

**Children's Court Improvement Program
WICWA Continuous Quality Improvement Data
from the Reviews Conducted in 2013-2014**

Introduction

The Wisconsin Indian Child Welfare Act (WICWA) Continuous Quality Improvement project, through the Children's Court Improvement Program (CCIP) is designed to improve adherence to WICWA requirements in the circuit court system, including use of qualified expert witnesses, providing notice, documentation of active efforts, and compliance with placement preferences in child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), termination of parental rights (TPR), guardianship, and adoption cases. In addition, the project aims to increase collaboration and cooperation among the circuit courts, tribes, county child welfare agencies, attorneys, and other stakeholders.

The achievement of these stated goals is assessed through onsite county reviews. Each onsite review is intended to examine a county's compliance with key provisions of WICWA and identify best practices and areas that need improvement. When schedules permit, staff from CCIP and the Wisconsin Department of Children and Families (DCF) travel in unison to conduct simultaneous WICWA reviews of the same counties.

Data Collection

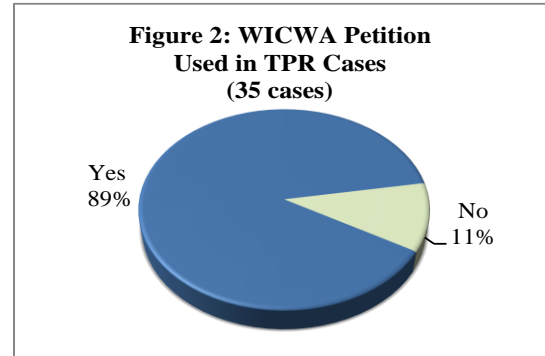
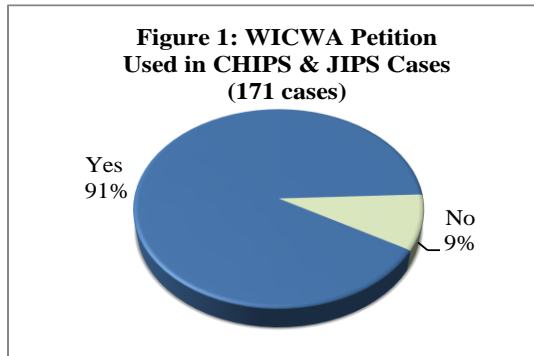
- 1. Court File Review.** In each county reviewed, the case sample consists of CHIPS, JIPS, TPR, guardianship, and adoption circuit court cases that contain documentation that the case is subject to WICWA. The case must be filed within the last three years from the onsite review. In situations where a sibling group is involved, a maximum of two sibling cases will be reviewed.
- 2. Focus Groups.** Each focus group includes questions to assess WICWA compliance and to learn more about the relationships between the tribes and other child welfare stakeholders. Focus groups are typically conducted with the following individuals: circuit court judicial officers, tribal representatives, county child welfare agency staff, and attorneys.
- 3. Surveys.** Written surveys are completed by individuals who are unable to attend the focus group in person or in situations where focus groups are not feasible. The survey covers key questions from the applicable focus group. An online survey tool (e.g., SurveyMonkey) may be used to collect the responses from participants.

Results

In May 2013 – November 2014, CCIP staff conducted onsite reviews for the WICWA Continuous Quality Improvement project in eight counties: Shawano County, Milwaukee County, Bayfield County, Jackson County, Forest County, Brown County, Vilas County and Burnett County. The information below compiles the findings from the court file reviews, focus groups, and surveys that occurred as part of these eight onsite reviews. A total of 178 CHIPS cases, 5 JIPS cases, 35 TPR cases, 32 guardianship cases, and 18 adoption cases were reviewed. A total of 143 individuals completed online surveys in Milwaukee County and 49 focus groups were conducted in the other seven counties.

1. Identification of Indian Children

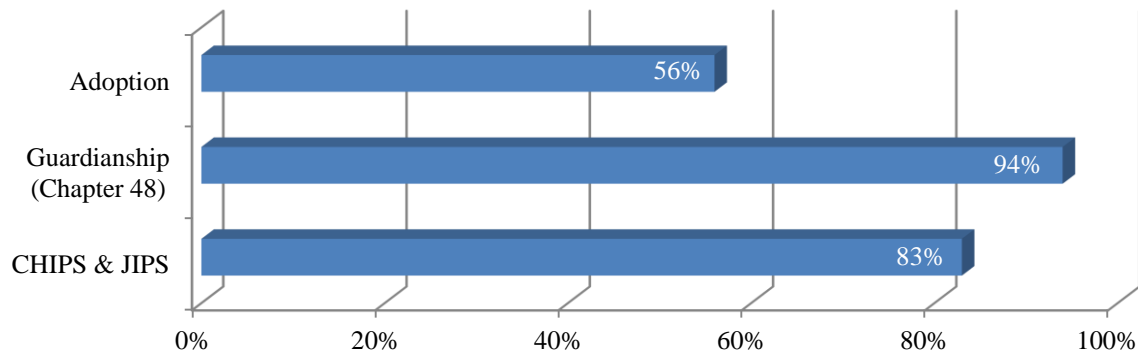
- The county agency generally made appropriate efforts to identify whether WICWA applies in a case early in the process, either at the time that a report of abuse or neglect is made or during the initial investigation by the agency.
- With the exception of one county, the WICWA version of the petition was routinely used for CHIPS, JIPS, and TPR cases.



2. Placement Preferences

- Placement preferences were typically followed in seven of the counties. In the other county, compliance with placement preferences was identified as an area that needs improvement.
- In six counties, it was reported that the county agency works closely with the child's tribe to identify relatives and place the child in accordance with placement preferences.
- Two counties failed to document placement preferences on any of the adoption orders.
- Lack of tribal and Indian foster homes was reported in all eight counties. Other challenges include: difficulty obtaining list of relatives from enrollment office without a release, limited efforts to locate the child's father and paternal relatives, and unfamiliarity with the order of preference established by the tribe.

Figure 3: Percentage of Cases where Placement Preferences or Good Cause to Depart Documented on Order¹



¹ Data for Figure 3 is as follows: 97/117 CHIPS and JIPS, 16/17 Chapter 48 guardianship, and 10/18 adoption cases.

3. Initial Notice²

- In the majority of CHIPS and JIPS cases, initial notice was sent to the tribe and parents through registered mail.
- Notice was provided to the tribe at least 10 days before the first hearing in:
 - 76% of the CHIPS and JIPS cases.
 - 97% of the TPR cases.
 - 84% of the guardianship cases.
- Areas in need of improvement include: providing notice to the parents through registered mail in TPR cases, overcoming obstacles associated with sending registered mail to correctional facilities, consistently filing return receipts with the court, clearly identifying who is responsible for sending the initial notice, and providing registered mail notice in guardianship cases.

Figure 4: Initial Notice to Parents and Tribe in CHIPS & JIPS Cases

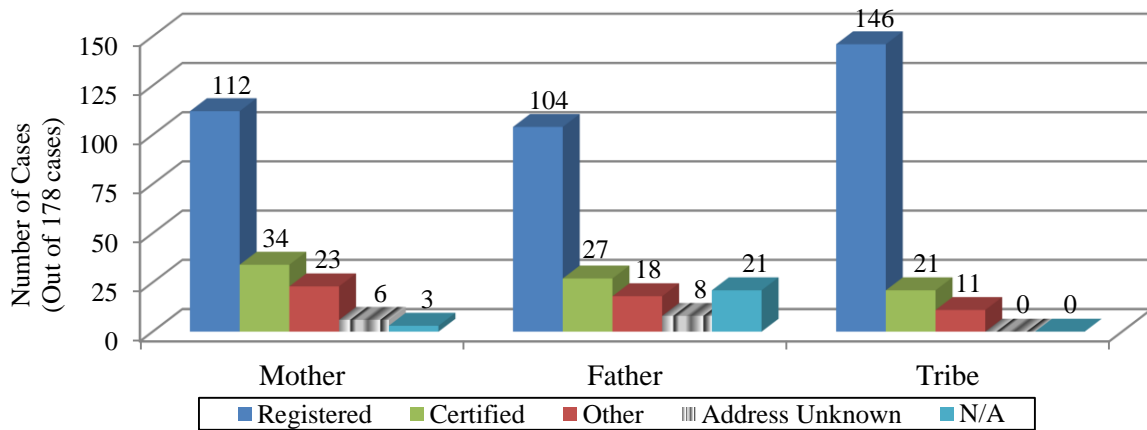
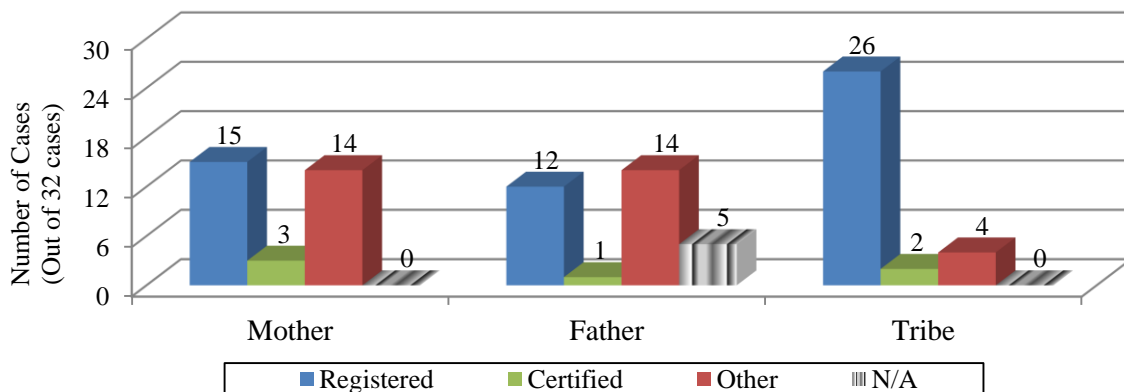
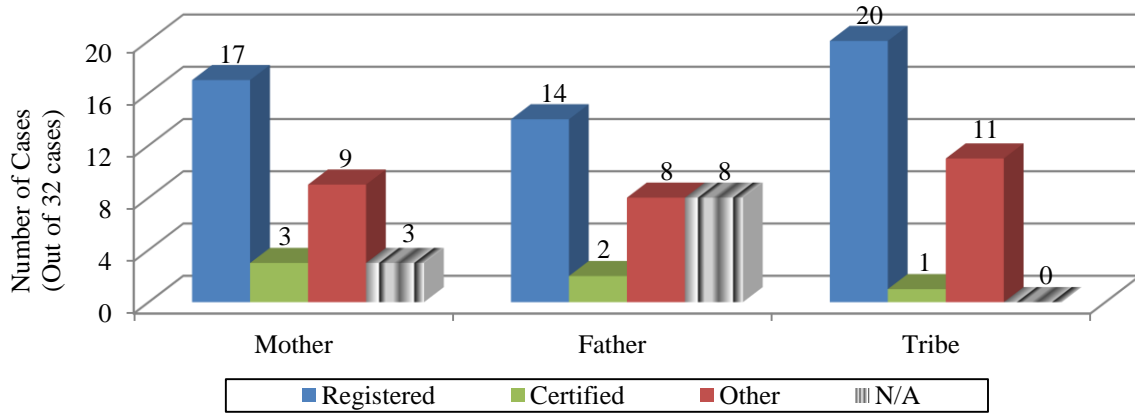


Figure 5: Initial Notice to Parents and Tribe in Involuntary TPR Cases



² WICWA requires that initial notice be sent by registered mail with return receipt requested. It is unclear whether, if challenged, providing notice by either certified mail or personal service would result in invalidation of the action under Wis. Stat. § 48.028(6).

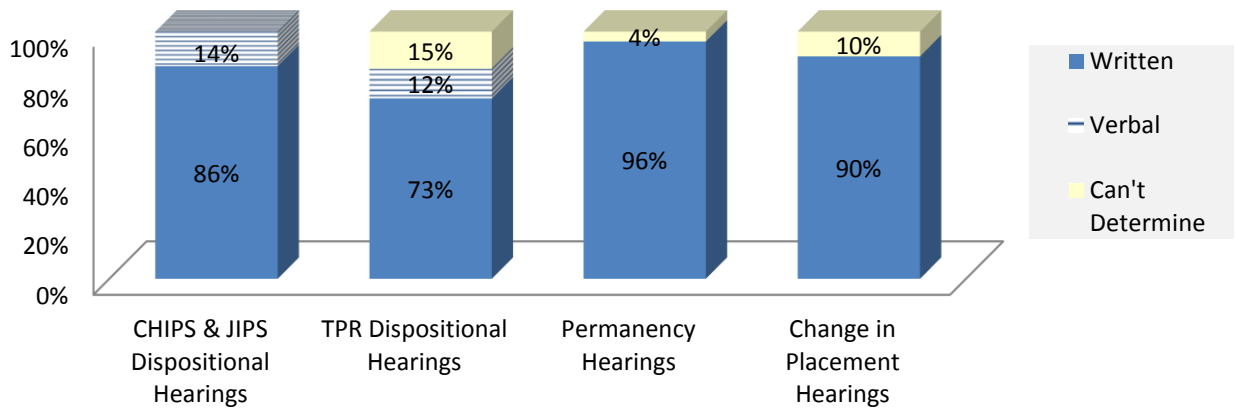
Figure 6: Initial Notice to Parents and Tribe in Guardianship Cases



4. Notice of Subsequent Hearings

- Notice of subsequent hearings was generally provided to the tribe in writing as required by WICWA. However, written notice was not provided for a significant number of the TPR dispositional hearings in the cases that were reviewed.

Figure 7: Subsequent Notice to the Tribe³



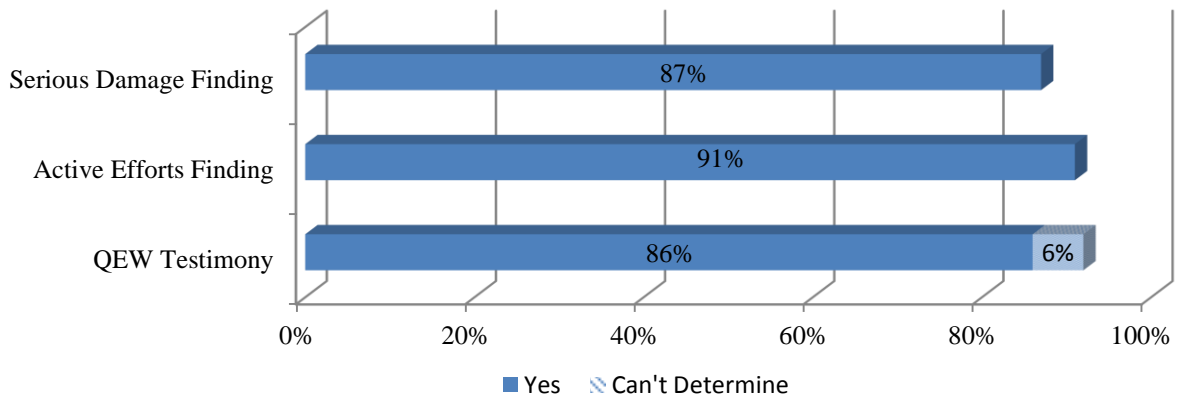
5. Court Findings and QEW Testimony

- The serious damage and active efforts findings were regularly made by the court and qualified expert witness (QEW) testimony was provided in the CHIPS, JIPS, and TPR cases, but not in the Chapter 54 guardianship cases.
- Frequently, the information provided on the order for the active efforts finding was not detailed or did not specifically address the activities required for “active efforts” under WICWA.⁴

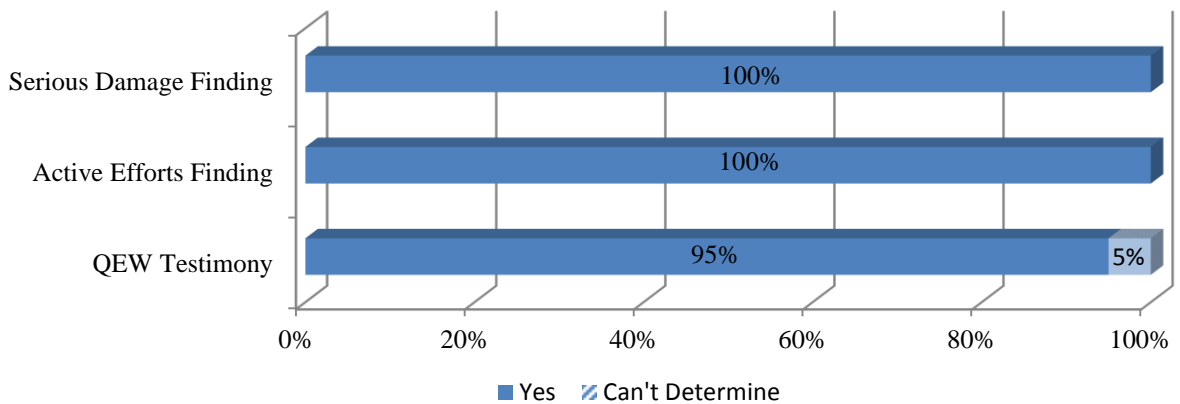
³ For Figure 7, there were a total of: 140 CHIPS and JIPS Dispositional Hearings, 26 TPR Dispositional Hearings, 97 Permanency Hearings, and 29 Change in Placement Hearings.

⁴ See Wis. Stat. §§ 48.028(4)(g) and 938.028(4)(f).

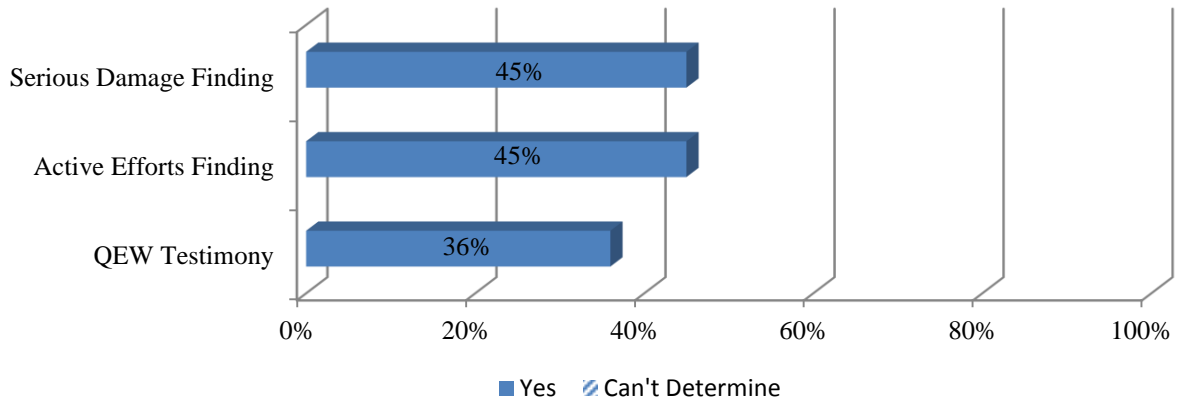
**Figure 8: Serious Damage, Active Efforts, and QEW Testimony
CHIPS and JIPS Case Sample (121 cases)⁵**



**Figure 9: Serious Damage, Active Efforts, and QEW Testimony
TPR Case Sample (19 cases)**



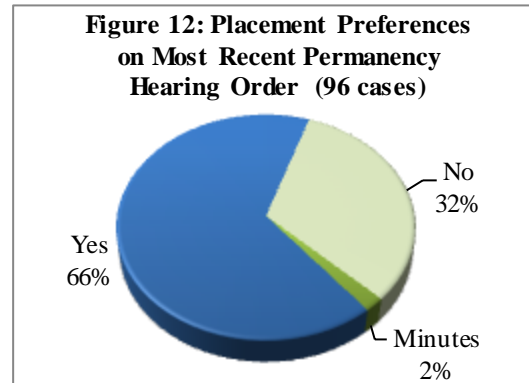
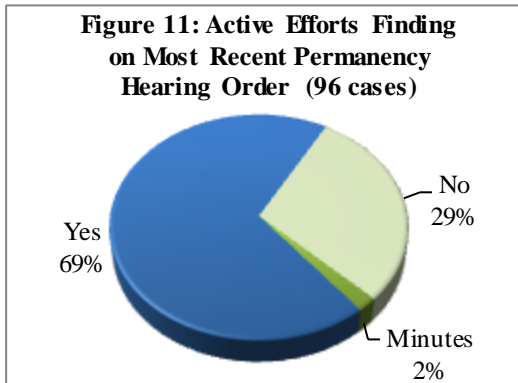
**Figure 10: Serious Damage, Active Efforts, and QEW Testimony
Chapter 54 Guardianship Case Sample (11 cases)**



⁵ “Can’t Determine” represents those instances where a representative from the tribe was present in court but there was no indication in the court file that this individual testified or provided information related to the serious damage finding.

6. Permanency Hearings

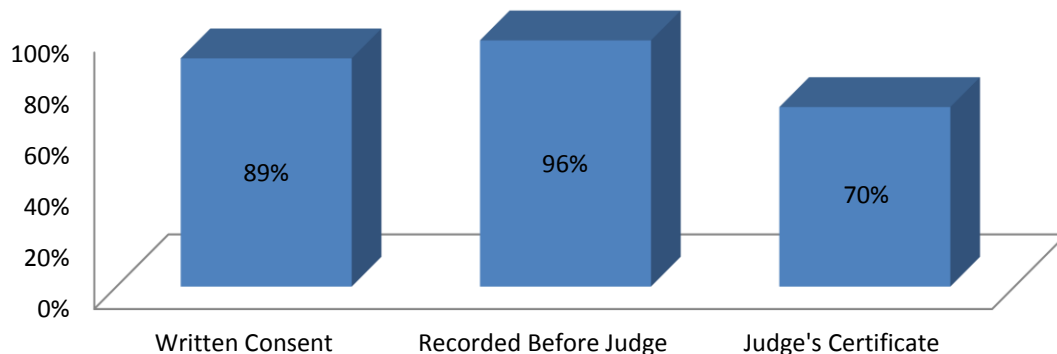
- In five of the counties, the Permanency Hearing Orders regularly contained documentation regarding the active efforts finding and placement preferences pursuant to WICWA.
- In the majority of cases where this information was not included on the Permanency Hearing Order, the WICWA version of the order was not used.



7. Voluntary Consent

- Almost all of the parental consents in the voluntary TPR cases were in writing and recorded before a judge. However, the consent did not contain the judge's certificate as required by WICWA in several instances, usually because form IW-1637 was not used.

Figure 13: Voluntary Consent in TPR Cases (27 consents)



8. Tribal Participation in Court

- Tribal representatives were typically treated with respect and given an opportunity to participate at hearings in circuit court.
- In six counties, the relationship between the circuit court and tribe was noted as a strength. Some of the activities that contributed to this positive relationship included: the circuit court conducting hearings at tribal court, tribal participation in circuit court initiatives, and the circuit court promoting tribal sovereignty.

- Parent representation was addressed differently in the counties reviewed: parents were directed to the State Public Defender's Office in five counties, parents were automatically appointed counsel in one county, parents were advised of their right to counsel in one county, and no procedure was in place in the other county.

9. Tribal Collaboration with the County Agency

- The county child welfare agency and tribe had a close working relationship in five of the counties, where there was effective coordination, collaboration, and communication.
- In one county, the Administrative Permanency Review Panels included tribal members and the panels were conducted at a tribal office.
- Improvement areas related to tribal-county collaboration include: meeting on a regular basis, developing joint case plans, tribal staff having the capability to enter information into eWiSACWIS, and working together to identify culturally appropriate services.

10. Other Findings

- Participants recommended multi-disciplinary training in the following areas: active efforts (four counties), practical applications of WICWA, tribal culture, and differences between tribal and state child welfare standards, policies, and laws.
- Services offered through the tribes were noted as being beneficial to Indian children and their parents, such as alcohol and drug treatment, counseling, emergency supplies, and parent education.
- It was reported that the following services are lacking or difficult to access: transportation to services and family interaction, visitation center or supervised visitation program, housing, mental health services for children, inpatient alcohol and drug treatment, and in-home family services.