



**2015 - 2016 Case Record Reviews
Summary of Results Relating to the
Wisconsin Indian Child Welfare Act (WICWA)**

Wisconsin Department of Children and Families (DCF)
2015 - 2016 Case Record Reviews
Summary of Results Relating to the Wisconsin Indian Child Welfare Act (WICWA)

The Wisconsin Indian Child Welfare Act (WICWA) protects the best interests of Indian children while promoting stability and security of Indian tribes and families by establishing minimum standards for removal and placement of Indian children that reflect the unique value of Indian culture.¹

INTRODUCTION

This report provides a summary of results related to access, initial assessment and ongoing services case record reviews completed during calendar years 2015 and 2016 that pertain to Indian children and to practices required under the Wisconsin Indian Child Welfare Act (WICWA). This report was reviewed with tribal child welfare directors and supervisors at the quarterly Tribal Child Welfare Directors meetings during 2017 and identifies recommendations to improve continuous quality improvement and case review processes and to advance local child welfare agency practice with Indian children and their families, to support better coordination with tribal child welfare agencies, and to ensure local child welfare agency compliance with WICWA.

DCF conducted case record reviews on a random, representative sample of Access Reports, Initial Assessments, and Ongoing Services cases collected from the statewide case management database, eWiSACWIS. The case record reviews only examined documentation within eWiSACWIS, which is not the sole source of documentation for all actions related to WICWA. For example, qualified expert witness information and legal record of the court proceedings are not required to be scanned in to eWiSACWIS and are located in the court files. Further, the review instruments for both the Access and IA reviews operationalized all concepts defined in Wisconsin State Standards and appendices. The Ongoing Services case record review used the federal Children and Families Services Review (CFSR) review instrument.

SUMMARY OF RESULTS

The following results are based on a representative statewide sample as the action measured is required to be taken on all cases (not just WICWA cases):

1. The majority of cases at Access (between 54% and 83%)² had documentation of the required inquiry into American Indian heritage.
2. 68% of Initial Assessments had documentation of the required screening for American Indian heritage for each child in the household.
3. 72% of Ongoing cases documented a sufficient inquiry to determine whether the child may be a member of, or eligible for membership in, a federally recognized Indian tribe.

The following results are not based on a representative sample as the action measured is required to be taken on children who have American Indian heritage or are subject to WICWA requirements. As the review samples were not drawn to measure WICWA specific items, the results require additional information gathering to understand if these cases are representative of all cases with American Indian heritage. A larger sample (or subset of WICWA-specific cases) would need to be reviewed to gather generalizable results. Despite the small sample size, these results are worth noting:

1. Of the 21 Initial Assessments with a child screened with a status of Indian:
 - 86% had documentation of the child's biological family history,
 - 57% had documentation of the request for confirmation of the child's Indian status, and
 - 14% had a documented consultation with tribal agency.

¹ Source: Lessons from WICWA 2013-14 Child Welfare Reviews, DCF, Wisconsin 2015

² Initial and secondary reviews were conducted for several information gathering items in the review instrument in order to preliminarily examine how results would change if reviewers were not tied to a strict set of review rules that defined compliance narrowly. In the initial review, 54% of Access Reports adhered to Standards related to inquiry into American Indian heritage; in the secondary review, 83% of Access Reports adhered to Standards for this item. See the discussion of results on page 2 for more information.

2. Of the Ongoing cases with a child who may have been a member of, or eligible for membership in, a federally recognized Indian tribe during the period under review:
 - In 5 of the 10³ cases, there was documentation that the tribe was provided timely notification of its right to intervene in any state court proceedings seeking an involuntary foster care placement or termination of parental rights.
3. Of the Ongoing cases with a child who was a member of, or eligible for membership in, a federally recognized Indian tribe during the period under review:
 - In 6 of the 9⁴ cases, there was documentation that the child was placed in foster care in accordance with federal Indian Child Welfare Act (ICWA) placement preferences or concerted efforts were made to place the child in accordance with ICWA placement preferences.

RESULTS & DISCUSSION OF RESULTS

Access – Information Gathering

Between 54% and 83% of Access Reports reviewed adhered to Standards related to documentation of inquiry into American Indian heritage for all alleged victims identified in the report. As part of the Access screening process, it is required that the Access worker inquire about American Indian heritage for all alleged victims identified in the CPS Report. In addition, the Access review instrument assessed information gathered and documented on 30 additional items (from basic demographic information to more nuanced information such as parental protective capacities). The frequency with which each information item was thoroughly documented ranged from 12.9% to 91.9% with a median of 50.2%.

Table 1: Summary of Information Gathering Regarding Inquiry into American Indian Heritage at Access (N=271)

	N	(%)
Access worker inquired about American Indian heritage for all children.	99	(36.5%)
Access worker inquired about American Indian heritage for all children and reporter did not know.	48	(17.7%)
Access worker missed inquiry about American Indian heritage for some children.	4	(1.5%)
The Access Report contained ambiguous information or was blank.	120	(44.3%)

Source: CQI 2015 Access Case Record Review Report, p. 56, DCF, Wisconsin 2015.

The initial review indicated nearly half (46%) of Access Reports reviewed contained missing or ambiguous information regarding an Access worker’s inquiry into the alleged victims’ American Indian heritage (see Table 1). This was higher than expected; one potential reason is when a required piece of information was not included in the CPS Report, reviewers were initially instructed to look for the following specific language: “The reporter was asked and did not know.” Given the strict nature of these guidelines, a secondary review of inquiry into American Indian heritage was conducted. Prior to the secondary review, there were 147 positive answers for ICWA; upon re-review, the positive answers increased to 224. The secondary review was also conducted for documentation of the presence or absence of domestic violence in the home and documentation of a description of child injury/condition. Upon re-review, positive answers for these items also increased (see Table 2).

Table 2: Secondary Review Results for Selected Information Gathering Components

³ This included cases involving a target child who may have been a member of a tribe or eligible for membership (10 cases). Applicable cases for this item were if the target child who entered care during the period under review or had a termination of parental rights hearing during the period under review.

⁴ This included cases involving a target child who was a member of a tribe or eligible membership (9 cases). Applicable cases for this item were target children who during the period under review, the child was placed (1) with a member of the child’s extended family; (2) in a foster home licensed, approved, or specified by the Native American child’s Tribe; (3) in another Native American foster home placement; or (4) in an institution approved by a Tribe or operated by a Native American organization. Placement preference is in this order unless another order is specified by Tribal resolution.

	CPS Reports Reviewed	Initial Review (Positive Responses)	Secondary Review (Positive Responses)
Documentation of inquiry into American Indian heritage	271	147	224
Documentation of the presence or absence of domestic violence	271	147	211
Documentation of a description of child injury/condition	271	155	218

Source: CQI 2015 Access Case Record Review Report, p.52, DCF, Wisconsin 2015.

There are several potential reasons for the increase, one of which is the fact that the secondary review provided reviewers the opportunity to apply professional judgment. Reviewers considered the report type (a phone call versus a fax), the reporter, and other sources of information in eWiSACWIS (e.g., ICWA icon, person management tab, and radio dials selected on the CPS Report). An example of a scenario where a selection was changed involves CPS Reports received via fax from law enforcement per a Memorandum of Understanding that did not mention Native American heritage. Although documentation was not clear that law enforcement was asked for information about American Indian heritage, the secondary review provided credit when information about American Indian heritage was located elsewhere in eWiSACWIS. The opportunity to provide professional judgement will be applied to future Access CQI reviews.

Initial Assessment – Interview Contacts

Adherence to interview protocols related to WICWA varied during Initial Assessment. During the course of the IA, inquiry into American Indian heritage for each child in the household should be completed and an ICWA Record should be created for each child in eWiSACWIS. The ICWA Record documents efforts on the part of the agency to identify children with American Indian heritage in order to ensure that children subject to WICWA, children who are eligible for membership or are members of an American Indian tribe, receive the legal protections offered to them under the act.

Reviewers assessed if the *Screening for the Child’s Status as Indian* form was completed in all cases, as well as additional items related to WICWA requirements, where applicable. These questions included assessing for the completion of the *Child’s Biological Family History* and *Request for Confirmation of Child’s Indian Status* forms, and whether there was documentation of consultation with the tribal agency.⁵

Table 3: Documentation of WICWA Requirements during Initial Assessment

	Documented for All Applicable Children N (%)	Documented for Some Applicable Children N (%)	Not Documented N (%)
Completion of <i>Screening for Child’s Status As Indian</i> form [‡]	185 (68.3%)	27 (10.0%)	59 (21.8%)
Completion of <i>Child’s Biological Family History</i> form [§]	18 (85.7%)	1 (4.8%)	2 (9.5%)
Completion of <i>Request for Confirmation of Child’s Indian Status</i> form [§]	12 (57.1%)	2 (9.5%)	7 (33.3%)
Consultation with tribal agency [§]	3 (14.3%)	--	18 (85.7%)

[‡]Required in all Initial Assessments (N=271)

[§]Required when child’s Indian screening status is positive (N=21 Initial Assessments)

Source: CQI 2015 Initial Assessment Case Record Review Report, p.17, DCF, Wisconsin 2016.

Screening for American Indian heritage for each child in the household was documented in 68% of the IAs reviewed (see Table 3). An additional 10% of IAs reviewed contained this documentation for at least some of the children in the

⁵ Consultation with the tribe should have occurred for children identified as having American Indian heritage. The review assessed if the worker coordinated and collaborated with the tribal agency during the IA process for those children so identified.

case. Of the 21 IAs where American Indian heritage was indicated, only 3 (14%) included documentation that consultation with the tribal agency occurred, a part of engaging in active efforts.⁶

Ongoing Services – Continuity of Family Relationships and Connections

Results related to the Ongoing Services review are preliminary and subject to change pending further review and analysis. Results and recommendations related to Ongoing Services will not be finalized until the Ongoing Services CQI report is published.

Based on preliminary results for the Ongoing Services review, documentation of sufficient inquiry to determine whether the child may be a member of, or eligible for membership in, a federally recognized Indian tribe was present in most cases (72%). This information is captured within the permanency outcome related to the continuity of family relations and connections for children. The case record is assessed to determine whether, during the period under review, concerted efforts were made to maintain the child's connections to his or her neighborhood, community, faith, extended family, tribe, school, and friends.

Of the Ongoing cases with a child who may have been a member of, or eligible for membership in, a federally recognized Indian tribe during the period under review:

- In 5 of 10 of cases, there was documentation that the tribe was provided timely notification of its right to intervene in any state court proceedings seeking an involuntary foster care placement or termination of parental rights.

Of the Ongoing cases with a child who was a member of, or eligible for membership in, a federally recognized Indian tribe during the period under review:

- In 6 of 9 cases, there was documentation that the child was placed in foster care in accordance with ICWA placement preferences or concerted efforts were made to place the child in accordance with ICWA placement preferences.

RECOMMENDATIONS

Practice Improvement

Collect more information from CPS workers and conduct additional analyses to better understand variation in the information collected and items documented at Access and IA. The case record review reports highlighted the need for better data on information gathering both at Access and Initial Assessment to understand why some information items are gathered at a higher rate than other items. It will be instructive to gauge workers' perception of requirements specific to documentation, and learn from CPS workers what may inhibit or hinder the ability to document information gathered. Understanding how CPS workers gather and document items specific to WICWA will be explored in more depth during these additional analyses.

Recommendations related to Ongoing Services will be provided in the forthcoming Ongoing Services Case Record Review Results report.

Future CQI Reviews

Refine the case review process for Access and IA to eliminate potential biases. Some review results may be biased due to the design of the review instruments or procedures followed to review cases. The reviews highlighted the need for DCF to consider options or situations where information gathered may have a degree in deviation between strict adherence to Standards and allowing for more latitude. To clarify the review questions related to

⁶ Active efforts as defined by Wis Stat.48.028(4)(g)1 constitute "an ongoing, vigorous and concerted level of case work...made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe and that utilizes the available resources of the Indian child's tribe, tribal and other Indian child welfare agencies, extended family members of the Indian child, other individual Indian caregivers and other culturally appropriate service providers."

WICWA, DCF will be revising the review instrument and processes for future case record reviews. Additional reviews in Access will occur in 2016; the revised instrument will include an additional question specific to the ICWA icon and examination of the complete case record rather than relying solely on the narrative in the CPS Report. The instructions will incorporate lessons learned from the secondary review.

Consider alternative methods to increase the sample size for actions that apply only to children who have American Indian heritage indicated or who may be a member of, or eligible for membership in, a federally recognized Indian tribe. The Access, IA and Ongoing case reviews were conducted on a representative sample of all cases. Some WICWA actions at IA and Ongoing are only required for cases for which American Indian heritage is indicated or for cases where the child is who may be a member of, or eligible for membership in, a federally recognized Indian tribe. For these actions, the results reported in this document are not representative of all such cases. In order to better understand information related to instances where American Indian heritage is indicated, additional reviews need to occur. These could be gathered over time as the data from annual reviews grows or a special subset review could be conducted if resources allow.

Consider alternative methods for gathering additional information on WICWA actions that are not included in the federal Ongoing tool or that are not required to be documented in eWiSACWIS. In future CQI case record reviews of Ongoing Cases, DCF is considering the feasibility of developing a WICWA-specific supplement to the federal Child and Family Services Review (CFSR) Ongoing tool. The WICWA-specific supplement could be tested in future Ongoing Services reviews with cases that include children who are identified as being a member of, or eligible for membership in, a federally recognized Indian tribe. The sample size would not have to be representative, but large enough to inform whether or not the supplement gathers the information DCF and its stakeholders are interested in learning.

For this subset of cases, DCF should also consider partnering with other stakeholders including the Children's Court Improvement Program (CCIP) which can provide information from court records. During the last round of reviews, the CQI case record reviews only examined documentation within eWiSACWIS, which may not provide complete information on WICWA compliance in practice. As noted in the WICWA 2013-14 Child Welfare Reviews Report, given that the key functions of WICWA are shared between the local child welfare agency and the court, completing a record review for WICWA compliance using only eWiSACWIS can yield incomplete results for actions that are not required to be documented in eWiSACWIS. For example, the involvement of a qualified expert witness is not an action that is required to be documented in eWiSACWIS. As recommended in the WICWA 2013-14 Child Welfare Reviews Report, future WICWA reviews will continue to be conducted in partnership with CCIP and should include a cross reference of court records.

NEXT STEPS

The following next steps reflect recommendations that the Tribal Child Welfare Directors and DCF developed in partnership following the completion of the first round of CQI case record reviews. The recommended training and monitoring initiatives aim to emphasize the importance and implications of WICWA for all caseworkers and supervisors and to improve practice in ensuring inquiry into American Indian heritage for all children.

Training:

- Incorporate the two-day *WICWA Best Case Practice* training into the School of Social Work curriculum across the University of Wisconsin system, as part of the long-term goal to strengthen every caseworker's understanding of the history and importance of WICWA.
- Develop a new training specifically for CPS supervisors to improve their ability of providing oversight of CPS workers with WICWA cases. This new training would provide supervisors with a deeper understanding of best practices for 1) training caseworkers about how to identify and document WICWA cases and 2) ensuring

caseworkers receive adequate supervision throughout the entire duration of a WICWA case. The training should equip supervisors with resources for handling and supervising WICWA cases even when these cases may arise infrequently in their county.

- Review and enhance the existing ICWA/WICWA training currently offered through the Wisconsin Child Welfare Professional Development System (PDS) in order to ensure that all caseworkers are provided with a solid foundation of WICWA best practices and clear expectations regarding WICWA documentation requirements. The training will also be reviewed to ensure that it provides caseworkers with tools and desk guides that are accessible and useful. For example, caseworkers could be provided with a link to WICWA training tools and desk guides directly in eWiSACWIS. Given that WICWA cases may arise infrequently in some counties, building a direct link to WICWA resources in eWiSACWIS would help bridge the gap between training and practice and provide resources to caseworkers at the time that they are needed.

Monitoring:

- Review existing monitoring reports related to WICWA developed by the Bureau of Regional Operations (BRO). Identify opportunities for improving BRO's existing monitoring reports in order to improve counties' effectiveness in 1) screening for American Indian heritage status for all children, 2) documenting inquiry into a American Indian heritage status for all children, and 3) determining whether the child may be a member of, or eligible for membership in, a federally recognized Indian tribe.

We expect that the recommended initiatives will improve caseworkers' and supervisors' understanding of the history and importance of WICWA, screening requirements regarding inquiry into American Indian heritage status for all children, and the provision of active efforts. Future CQI case record review findings should show an increased percentage of cases reviewed in compliance with WICWA throughout all stages of interaction with the child welfare system.