

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 Bureau of Milwaukee Child Welfare (BMCW). 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 threats to child safety (See *Child Protective Services Safety Intervention Standards Appendix 6: The Safety Threshold and Impending Danger Threats to Child Safety* and *Child Protective Services Safety Intervention Standards Appendix 7: 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 7: 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). *The DCFS Numbered Memo 2007-03: eWiSACWIS: Confidentiality And Access To The System* is adhered to when accessing CPS information created by another county.

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 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 6: 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 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 BMCW 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 6: The Safety Threshold and Impending Danger Threats to Child Safety*)

- Response within 24 or 48 hours of receipt of report, including holidays and weekends.

When a report has been assigned a 24-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 6: 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 hours” refers to completing face-to-face contact with the child and/or parent(s) prior to the end of the day following the receipt of the report. A case is assigned a 24-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 6: 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 BMCW, 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 BMCW, child welfare agencies under contract with or under the supervision of the BMCW, 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 BMCW 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 BMCW 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. (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 Children and Family Services when there is an egregious incident of maltreatment resulting in serious injury to the child, or the child dies. (Refer to the *DCFS Numbered Memo Series 2005-16*).
 - 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 listed in *Appendix 9: Counties Required to Notify a Tribe of Reports Received* 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.
- The notice must describe whether the county department has reason to believe that the child is affiliated with the tribe to whom the notice is sent or whether the county department is providing notice only because the child lives in the area of county but is likely affiliated with another tribe.
 - 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. [*DCFS Numbered Memo Series 2006-01 Documentation of Certain Indian Child Welfare Act (ICWA) Requirements*]

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." [*DCFS Numbered Memo Series 2006-01 Documentation of Certain Indian Child Welfare Act (ICWA) Requirements*]

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, 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 BMCW, 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 BMCW, 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. (*See DCFS Numbered Memo Series CFS 98-14 Appeal Process For Substantiated Maltreatment Findings*)

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.

XIV.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 7: 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. (*See DCFS Memo Series 2006-08 Family Interaction For Child Protective Services Cases When A Child is In Out-of-Home Care.*)

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 maltreatment determination, when applicable.
- conduct the appeal process (*See DCFS Numbered Memo Series CFS 98-14*).

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 (*See DCFS Memo Series CFS 98-14, "Appeal Process For Substantiated Maltreatment Findings*).

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. 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/Critical Sources of Information Are Not Available

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/Critical Sources of Information Are Not Available” 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 or unborn child abuse 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 Substantiating Unborn Child Abuse

All of the following criteria must be met in order to substantiate that unborn child abuse has occurred:

- 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. (See *DCFS Memo Series CFS 98-14, Appeal Process For Substantiated Maltreatment Findings.*)

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*).

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 BMCW. 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 Bureau of Milwaukee Child Welfare 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 Bureau of Milwaukee Child Welfare (BMCW) 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 BMCW. 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 BMCW 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 BMCW 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 BMCW 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 BMCW must be consistent with the child protective services purposes as outlined in state statutes, standards, or policy, as applicable.

The county department or BMCW can not 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 BMCW 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.