1), (5j) and (14g), Stats., child neglect as defined in s. 48.981(1)(d), Stats., 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-Caregivers” means those individuals who do not meet any of the statutory definitions of caregiver in s. 48.981(1)(am), Stats. 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 can not have ever shared the same household as the child.

“Non-Caregiver Investigation” is conducted when the alleged maltreater 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.

“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 belief that a prudent person would have suspected, based on all the known information and circumstances, that a child has been abused or neglected. It is a belief based on evidence of specific and articulable facts, which when combined with rational inferences, creates a belief in a prudent person that a child has been abused or neglected. Reasonable cause to suspect child abuse or neglect is more than a hunch, but less than proof, that a child has been abused or neglected.

“Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 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. [s. 48.02(15), Stats.] When used in reference to an Indian child, the tribe's definition of relative generally, but not always, applies.

“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, child care 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 case 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 case 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.

“Unborn child” means a human being from the time of fertilization to the time of birth. [s. 48.02(19), Stats.]

Appendix 1

Statutory Definitions of Abuse and Neglect

Physical Abuse

[Physical abuse] is defined in s. 48.02(1)(a), Stats., 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 s. 939.22(14)." [Ref. s. 48.02(14g), Stats.]

Neglect

Neglect is defined in s. 48.981(1)(d), Stats., as "failure, refusal or inability on the part of a caregiver [as defined in s. 48.981(1)(am), Stats.], 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 s. 48.02(1), Stats., as:

- 1) "Sexual intercourse or sexual contact under s. 940.225, 948.02 or 948.025."
[Ref. s. 48.02(1)(b), Stats.]

Section 940.225, Stats., addresses sexual assault of any person, and therefore includes sexual assault of a child aged 16 or 17 years old or less.

Sexual assault under this section is defined as 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" "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" [Ref. s. 940.225 (4)., Stats.]

Section 948.02, Stats., defines sexual assault to include sexual contact or intercourse with a child, aged 15 years or less. Section 948.025 addresses "engaging in repeated acts of sexual assault of the same child" aged 15 years or less.

"Sexual intercourse includes the meaning assigned under s. 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." [Ref. s. 940.225(5)(c), Stats.].

"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 s. 940.19(1), Stats.
 - a. 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.
 - b. 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.
[Ref. s. 940.225(5)(b)1. and s. 948.01(5)(a), Stats.]

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

[Ref. s. 940.225(5)(b)2. and s. 948.01(5)(b), Stats.]

A violation of s. 948.095, Stats., Sexual assault of a child by a school staff person or a person who works or volunteers with children.

s. 948.085, Stats., Sexual assault of a child placed in substitute care by a foster parent or treatment foster parent or by an employee or volunteer of a shelter facility,

group home, or other institution for care of certain children as identified in s. 940.295(2)(m), Stats.

- 2) "A violation of s. 948.05, Stats.," [Ref. s. 48.02(1)(c), Stats.] 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 sexual explicit conduct involving the child...:

- (1) 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.
- (2) 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 s. 944.30, Stats.," [Ref. s. 48.02(1)(d), Stats.] This section addresses prostitution.

A violation of s.944.30, Stats., includes when a person:

- (1) Has or offers to have or requests to have non-marital sexual intercourse for anything of value.
- (2) 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.
- (3) Is an inmate of a place of prostitution.
- (4) Masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value.
- (5) Commits or offers to commit or requests to commit an act of sexual contact for anything of value."

- 4) "A violation of s. 948.055, Stats.," [Ref. s. 48.02(1)(e), Stats.] 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 s. 948.10, Stats.,” [Ref. s. 48.02(1)(f), Stats.]. 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 s. 948.051, Stats.” [Ref. 48.02(1)(cm), Stats.]. This section addresses the sex trafficking of a child.

This is defined as 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 s. 940.302 (1) (a)..

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”. [Ref. s. 48.02(1)(gm), Stats.] “‘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.” [Ref. s. 48.02(5j), Stats.]

DISCUSSION

Physical Abuse

“Physical abuse” is defined under s. 48.02(1)(a), Stats., as “Physical injury inflicted on a child by other than accidental means.” “Physical injury” is defined under s. 48.02(14g), Stats., as “includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm as defined under s. 939.22(14).” “Great bodily harm” as defined under s. 939.22(14), Stats., 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 s. 939.22(38), Stats., 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 s. 48.02(14g), Stats. 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, incidents of violence directed against a child should be screened in 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 s. 48.02(14g), Stats., 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 s. 48.02(14g), Stats., that is sustained by the child when one parent/caregiver attacks the other parent
- an injury as described in s. 48.02(14g), Stats., 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 s. 48.02(14g), Stats., that is sustained by the child when the parent slips and falls while carrying the child
- an injury as described in s. 48.02(14g), Stats., 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 cases might also be alleged emotional damage.

The worker should consider whether a forensic interview at a children’s advocacy center would be valuable in the initial assessment. The risk of physical harm should be considered in any case of neglect when the physical well-being of the child is at risk. Many cases 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 worker 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.

Section 948.02, Stats., has the effect of potentially defining developmentally normal sexual curiosity and behavior of children as abusive. Sexual behavior is part of normal growth and development and can be seen from birth on. There are no protection or service needs in cases of sexual *contact* that is mutual and generally within the bounds of normal sexual development. In fact, a CPS response to instances of developmentally normal child behavior where there is

no potential for protection or service needs might have the effect of being emotionally and developmentally harmful to the child.

In cases of children under the age of 16 engaging in sexual *intercourse*, however, there may be protection or service needs even if that involvement is mutual, with a peer and devoid of any elements of assault, exploitation, or coercion. The needs are primarily health-related (e.g., contraception and avoidance of sexually transmitted diseases). Any CPS response to these cases must focus on offering information and services or community referral to families, rather than on determining who is sexually active with whom.

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

Section 48.981(2)(a), Stats., 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.

The Present Danger and Impending Danger Threats to child safety describe behaviors and conditions that indicate a child might be seriously harmed in the immediate to very near future. Threatened abuse or neglect, then, can be said to be the same as the presence of safety threats, since both involve a judgment or concern that the child is likely to be seriously harmed. Reports that, taken together with other information available to CPS, support a suspicion that a child may be unsafe must be screened in.

Young children with alleged non-accidental injuries are of particular concern to CPS Access. Often times 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 meet the definition of threatened abuse or neglect, i.e. an unsafe child. Therefore, a report of a small bruise on the face, head, or neck of an infant should not only be screened in, but generally requires an immediate to same-day response.

Appendix 2

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 s. 48.981(3)(c)4., Stats., and is presented in the context of identifying the level of proof under which the CPS worker 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 worker considers two issues:

- 1) *Whether the evidence gathered and reviewed by the CPS worker 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 worker is credible evidence. The credibility of this report would substantially diminish if the contents of a medical report were read to the CPS worker over the phone by an unknown person. Therefore, in applying this standard, the CPS worker must be satisfied that the evidence being reviewed has indicators of being trustworthy. The ultimate question for the CPS worker 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 worker is **persuasive**.* Once the trustworthy evidence is reviewed, it must then be weighed by the worker. The worker must determine whether, based on all the evidence presented, the greater weight of the evidence supports the conclusion or persuades the worker that maltreatment has occurred or is likely to occur. Or, in the form of a question: Does the proof lead the CPS worker 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 worker'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 worker'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 case to pursue charges. Yet the CPS worker may have sufficient evidence on the same case to make a finding of "substantiated."

Substantiation of Physical Abuse

In order to substantiate physical abuse, a worker 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 s. 48.02(14g), Stats., *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." [Ref. s. 48.981(3)(c)4., Stats.]*

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 s. 48.02(14g), Stats. 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 s. 939.22(38), Stats., 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." [Ref. s. 939.22(38), Stats.]

This definition seems more similar to the types of injuries included in the definition of physical injuries that constitute child abuse under s. 48.02(14g), Stats. 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.

* Note: However, these circumstances may still suggest a referral for a CHIPS petition for necessary treatment, services, or care.

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.

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

- bruises or welts as described in s. 48.02(14g), Stats., 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 s. 48.02(14g), Stats., that is sustained by the child when one parent/caregiver attacks the other parent
- an injury as described in s. 48.02(14g), Stats., 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 s. 48.02(14g), Stats., that is sustained by the child when the parent slips and falls while carrying the child
- an injury as described in s. 48.02(14g), Stats., 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 in all cases.

Substantiation of Neglect

In order to substantiate that neglect has occurred, the worker 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" [Ref. s. 48.981(3)(c)4., Stats.]*

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 s. 48.02(14g), Stats., regardless of the actual outcome. (If the act resulted in actual injury to the child as defined in s. 48.02(14g), Stats., 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

* Note: However, these circumstances may still suggest a referral for a CHIPS petition for necessary treatment or care.

lack of care threatens the child's safety or is likely to cause long-term or permanent impairment.

The following questions can be used by the worker 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 worker will have information that establishes all of the following:

- the child involved is fifteen years old or less,
or
the child involved was 16 or 17 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,
and

- sexual intercourse as described above occurred,
or
sexual contact as described above occurred *and* that it was done for the purpose of:
 - sexually degrading the child victim, *or*
 - sexually humiliating the child victim, *or*
 - sexually arousing or gratifying the maltreater, *or*
 - the touching contained elements of actual or attempted battery

Sexual contact that is mutual, that occurs with a peer, and that is devoid of elements of actual or attempted battery, coercion, or exploitation must be Unsubstantiated if the sexual contact is within the range of normal sexual behavior for the child's age or development.

There are two general types of sexual contact and sexual intercourse:

- where a child, male or female, is assaulted or otherwise victimized, exploited or coerced by another person, either an adult or another child
- where a child, male or female, is engaging in mutual sexual activity with a peer, but the child is not old enough to consent under Wisconsin laws

The statutory definitions of sexual abuse are created by cross-referencing certain crimes against children. When they are interpreted, however, they must be interpreted within the legislative purposes of Ch. 48. Subsection 48.01(1), Stats., states: "In construing this chapter, the best interests of the child...shall always be of paramount consideration. This chapter shall be liberally construed to effectuate the following express legislative purposes:... (ag) To recognize that children have certain basic needs which must be provided for, including the need for adequate food, clothing and shelter; the need to be free from physical, sexual or emotional injury or exploitation; the need to develop physically, mentally and emotionally to their potential; and the need for a safe and permanent family..."

Most of the definitions of sexual crimes against children translate reasonably well for application in Ch. 48. Children who are sexually assaulted or exploited are in need of protection by their families, the child welfare system or the criminal justice system. Section 948.02, Stats., however, describes behavior (sexual contact or intercourse with a child under the age of 16) that may not be assaultive, exploitative, or coercive. It is written to eliminate consent of the child victim as a potential defense for a criminal defendant. The concept underlying the statute is that children are unfairly susceptible to influence or direction by older persons and persons in a caregiver role and must be protected from such manipulation to engage in sexual activity. The concept of protection from another person does not apply, however, in mutual peer relationships.

As a result, s. 948.02, Stats., has the effect of potentially defining developmentally normal sexual curiosity and behavior of children as abusive. Sexual behavior is part of normal growth and development and can be seen from birth on.

Mutual sexual *contact* with a peer that is normal for age/development is generally screened out at Access. Some reports may be screened in for assessment because insufficient information is available at the point of Access to determine that it was mutual and with a peer. If the initial assessment in such cases concludes that there was sexual contact, but that it occurred with a peer, that it was mutual, was devoid of elements of actual or attempted battery, coercion, and exploitation and was within the range of normal sexual behavior for the child's age or development, the report is Unsubstantiated.

Sexual *intercourse* may also occur with a peer and be mutual. Opinions vary as to whether sexual intercourse in the mid-teens is within the bounds of normal sexual development. However, what distinguishes these situations are the following:

- the relationship is mutual
- there is no one in the victim role and no one in the maltreater role; both are mutual participants
- there are no elements of coercion, exploitation, battery, or assault
- the children are peers

A peer is defined as a person who, in terms of general cognitive development and social role, has equal standing with the child. For example, this can include a 15-year-old and an 18-year-old when they are both in high school. A caregiver or other person who exercises or has exercised temporary or permanent control over a child can never be considered a peer.

Mutual sexual intercourse that meets the above criteria may be substantiated, but is coded as *Mutual sexual activity*. This differentiates those cases from cases of sexual contact or intercourse that occurred and that was not mutual, which must be coded as *Sexual contact/intercourse*.

Sexual abuse is also defined in the statutes as:

1) "A violation of s. 948.05, Stats." [Ref. s. 48.02(1)(c), Stats.] This section addresses "sexual exploitation of a child."

In order to substantiate that a violation of s. 948.05, Stats., occurred, the worker 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.

2) “Permitting, allowing or encouraging a child to violate s. 944.30, Stats.,” [Ref. s. 48.02(1)(d), Stats.] This section addresses prostitution.

In order to substantiate that a child was allowed to violate s. 944.30, Stats., the worker 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.

3) “A violation of s. 948.055, Stats.” [Ref. s. 48.02(1)(e), Stats.] This section addresses intentionally causing a child to view or listen to sexual activity.

In order to substantiate that a violation of s. 948.055, Stats., occurred, the worker 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.

4) “A violation of s. 948.10, Stats.” [Ref. s. 48.02(1)(f), Stats.]. 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 s. 948.10, Stats., occurred, the worker 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.

5) “A violation of s. 948.051, Stats.” [Ref. 48.02(1)(cm), Stats.]. This section addresses the sex trafficking of a child.

In order to substantiate that a violation of s. 948.051, Stats., occurred, the worker 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 s.48.02(1), Stats., as abuse. They are still crimes, however, and may be dealt with by the law enforcement and criminal justice system.

Substantiation of Emotional Abuse/Damage

In order to substantiate emotional abuse/damage, the worker 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. [Ref. s. 48.981(3)(c)4., Stats.]

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 worker's knowledge of child development is important in supporting this conclusion. The worker 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.

A case is not substantiated merely 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 3

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, risk of maltreatment, services needs and the occurrence of maltreatment.

The *CPS Access and Initial Assessment Standards* requires that thorough information be gathered in the following areas:

- Maltreatment (alleged maltreatment, and any other type of maltreatment occurring within the family),
- Surrounding Circumstances (circumstances leading up to maltreatment and the parent's/caregiver's response)
- Child Functioning (general functioning of children in the household and effects of any maltreatment)
- Adult Functioning (including parent/caregiver protective capacities)
- Parenting Practices (including parent/caregiver protective capacities)
- Family Functioning (including strengths and current stresses)

Understanding the above conditions, behaviors, perceptions, etc. are critical to assessing threats to child safety and risk of maltreatment. Depending on how they present in families, they may contribute to the presence of an unsafe home environment or risk of maltreatment or may provide a buffer against/mitigate threats to child safety or the risk of maltreatment. The assessment of a parent/caregiver's protective capacities is critical in being able to arrive at a decision of whether or not a child is safe. Information in this assessment provides for the identification of parent/caregiver 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 description of the family.

Sufficiency and Relevance of Information

Information gathered should be specific to the family and family members and describe both the problems and strengths of the family and family members in terms of behaviors, perceptions, conditions, beliefs, etc, pertinent to safety and risk of maltreatment.

The information is gathered through interviews with and observations of family members and information from collateral persons and reports, if available. In addition to information about the alleged maltreatment, information obtained through interviews with family members provides the basis from which to understand how family members and the family generally function on a day-to-day basis. Relevant information is related to:

- evidence of a safe home environment
- the presence of threats to child safety
- the presence or mitigation of the risk of maltreatment

Relevance also pertains to the meaning and significance of the information. “Mom is a young single mother of four children ages 2, 4, 5 and 7” is pertinent information, but what significance does it have in this family? Some young parents are knowledgeable and competent; others are immature in their judgment and impulse control and unaware of children’s needs, resulting in the children being unsafe. Some single parents of multiple young children are overwhelmed, highly stressed and unable to respond to the needs of all of their children. Others are generally calm, patient and able to handle the demands of parenting. What is the significance of the information in the family that is being assessed? The worker is responsible for describing how behaviors, perceptions and conditions are related to the risk or mitigation (buffering) of maltreatment if the information documented can impact a family in different ways.

Regarding sufficiency of information, phrases such as “Mom’s discipline is inappropriate and ineffective” are, if not further explained with specific examples, insufficient. The following demonstrates sufficient documentation of this concept: “Mom uses only corporal punishment (spanking, slapping the children’s hands, pinching, grabbing children by the arm and shaking them). She has no idea of other methods to impact the children’s behavior and never uses time outs, withdrawal of privileges, explaining, etc. She makes no differentiation based on the children’s ages or needs. Usually she ignores the children’s behavior, but when they are screaming, fighting noisily or making demands on her attention she yells, hits and is generally out of control. Although she recognizes that the children haven’t improved their behavior following these actions on her part, she doesn’t perceive any connection between her actions and how that might contribute to the children’s acting-out behavior. ‘That’s the way kids are and you have to keep after them.’”

The following outlines the required areas of information gathering for Primary Assessments. A variety of different aspects of the identified dimensions of relevant functioning are discussed. They are presented to support the worker in understanding the scope of the areas to be assessed and guide the worker to consider those issues that contribute to or mitigate the presence of a safe home and the occurrence of maltreatment.

Maltreatment

This component describes the maltreatment that occurred, based on the CPS worker's assessment of information gathered from the family, collaterals, and other professional evaluations (medical, law enforcement, etc.). All types of maltreatment found to be present should be specifically described. Any maltreatment alleged in the CPS report but not found to be present should also be described, with the reasons for that determination.

Be specific about the injuries and/or conditions. If the child(ren) received medical attention, describe the findings. Injuries may be non-accidental and the result of impulsive, inappropriate or violent behavior on the part of the parent, but still not serious enough to meet the statutory definition of physical abuse. Therefore, a worker may document non-accidental injury in this section, but still determine that maltreatment is unsubstantiated later in the case record. Also, 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 under s. 48.13, Stats. 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

This component addresses the surrounding circumstances accompanying or leading up to the maltreatment. What was happening when the maltreatment occurred? What were immediate precursors to the maltreatment? Was the use of drugs or alcohol a contributing factor? Was the maltreatment incident an unusual circumstance or behavior, situation-related, or has it been occurring for a while? Has it been escalating, or have the behaviors or conditions stayed about the same or improved over time?

This component also addresses the parent’s reaction after the maltreatment occurred. Did he or she regret the maltreatment or did they justify the behavior? Were the maltreatment and its results intentional or premeditated? How did the parent interact with or respond to the child following the maltreatment? Does the parent accept responsibility?

Was the maltreatment justified as a cultural or religious practice to which the parent adheres? When parental behavior that contributes to maltreatment is a religious or cultural practice that the parent fully embraces and intends to continue applying, it is important to describe and analyze the impact these cultural or religious practices have on the child.

Environmental conditions that clearly and directly contribute to the maltreatment identified should be documented in this element. For example, if a child is being left unsupervised because a parent must work, cannot afford child care and has no other resources to care for a child that should be documented. Neglect cannot be substantiated if the lack of adequate food, shelter, care, etc. is truly due to poverty. Additionally, other stressful conditions that the caseworker assesses as having directly contributed to the occurrence or risk of maltreatment should be documented. Consider whether those conditions are beyond a parent’s control, such as living in a dangerous, crime-ridden neighborhood because it is the only affordable housing available.

This element also addresses the parent’s reaction even if the finding is that there was no maltreatment. When there is no maltreatment, the information should describe the parent’s explanation of the circumstances that support the CPS worker's finding of no maltreatment.

Child Functioning

This component is concerned with how the child acts and includes physical capacity as well as vulnerability. Vulnerability should be considered based not just on age, size, cognitive development and physical needs, but also emotional development and needs.

The emphasis in this component is on general behaviors, emotions and temperament rather than the child's response to intervention. Specific areas of study include: capacity for attachment, general temperament, expressions of emotions/feelings, typical behaviors, presence and level of peer relationships, school performance and behaviors, known mental disorders (organic/inorganic), issues of independence/dependence, motor skills and physical capacity.

Effects of maltreatment on a child's functioning should also be described. This includes emotional and behavioral effects as well as physical effects. The link between the maltreatment and the child's functioning need not be verified by a physician or psychologist/psychiatrist in order to be documented, but the basis for the worker's conclusions in this area should be documented.

Some child functioning may be different than what one normally expects but can be understood as associated with a cultural norm, behavior or practice. If the culturally based functioning does not endanger the child or others, jeopardize development or cause the child to be generally rejected by others, it should be judged as acceptable and appropriate.

Adult Functioning

This component is concerned with how the adults in the family feel, think and act on a daily basis in respect to life events and life management. This includes any information concerned with substance abuse or mental health such as consideration of reality perception, coherence, rationality, self/emotional control, and any impairment that is associated with mental health or substance use; physical health, self-concept and esteem, self-care and self-preservation.

It also includes such areas as communication, coping, stress management, impulse control, problem solving, judgment, decision making, independence, money and home management, employment, education, social relationships, citizenship, community involvement and other basic life skills. Any criminal behavior in the community or home, including domestic violence, should be discussed here. Judgments should be made based on how the parents are generally, rather than in relation to their response to intervention and reaction to the worker.

Some adult functioning may be different than what one normally expects but can be understood as associated with a cultural norm, behavior or practice. If the culturally based functioning does not detract from the person's ability to function acceptably on a daily basis, it should be judged as acceptable and appropriate.

This component may also include the childhood and recent adult history of the adult being assessed, particularly as it may affect current functioning. Is the adult from a stable, well-

adjusted family or a product of an unstable/dysfunctional family? Is there evidence of life successes as a child or general life disappointment dating to childhood? Is there a history of behavioral/emotional dysfunction as a child/young adult? Was the adult's general childhood history nurturing and satisfying or unhappy and miserable? Are there indications that the adult is a product of an abusive or neglectful childhood or seriously deprived childhood? What is known about permanency and significant relationships in their history?

Perhaps most critical is a person's current perceptions of and adjustment to his or her childhood history. If there is a negative history, does the parent recognize this or deny it? Does the parent seem to be repeating the same negative behaviors of his/her own parents or do they see themselves as separate and able to behave differently? Are they "stuck" in this history or have they been able to come to terms with it and move on to build a positive life? Consider the individuals' cultural context as you describe adult childhood history.

Parenting Practices

This component explores the general nature and approach to parenting and includes matters associated with their perception of their children, reasons for being a parent, feelings about being a parent, knowledge and general skill, basic care, nurturance, discipline practices, decision making about parenting, parenting style, history of parental behavior and expectations for the child. Parenting should be assessed for all of the children, not just the child reported as maltreated.

Are expectations for the child appropriate for the child's age, capacities and development? Do parents see parenting as a chore or as a positive part of their lives? How does the parent express affection for the child and under what circumstances? Does the parent consistently provide for the basic necessities for the child? How does the parent describe the child? To what extent does the parent meet the child's need for social interaction? How "tuned in" to the child is the parent? Does the parent recognize cues from the child and respond appropriately?

The disciplinary methods include more than punishment. They include the parent's manner of teaching a child how to behave and guiding his or her behavior as well as the actions a parent takes to teach the child self-discipline. They should be described as well as an evaluation of the typical context in which it occurs, i.e. when, how, where and for what reasons and purpose discipline might occur or usually occurs. The disciplinary methods used with all of the children should be assessed, not just with the child reported as maltreated.

Which of the child's behaviors do the parents tolerate and which do they not tolerate? Does the parent use a variety of disciplinary approaches, suited to the child's age and needs? How consistent is the parent in the use of discipline? To what extent does the parent demonstrate self-control when disciplining? To what extent is the parent aware of and responsive to the child's need for boundaries? Does the parent avoid applying discipline? Does the parent view discipline as punishment only? Do disciplinary practices represent a cultural practice and does this endanger or harm the child?

Cultural practices must be assessed on the basis of their effects on the child. For instance, is the stated cultural practice destructive or harmful to the child; or does it represent a practice that is acceptable by virtue of having no harmful effect on the child?

This component also includes the parent's ability and willingness to parent based on their child's needs rather than their own needs, to put their child's needs ahead of their own, to have empathy for the child and act on that empathy, and to have sensitivity and understanding toward children.

It is not unusual for parents to divide some parenting responsibilities and share others. It is also not unusual for this to change at different life stages of a family, with one parent more effective with toddlers, for example, and the other more effective with adolescents. The fact that one parent does not perform all parental functions does not indicate that they are unable or unwilling to do so, and may indicate that their family is flexible in its roles in order to meet family needs. This should be discussed as part of the family's functioning as a system (see below).

Family Functioning

This component concerns itself with how the family unit operates, including both strengths and current stresses. Major issues for study and understanding include:

- how the family is structured,
- the clarity of roles and boundaries,
- who is in charge,
- how family decisions are reached,
- the level and type of communication used,
- the presence and use of affection,
- marital issues,
- presence/absence of domestic violence
- the general feelings/climate within the family and relationship to the community, and
- demographics, including family make-up, housing, and income in terms of its sufficiency to meet the family's needs.

Are family roles and boundaries clear and effective or blurred and ineffective? Are roles being vacated by adults or is there an inappropriate exchange of roles between children and adults? Is communication open and productive or closed/manipulative/used to intimidate? Is the home climate calm, inconsistent, indifferent, frustrating or destructive? Is there routine and order or chaos/disorganization?

Is the marital relationship satisfying and stable? Is there a sense of belonging to a family among all family members? How is power distributed among family members? How does the family respond to problems/crises? Is the family integrated into the community or isolated? How does the family manage the stresses associated with resources, employment, neighborhood, etc.?

Appendix 4

Effective Communication

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 workers should check with their supervisor to see what the county'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 workers 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 workers 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 CPS agency.
- CPS 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 roster can be accessed at:
 - <http://www.wicourts.gov/services/interpreter/roster.htm>

Resources for working with blind or visually impaired individuals:

- Services and resources that could help with effectively communicating with blind or visually impaired individuals can be accessed from the DHFS website:
 - <https://www.dhs.wisconsin.gov/blind/index.htm>
- To obtain a listing of the regional offices from the Office for the Blind and Visually Impaired (OBVI) that could help identify local services available visit:
 - <https://www.dhs.wisconsin.gov/blind/contact.htm>

Resources for working with deaf or hard of hearing (DHH) individuals:

- DHH Interpreter Information:
 - Interpreter Referral Agencies-
<https://www.dhs.wisconsin.gov/odhh/interpreting/interpreter-agencies.htm>
 - Statewide Interpreter Directory-
<https://www.dhs.wisconsin.gov/odhh/interpreting/index.htm>
 - Suggestions for communicating with DHH individuals-
<https://www.dhs.wisconsin.gov/odhh/interpreting/commtips.htm>
 - Resource Guide for the DHH -
<https://www.dhs.wisconsin.gov/odhh/resources.htm>

Information for Emergency Situations:

- CPS workers 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:

- CPS 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 workers 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. Cite confidentiality statute? Or is this already assumed/covered under "certification" for interpreter. 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. CPS agencies may need to develop a form for interpreters and translators to sign, explaining confidentiality and ensuring the interpreter/translator understands the legal ramifications 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 worker 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 5

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.

Access - Interviewing the Reporter to Assess for Presence of Domestic Violence

As a routine part of gathering information during the Access process, staff 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 worker 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/caregiver has been criticized or threatened for seeking help or community resources, such as medical, mental health, parenting assistance, child care, 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 CPS, a decision must be made during the point of Access if information supports a suspicion that the child may be unsafe, 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 believe there is current domestic violence or the abuser has a history of domestic violence, **and**

- There is reason to believe 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 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 workers should routinely inquire about domestic abuse during Initial Assessment interviews, whether or not there are allegations of domestic abuse.

Note: 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 workers 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. Workers 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 her 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 workers 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.⁶
- Racial and cultural differences in how women and men experience, explain, or justify domestic abuse challenge CPS workers to become aware of their own culturally-based assumptions about domestic abuse and to avoid applying these assumptions with diverse populations.

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 him 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.

⁶ Mederos, Fernando et al, (2004) *Accountability and Connection with Abusive Men*. Family Violence Prevention Fund, San Francisco, CA.

Sample Questions

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". (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)

- 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?

Interviewing the Suspected Adult Victim of Domestic Abuse

- Never ask a victim about domestic abuse in front of her partner. It will not be safe for her to disclose if he is in the vicinity.
- If preliminary information suggests that the perpetrator is dangerous, workers 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 workers can build trust and rapport over time to create an atmosphere in which a victim feels comfortable talking about her experiences.
- Affirm to the adult victim that she does not deserve to be abused and that the abuse is not her fault. Point out the abuser's responsibility for the violence. Express concerns for her safety and the safety of her 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 her family, based on her 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 her for the abuse, discount the seriousness of her situation, or revictimize her in other ways. This may make CPS intervention more difficult. It may be useful to ask her 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 herself and her 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 her partner may be dangerous to her. Consult with a supervisor about how to handle and document information that may put her or her 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 her know that CPS may be required to share information about her situation in court proceedings should the worker 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 her or her children at increased risk.

Sample Questions to Ask in All Interviews

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***. (Questions adapted from Child Welfare Practices for Cases with Domestic Violence, Oregon Department of Human Services)

- 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 himself, you, the children or a pet? Tell me about that.
- Has your partner threatened to take the children from your care if you leave him?
- 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 his 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.
- The abuser may not be a reliable source of information about his violent behavior or his 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 himself 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 a 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, worker observations and other agency reports.

Sample Questions

The following are some sample questions to ask the alleged maltreater. You may want to reassure him 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. (Questions adapted from Child Welfare Practices for Cases with Domestic Violence, Oregon Department of Human Services)

- 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 her? Shoved her? Hit her? Choked or strangled her? Bit her?
- 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?

Appendix 6

Coordination and Collaboration with Law Enforcement Agencies

Coordination between the county department 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 worker, 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 principles 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/investigation process. It is not unusual for a CPS worker 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 workers at heightened risk.

Law enforcement officers can pursue alleged maltreaters in non-family cases where CPS has limited authority to intervene directly with the maltreaters. In cases 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 county department 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.

Interventions in cases of child maltreatment by the criminal justice system and child welfare system are each based on different beliefs as to the etiology of child abuse and neglect. The criminal justice system is constructed to view child maltreatment as an intentional anti-social act against a child. Therefore, the system is designed to deter and punish deviant behavior and to keep the public safe by separating offenders from the rest of society.

On the other hand, 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.

These different views of the causes of child maltreatment define 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 cases of maltreatment referred to county 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 cases 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 cases.

Differences in Definitions of Maltreatment

Law enforcement and CPS agencies use different sets of definitions for child abuse and neglect. CPS agencies use the definitions for physical abuse, sexual abuse and emotional abuse found at s. 48.02, Stats., and the definition of neglect found in s. 48.981, Stats. 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, Stats. 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 s. 948.03, Stats., “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.” [Ref. s. 939.22(4), Stats.] 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 s. 939.22(14), Stats.” [Ref. s. 48.02(14g), Stats.] “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.”

CPS agencies cannot restrict their response to just those reported cases 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 cases where CPS has a responsibility to respond and assess the situation. Nevertheless, the difference in definitions between ch. 948 and ch. 48 can still result, theoretically, in a case where a person is convicted in criminal court but unsubstantiated by the CPS 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 others’ 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. CPS 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 case 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 worker. 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 skill-set and instead needs a primary response from a law enforcement agency, which has the necessary skills to respond.

There is no statutory requirement that the coordination of the planning and execution of cases of suspected or threatened sexual abuse 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.

Both systems have statutory responsibilities. The responsibilities of one system do not supercede 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 s. 48.981, Stats., 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/investigation. These decisions should be based upon an understanding of the functions that need to be accomplished. For example, in child fatality cases 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 cases, CPS will have a minor role, such as establishing a CPS record that the fatality occurred 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 types of cases 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, 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 investigation and initial assessment, for both the CPS agency and the law enforcement agency. Interviewing requirements vary, depending upon who is named as the alleged maltreater. In primary assessments, the CPS worker must interview/view the child, all siblings, the non-maltreating parent and the maltreating parent/person in parent role. 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 investigation, 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 is 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, 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 investigation, the role of CPS during initial assessment or investigation, 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 cases 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 social worker 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 principles 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 workers 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 caseworker, 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. 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 types of cases that will be routinely referred to law enforcement agencies.

The MOU may also address additional procedures related to an investigation and 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 worker 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 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 s. 48.02(1)(b) to (f), Stats., that the sheriff or police department will routinely refer to the district attorney for criminal prosecution." [Ref. s. 48.981(3)(b)3, Stats.] 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 "The 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." [Ref. s. 48.981(8)(a), Stats.] 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 child welfare cases where domestic violence, substance abuse, mental health issues or developmental disabilities are an issue or where the 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 7

Considerations in Maltreater Determinations

Primary Assessment Cases

In Primary Assessment cases, 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 Primary Assessment cases 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 CPS 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. The decision as to whether a secondary caregiver in a licensed facility has maltreated a child, as defined in ch. 948 or ch. 48, is primarily a law enforcement decision.

Other Secondary Assessments and Non-Caregiver Investigations

The *CPS Access and Initial Assessment Standards* do not require that the CPS agency interview alleged maltreaters in cases 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 county 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 cases 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 cases, 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/AODA agencies, as part of the initial assessment/investigation process may be maintained in the case record. Information from those reports is relevant case history and 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 juvenile 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 county department to identify them as in need of protection or services, which is consistent with CPS purposes under Ch. 48. In these cases, the record should identify the child and the problematic behaviors and document what occurred, reflecting the county’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 s.48.981(7), Stats., 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 Child Protective Services in Reports of Withholding Medically Indicated Treatment from Disabled Infants with Life-threatening Conditions

Part A: Information for CPS Worker

The allegations of withholding medically indicated treatment from disabled infants with life-threatening conditions are infrequent. Consultation with the county district attorney, the county corporation counsel or the Department of Health and Family 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 are 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 CPS Agency

It is mandated by the federal regulation that "programs or procedures" be in place in states for the use of child protective services agencies in responding to a report of possible medical neglect of a disabled infant. These guidelines serve, in part, to outline CPS procedures. It does place some requirements in the policies of medical neglect, coordination, and notification requirements.

Federal regulations relating to the provisions of the Child Abuse Amendments of 1984 governing the protection and care of disabled infants are at 45 Code of Federal Regulations (CFR) Part 1340. These regulations require that states establish programs or procedures within their child protective service (CPS) system to respond to reports of "medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions" (also known as "Baby Doe").

Resources for CPS Worker and Agency

Definitions from Federal Regulation

Medical neglect means the failure to provide adequate medical care, and includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.

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 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 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.

Infant means a child less than one year of age. The reference to less than one year of age shall not be construed to imply that treatment should be changed or discontinued when an infant reaches one year of age, or to affect or limit any existing protections available under state laws regarding medical neglect of children over one year of age. In addition to their applicability to infants less than one year of age, the standards set forth above should be consulted thoroughly in the evaluation of any issue of medical neglect involving an infant older than one year of age who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability.

Reasonable medical judgment means a medical judgment that would be made by a reasonably prudent physician knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

Hospital designee means a person(s) who is designated by an administrator of each hospital that provides obstetrical or newborn services in the state. The designee's role is to promptly notify CPS of cases of suspected medical neglect that come to the designee's attention. The designee is also to provide coordination and consultation to CPS within the health care facility during an initial assessment.

Rights of Infants

The legislation attempts to address two areas 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 cases of possible medical neglect of disabled infants, 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 disabled infants, 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 cases 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 cases 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 s. 48.981. (See *CPS Access and Initial Assessment Standards Section 3, Chapter 24 and Appendix 10: Coordination with Law Enforcement*).

Information Gathering at the Point of Access

Sometimes a caseworker 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 worker 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, and;
- 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 a diligent investigation.

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 cases 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 worker locate the child.

If a report is received on a child currently open for services, refer to *Chapter 10: Reports on Open Cases and Multiple Reports*, and *Ongoing Standards, CPS Reports on Ongoing Services Cases or Placements in Out-of-Home Care, Page 7*.

Making Screening Decision at Access

In the following circumstances a diligent investigation is warranted in order to ensure that the child is safe and has access to services, including placement if needed. Additionally, an investigation 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 caseworker

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 s.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 s. 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 (a)*
- *Records or displays in any way a child engaged in sexually explicit conduct (b)*
- *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 cases 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 worker 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 worker to ask about the parent(s) in every case, 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 section *III.D. Additional Information to Gather and Document for Non-Caregiver Assessments*.

Response Time

The *Safety Intervention Standards* were primarily written with a familial context in mind. However, the dynamics of child sex trafficking require assessment and evaluation of danger threats in the context of the child rather than the family. Therefore, one must think globally when assessing for Present Danger Threats in cases of alleged child sex trafficking, regardless of the caregiving role of the alleged maltreater.

When considering if Present Danger Threats are present at the point of Access, the same process should be used with all types of alleged maltreatment, regardless of Initial Assessment type as outlined in *Child Protective Services Safety Intervention Standards Appendix 1: Present Danger Threats to Safety* and in responding in a timely manner to these allegations as outlined in *Section VII.C.1. 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 cases, it is important to document identifying information in a manner that would be easily accessible across cases 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 2: Substantiating Different Types of Maltreatment, of the *Access and Initial Assessment Standards*.