

2025 WISCONSIN EQUAL JUSTICE CONFERENCE

July 31 – August 1, 2025

Thursday, July 31, 2025

- 8:30 a.m. Social Security Disability Overview – Part 1**
- Primary types
 - The “Five Steps”
 - Claim process
- Dana W. Duncan, Duncan Disability Law, S.C., Nekoosa*
- 9:20 a.m. Representing Trans Clients**
- Monika August Allis, Legal Aid Society of Milwaukee, Milwaukee*
- Evan F. McCarthy, Legal Action of Wisconsin, Inc., Milwaukee*
- 10:25 a.m. Break**
- 10:40 a.m. SPD: Civil Commitments**
- Solomon H. Gatton, Wisconsin State Public Defender’s Office, Sheboygan*
- 11:40 a.m. Immigration Spectrum: Issues in Representing Minors, Survivors and Defendants**
- Kate Frigo Drury, Kate Drury Law LLC, Waupaca*
- Amanda K. Gennerman, Pines Bach LLP, Madison*
- Natalia A. Lucak, Community Immigration Law Center, Madison*
- 12:40 p.m. Thursday Program Concludes**

Friday, August 1, 2025

- 8:30 a.m. Social Security Disability Overview – Part 2**
- Completing an application
 - Supporting forms
 - Appeals
 - Continuing Disability Reviews
- Dana W. Duncan, Duncan Disability Law, S.C., Nekoosa*
- 9:30 a.m. Trans Rights: Name and Gender Marker Changes**
- Monika August Allis, Legal Aid Society of Milwaukee, Milwaukee*
- Kylan F. Bartel, Legal Action of Wisconsin, Inc., Madison*
- Evan F. McCarthy, Legal Action of Wisconsin, Inc., Milwaukee*
- 10:25 a.m. Break**
- 10:40 a.m. Decolonizing Delinquencies in Wisconsin’s Juvenile Legal System**
- Alaina K. Fahley, Wisconsin State Public Defender’s Office, Appleton*
- Breanna K. Magallones, Wisconsin State Public Defender’s Office, Rhinelander*
- 11:40 a.m. Immigration Bond: Preparing for and Representing Detained Immigrants**
- Aissa I. Olivarez, Olivarez Law Firm LLC, Madison*
- 12:40 p.m. Friday Program Concludes**

Organized by: **State Bar of Wisconsin Legal Assistance Committee**



STATE BAR OF WISCONSIN

ABOUT THE PRESENTERS

Monika August Allis

Legal Aid Society of Milwaukee
Milwaukee

Monika August Allis is an attorney, advocate, and educator currently practicing Child Welfare Law as a guardian ad litem in Milwaukee County. She has a master's degree in social work and served as a case manager for the Division of Milwaukee Child Protective Services for 7 years before entering law school. Monika has been a passionate advocate for LGBTQ justice for over 20 years. She is the owner of Allis Consulting LLC and has delivered social justice-focused trainings across the country.

Kylan F. Bartel

Legal Action of Wisconsin, Inc.
Madison

Kylan F. Bartel is a law clerk with Legal Action of Wisconsin. He received a B.A. in Sociology from the University of Chicago in 2025. Following his internship with Legal Action of Wisconsin, Kylan plans to work for a legal nonprofit and later attend law school to pursue a career in public interest law.

Kate Frigo Drury

Kate Drury Law LLC
Waupaca

Kate Drury is a lawyer focused on the intersection of criminal defense and immigration, providing holistic representation to noncitizen clients. She represents individuals in detained removal cases in federal immigration court through her work at the Community Immigration Law Center in Madison. She also owns Kate Drury Law, LLC, a statewide criminal defense firm based in Waupaca.

Previously, Kate spent 13 years with the Wisconsin State Public Defender's Office, where she held multiple roles including staff attorney, regional manager, and immigration practice coordinator. She has extensive experience in providing *Padilla* advisals to attorneys and, as a litigator, has tried over 30 cases to verdict. In 2024, she was named one of *Wisconsin Lawyer*[™] magazine's Women to Watch.

Dana W. Duncan

Duncan Disability Law, S.C.
Nekoosa

Dana W. Duncan is the President of Duncan Disability Law, S.C., a firm he established in 2011, which focuses primarily on Social Security disability law. A cum laude graduate of Beloit College, Dana earned his Juris Doctor from Marquette University Law School. He is an active member of several national legal organizations, including the National Organization of Social Security Claimants' Representatives (NOSSCR), the National Association of Disability Representatives (NADR), and Advocates, Counselors & Representatives for the Disabled (ACRD). He also serves as Chair of the Social Security Section of the Federal Bar Association.

Alaina K. Fahley

Wisconsin State Public
Defender's Office
Appleton

Alaina Fahley has served with the Wisconsin State Public Defender's Office since 2013. Based in the Appleton trial office, she serves youth and parents in counties throughout Northeastern Wisconsin, with a focus on youth defense and CHIPS and TPR litigation. Alaina earned both her B.A. in Social Welfare and Justice and her J.D. from Marquette University. She regularly trains attorneys statewide, has presented at major legal conferences, and authored articles on child welfare issues. Alaina is a 2024 Ambassador for Racial Justice through the Gault Center and Georgetown Juvenile Justice Initiative and has served as an editor of the State Bar of Wisconsin PINNACLE[®] Juvenile Law Handbook.

Solomon H. Gatton

Wisconsin State Public
Defender's Office
Sheboygan

Solomon Gatton is an Assistant Public Defender practicing out of the Sheboygan Trial Office. He is one of two Mental Health Practice Coordinators for the Wisconsin Public Defender Agency. Solomon has extensive experience handling predominantly mental health cases, including competency, NGI, Chapter 51 Commitments, and Chapter 54/55 Guardianship and Protective Placement. Solomon takes a holistic approach and is attuned to the challenges faced by clients and defense attorneys in these matters.

Continued →

ABOUT THE PRESENTERS

Amanda K. Gennerman

Pines Bach LLP
Madison

Amanda K. Gennerman has practiced immigration law exclusively since 2004. Before joining Pines Bach, LLP as a Partner, she founded Gennerman Law Group in Madison, Wisconsin. Amanda's practice focuses on multiple areas of immigration law, including family-based petitions, consular processing, humanitarian petitions, naturalization, and removal defense. She is a co-founder, board member, and volunteer of the Community Immigration Law Center (CILC) in Madison. In 2023, she co-founded Project Immigration Justice for Palestinians.

She frequently presents on immigration topics, including at the AILA Annual Conference and State Bar of Wisconsin events. Her writing appears in the U Visa Manual by the Immigrant Legal Resource Center. Amanda has received multiple honors, including Wisconsin Rising Star Attorney and the WI/AILA Pro Bono Champion award. She is a member of ASISTA and AILA, currently serving as Treasurer of the WI/AILA Chapter.

Natalia A. Lucak

Community Immigration Law
Center
Madison

Natalia Lucak is a Supervising Attorney at the Community Immigration Law Center based in Madison, Wisconsin. She received her undergraduate degree in European History from Barnard College and her law degree from the University of Maryland Francis King Carey School of Law. Over the last twelve years, Natalia has worked as an immigration attorney at non-profit organizations that provide direct legal services to immigrants in New York, New York, and Madison, Wisconsin. She is a member of the American Immigration Lawyers Association and the State Bars of New York, New Jersey, and Wisconsin.

Breanna K. Magallones

Wisconsin State Public
Defender's Office
Rhineland

Breanna Magallones is an Assistant State Public Defender in the Rhineland Office. She graduated from Grand Valley State University and attended the University of Wisconsin-Madison for law school. Following law school, she practiced civil litigation at Burnes and Libman in Chicago before transitioning to criminal defense in northern Wisconsin.

Evan F. McCarthy

Legal Action of Wisconsin, Inc.
Milwaukee

Evan F. McCarthy is an attorney with Legal Action of Wisconsin's Student Legal Aid Project. He received his undergraduate degree in Political Science and his law degree from the University of Iowa, and he has practiced in Wisconsin since 2019. He has served on the State Bar of Wisconsin's Public Interest Law Section Board since 2023 and is also a member of both the Milwaukee County Bar Association and the State Bar of Wisconsin.

Aissa I. Olivarez

Olivarez Law Firm LLC
Madison

Aissa Olivarez is the Legal Director at the Community Immigration Law Center (CILC) and a Junior Partner at Eastbridge Law Group LLP. She earned her B.A. in Government from the University of Texas at Austin and her J.D. from the University of Wisconsin Law School in 2016. Before joining CILC, she represented unaccompanied minors in removal proceedings at ProBAR in Harlingen, Texas.

During law school, Aissa participated in the Immigrant Justice Clinic and the Defenders Project, was an active leader in the Student Bar Association, and served as president of the Latinx Law Student Association. She earned multiple awards including the Barbara B. Crabb Prize and the Children's Justice Project Fellowship. She received the 2019 Ilda C. Thomas Award from Centro Hispano and was named one of Wisconsin's Most Influential Latinos in 2021.

DAY TWO

DEVELOPING A STRATEGY TO WIN, AND

CONTINUOUS DISABILITY REVIEWS

- **THE MEDICAL VOCATIONAL GUIDELINES**
- **THE EXERTIONAL REQUIREMENTS**
- **THE INITIAL FORMS**
- **WHAT YOU NEED TO WIN**
- **WHAT IS A CDR?**

The Medical-Vocational Guidelines – the Grids.

Understanding How Age, Education, and Work Experience Affect Disability Decisions

When someone applies for Social Security Disability benefits, their case is looked at using a set of rules that consider age, education, work experience, and what kind of work they're still able to do (called their **Residual Functional Capacity**, or **RFC**). These rules are known as the **Medical-Vocational Guidelines**, or "grid rules."

Here's a simplified breakdown of how these factors work together to determine if a person is found **disabled**:

Ages 60 and Over

- **Very limited education (6th grade or less) and unskilled work** → Can still do **medium work** → **Disabled**
- **Some schooling (7th–11th grade) and unskilled work** → Can do **light work** → **Disabled**
- **No past work experience and less than 12th grade education** → Can do **medium work** → **Disabled**
- **Skilled or semi-skilled work** but skills **don't transfer**, and less than 12th grade education → Can do **light work** → **Disabled**
- **High school or more**, but no access to skilled jobs and **no past skilled work** → Can do **light work** → **Disabled**
- **High school or more**, and past work was **skilled/semi-skilled**, but skills **don't transfer** → Can do **light work** → **Disabled**

Ages 55–59

- **No past work and less than 12th grade education** → Can do **medium work** → **Disabled**
- **Unskilled work and less than 12th grade education** → Can do **light work** → **Disabled**
- **Skilled or semi-skilled work**, but **skills don't transfer** → Can do **light work** → **Disabled**
- **High school or more**, with **no skilled job access** → Can do **light work** → **Disabled**

- **High school or more**, but **skills don't transfer** → Can do **light work** → **Disabled**
-

Ages 50-54

- **Can't read or speak English**, and past work was **unskilled or none** → Can do **light work** → **Disabled**
 - **Less than 12th grade**, but **can read and speak English** and had **unskilled or no work** → Can do **sedentary work** → **Disabled**
 - **High school or more**, no access to skilled jobs, and no skilled past work → **Sedentary work** → **Disabled**
 - **High school or more**, and past skilled/semi-skilled work doesn't transfer → **Sedentary work** → **Disabled**
-

Ages 45-49

- **Can't read or speak English**, and past work was **unskilled or none** → **Sedentary work** → **Disabled**
 - **Any education**, can **read and speak English**, and past work was **unskilled or not transferable** → **May be disabled** if the job base is very limited
-

Ages 18-44

- No matter the education level—even if unable to read or speak English—if the person can only do **sedentary work** and can't transfer skills from past jobs → **May be disabled** only if job options are **very limited**

Understanding Physical Work Levels in Social Security Disability

When Social Security looks at whether someone is disabled, it often considers the **type of physical work** the person can still do. These work types are referred to as "exertional levels," and the three main categories are: **medium work**, **light work**, and **sedentary work**. Here's what each one means:

Medium Work – More Movement and Lifting

Medium work means a person can:

- Lift up to **50 pounds at once**
- Frequently lift or carry things that weigh **up to 25 pounds**
- Stand or walk on and off for **about 6 hours in an 8-hour workday**

Although some sitting is allowed, individuals performing medium work are typically on their feet for **most of the day**. These jobs often involve **bending**, especially at the waist (known as stooping), and using the arms and hands to grasp or manipulate objects. Being flexible in the knees and back is helpful. Jobs like bus driving or tank-truck driving may count as medium work, even though they're mostly done while sitting, because they require strength to control the vehicle.

Light Work – Less Weight, Still Active

Light work is a step down from medium work. It involves:

- Lifting **up to 20 pounds at a time**
- Frequently lifting or carrying **up to 10 pounds**
- Standing or walking on and off for about **6 hours out of an 8-hour day**

Even if a light job doesn't involve much lifting, it may still count as light work if it requires **a lot of standing or walking**. Some jobs allow sitting most of the time but need **extra effort** to operate machines or controls—like sewing machine operators or road-roller drivers.

Most unskilled light jobs don't let people sit all day. These jobs often require **grasping and turning objects** but not delicate finger work like typing.

Sedentary Work – Mostly Sitting

Sedentary work is the least physically demanding. It means:

- Lifting **no more than 10 pounds**
- Occasionally carrying things like files or small tools
- Sitting **for about 6 hours** and standing/walking **for no more than 2 hours** in an 8-hour workday

These jobs don't involve much bending or moving around, but they often require **good hand and finger skills**, like filing papers or typing. "Occasionally" means up to **one-third of the workday**.

What If You Can't Do Even Sedentary Work?

If you're **under 50**, proving disability can be tough. The rules say people that age need to show they can't do even a **full range of sedentary work**.

This means you may need to show:

- You can't sit for long periods (6 hours a day)
- You can't do fine hand movements with both hands
- You need to **switch between sitting and standing**

This situation is called having a **"residual functional capacity" (RFC) for less than sedentary work**. If you can only sit or stand for short periods, or you can't use your hands well, you may still qualify as disabled—even if you're young and have a high school education.

For example, someone who used to operate machines but now has trouble using both hands might still be found disabled if they can't meet the demands of sedentary jobs. Most of those jobs **require good use of both hands**, and if you can't do that, the number of jobs available to you may be too small to count.

However, Social Security might still try to argue that **some jobs exist** despite your limits. That's when **vocational experts** (specialists who testify about what jobs people can do) get involved. Your lawyer may need to challenge their testimony to show that you really can't do any jobs that exist in "**significant numbers.**"

Key Takeaways for People Under Age 50

- You need to prove you can't do **light or sedentary work**.
- Focus on how your limitations reduce the number of jobs you can do.
- Common issues include not being able to **sit long enough** or needing to **alternate between sitting and standing**.
- These cases can be harder, but **not impossible**, to win.

Want more help? See the sections on how to build a strong case for younger claimants and how to handle vocational expert testimony.

Building your strategy

- a. 56-year-old, degenerative disc disease, depression with medication, history of a borderline personality disorder. Past relevant work as a carpenter.
- b. 38-year-old, bipolar disorder, post-traumatic stress disorder, fibromyalgia. Past relevant work as a cashier in a convenience store.

The Forms to be Submitted.

- The Adult Function Report
- The Adult Function Report – 3rd Party
- The Work History Report

Continuing Disability Reviews – CDRs

What Is Medical Improvement?

Medical improvement means your health condition has gotten better. More specifically, it's when the **severity of your medical condition has decreased**—based on actual changes in your symptoms, test results, or what doctors observe during exams.

Social Security will only look at the medical problems you had when they last decided you were disabled. **New conditions that came up later** are handled separately and **don't count** when deciding if your original disability has improved.

Even though the adult disability rules don't say the improvement has to be "significant," that's how it works in practice. Social Security doesn't count **minor or temporary changes**—like small improvements that don't really affect your day-to-day functioning.

For example:

- If your test results change slightly but still fall within the normal error range, that's **not real improvement**.
- Losing **less than 10% of your body weight** won't count as medical improvement. But if you lose **10% or more and keep it off for a year**, that might count.

Also, if your condition gets **temporarily better** but it's likely to come back (like in cases of remission), Social Security won't count that as medical improvement either.

How Does Medical Improvement Affect Your Ability to Work?

Once Social Security finds that your condition has improved, they ask: **"Does this improvement mean you can work now?"**

To figure that out, they compare:

- What you were able to do at the time you were first approved (your **old functional capacity**), and
- What you can do now (your **current functional capacity**)—**only based on the same condition you had before.**

This gets tricky. Imagine someone who was originally approved for disability due to back problems. Over time, their back improves a little, but now they've also developed diabetes and arthritis. Social Security will first look **only at the back condition** to see if that has improved enough to change the ability to work. They'll look at the **new conditions later** in the review process.

If there's no record of what you could do before (maybe the file is missing), Social Security will estimate it based on the **highest level of ability that still matched a finding of disability** at the time.

What If You Were Approved Based on a Listing?

Sometimes a person is approved because their condition matched a specific "**Listing of Impairments.**" In those cases:

- If your condition **no longer meets the Listing**, Social Security will **assume that improvement affects your ability to work** and move to the next step.
- But if the Listing has changed or was removed (like in cases involving **obesity**), Social Security will still compare your current condition to the **old Listing** to see if you still meet it. If you do, your disability will continue.

If Social Security finds:

- No improvement, **or**
- Improvement that doesn't affect your ability to work, then your benefits continue.

What Happens If They Find Improvement That Affects Your Work?

If Social Security decides your improvement **does affect your ability to work**, they will then look at:

1. **All of your current medical conditions** (not just the old ones).
2. Whether your current **residual functional capacity (RFC)** allows you to return to your **past relevant work**.
 - "Past relevant work" means jobs you did **in the last 5 years**—but not any job you've done **since you started getting benefits**.
3. If you **can't return to past work**, they'll ask whether you could do **any other work**, based on your **age, education, and skills**.

These last steps are the same ones used when someone first applies for disability.

Why Age and Time Away from Work Matter

Social Security recognizes that it's harder to go back to work after being out of the workforce for a long time—especially as people get older.

According to their rules:

- **Body functions naturally decline with age**—like weaker muscles, stiffer joints, or lower energy.
- The **longer someone hasn't worked**, the **harder it is to return** to regular work.
- **Job skills from over 5 years ago** might not even apply in today's job market.

If you're **50 or older** and have been on disability benefits for **7 years or more**, Social Security will take these things into account when deciding what kind of work you might still be able to do.

One Last Important Point

Social Security warns decision-makers **not to assume** that someone can do a lot more now **unless there's strong medical proof**. Just because someone's condition has slightly improved doesn't mean their overall ability to work has changed. They're not allowed to simply **rethink the old decision**—they can only base it on new, solid evidence.

Medical Improvement & Work Ability: Summary Chart

Topic	What It Means	Key Points
Medical Improvement (MI)	Your condition has gotten better	Must be based on changes in symptoms, signs, or lab results—not just opinions
Minor vs. Significant Changes	Small changes don't count	SSA ignores minor changes (like weight loss <10% or small test result shifts)
Temporary Improvements	Short-term improvement doesn't count	SSA ignores temporary remission or improvement that isn't expected to last
What SSA Compares	Then vs. now	SSA compares your current abilities to what you could do when you were first approved, but only for the same original condition
Missing Past RFC	What if no record exists?	SSA will estimate the highest RFC that still would've supported disability
If Originally Approved by Listing	Special rules apply	If condition no longer meets the same Listing, SSA assumes MI is related to work
New Conditions	Handled separately	SSA looks at new impairments later in the process , not when judging MI
Next Step After MI Found	Can you work now?	SSA looks at: 1) current RFC, 2) past jobs (last 15 years), 3) other jobs based on age, skills, education
Jobs Counted as Past Work	Must be before disability started	Jobs during the current disability period don't count as past work
Age & Time on Benefits	Impacts work ability	Over age 50 + 7+ years on benefits = SSA considers how aging/inactivity affect ability to work
Final Rule for Decision-Makers	Don't overestimate improvement	SSA cannot assume someone can now work without clear medical evidence of big changes

FUNCTION REPORT - ADULT

READ ALL OF THIS INFORMATION BEFORE YOU BEGIN COMPLETING THIS FORM

IF YOU NEED HELP

If you need help with this form, complete as much of it as you can and call the phone number provided on the letter sent with the form, or contact the person who asked you to complete the form. If you need the address or phone number for the office that provided the form, you can get it by calling Social Security at 1-800-772-1213.

HOW TO COMPLETE THIS FORM

The information that you give us on this form will be used by the office that makes the disability decision on your disability claim. You can help them by completing as much of the form as you can.

It is important that you tell us about your activities and abilities.

- Print or type.
- **DO NOT LEAVE ANSWERS BLANK.** If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."
- Do not ask a doctor or hospital to complete this form.
- Be sure to explain an answer if the question asks for an explanation, or if you think you need to explain an answer.
- If more space is needed to answer any questions, use the "REMARKS" section on Page 10, and show the number of the question being answered.
- If a specific activity is performed with the help of others, please indicate that.

**REMEMBER TO GIVE US THE NAME AND ADDRESS OF THE PERSON
COMPLETING THIS FORM ON PAGE 10**

Function Report - Adult - Form SSA-3373-BK

Privacy Act Statements
Collection and Use of Personal Information

Sections 205(a), 223(d), and 1631 of the Social Security Act, as amended, allow us to collect this information. Furnishing us this information is voluntary. However, failing to provide all or part of the information may prevent an accurate and timely decision on any claim filed.

We will use the information you provide to determine benefits eligibility. We may also share the information for the following purposes, called routine uses:

- To third party contacts (e.g., employers and private pension plans) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his or her benefits or payments, or his or her eligibility for entitlement to benefits or eligibility for payments, under the Social Security program; and
- To contractors and other Federal agencies, as necessary, for the purpose of assisting the Social Security Administration (SSA) in the efficient administration of its programs. We will disclose information under this routine use only in situations in which we may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system record.

In addition, we may share this information in accordance with the Privacy Act and other Federal laws. For example, where authorized, we may use and disclose this information in computer matching programs, in which our records are compared with other records to establish or verify a person's eligibility for Federal benefit programs and for repayment of incorrect or delinquent debts under these programs.

A list of additional routine uses is available in our Privacy Act System of Records Notices (SORN) 60-0089, entitled Claims Folders System, as published in the Federal Register (FR) on October 31, 2019, at 84 FR 58422, and 60-0320, entitled Electronic Disability Claim File, as published in the FR on June 6, 2020 at 85 FR 34477. Additional information, and a full listing of all of our SORNs, is available on our website at www.ssa.gov/privacy.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 61 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE.** You can find your local Social Security office through SSA's website at www.socialsecurity.gov. Offices are also listed under U. S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213 (TTY 1-800-325-0778). *You may send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden to: SSA, 6401 Security Blvd, Baltimore, MD 21235-6401. **Send only comments relating to our time estimate or other aspects of this collection to this address, not the completed form.***

**PLEASE REMOVE THIS SHEET BEFORE RETURNING
THE COMPLETED FORM.**

FUNCTION REPORT - ADULT

How your illnesses, injuries, or conditions limit your activities

For SSA Use Only

Do not write in this box.

Anyone who makes or causes to be made a false statement or representation of material fact for use in determining a payment under the Social Security Act, or knowingly conceals or fails to disclose an event with an intent to affect an initial or continued right to payment, commits a crime punishable under Federal law by fine, imprisonment, or both, and may be subject to administrative sanctions.

SECTION A - GENERAL INFORMATION

1. **NAME OF DISABLED PERSON** (First, Middle Initial, Last)

2. **SOCIAL SECURITY NUMBER**

3. **YOUR DAYTIME TELEPHONE NUMBER** (If there is no telephone number where you can be reached, please give us a daytime number where we can leave a message for you.)

Area Code Phone Number

☐ Your Number

☐ Message Number

☐ None

4. a. Where do you live? (Check one.)

☐ House

☐ Apartment

☐ Boarding House

☐ Nursing Home

☐ Shelter

☐ Group Home

☐ Other (What?)

b. With whom do you live? (Check one.)

☐ Alone

☐ With Family

☐ With Friends

☐ Other (Describe relationship.)

SECTION B - INFORMATION ABOUT YOUR ILLNESSES, INJURIES, OR CONDITIONS

5. How do your illnesses, injuries, or conditions limit your ability to work?

SECTION C - INFORMATION ABOUT DAILY ACTIVITIES

6. Describe what you do from the time you wake up until going to bed.

7. Do you take care of anyone else such as a wife/husband, children, grandchildren, parents, friend, other?

☐ Yes☐ No

If "YES," for whom do you care, and what do you do for them?

8. Do you take care of pets or other animals?

☐ Yes☐ No

If "YES," what do you do for them?

9. Does anyone help you care for other people or animals?

☐ Yes☐ No

If "YES," who helps, and what do they do to help?

10. What were you able to do before your illnesses, injuries, or conditions that you can't do now?

11. Do the illnesses, injuries, or conditions affect your sleep?

☐ Yes☐ No

If "YES," how?

12. **PERSONAL CARE** (Check here ☐ if **NO PROBLEM** with personal care.)

a. Explain how your illnesses, injuries, or conditions affect your ability to:

Dress

Bathe

Care for hair

Shave

Feed self

Use the toilet

Other

- b. Do you need any special reminders to take care of personal needs and grooming?

☐ Yes☐ No

If "YES," what type of help or reminders are needed?

- c. Do you need help or reminders taking medicine?

☐ Yes☐ No

If "YES," what kind of help do you need?

13. MEALS

- a. Do you prepare your own meals?

☐ Yes☐ No

If "Yes," what kind of food do you prepare? (For example, sandwiches, frozen dinners, or complete meals with several courses.)

How often do you prepare food or meals? (For example, daily, weekly, monthly.)

How long does it take you?

Any changes in cooking habits since the illness, injuries, or conditions began?

- b. If "No," explain why you cannot or do not prepare meals.

14. HOUSE AND YARD WORK

- a. List household chores, both indoors and outdoors, that you are able to do. (For example, cleaning, laundry, household repairs, ironing, mowing, etc.)

- b. How much time does it take you, and how often do you do each of these things?

- c. Do you need help or encouragement doing these things?

☐ Yes☐ No

If "YES," what help is needed?

- d. If you don't do house or yard work, explain why not.

15. GETTING AROUND

a. How often do you go outside? _____

If you don't go out at all, explain why not.

_____b. When going out, how do you travel? *(Check all that apply.)*☐ Walk☐ Drive a car☐ Ride in a car☐ Ride a bicycle☐ Use public transportation☐ Other *(Explain)* _____☐ Yes☐ No

c. When going out, can you go out alone?

If "NO," explain why you can't go out alone.

_____☐ Yes☐ No

d. Do you drive?

If you don't drive, explain why not.

_____**16. SHOPPING**a. If you do any shopping, do you shop: *(Check all that apply.)*☐ In stores☐ By phone☐ By mail☐ By computerb. Describe what you shop for.

_____c. How often do you shop and how long does it take?

_____**17. MONEY**

a. Are you able to:

Pay bills

☐ Yes☐ No

Handle a savings account

☐ Yes☐ No

Count change

☐ Yes☐ No

Use a checkbook/money orders

☐ Yes☐ NoExplain all "NO" answers.

b. Has your ability to handle money changed since the illnesses, injuries, or conditions began?

☐ Yes☐ NoIf "YES," explain how the ability to handle money has changed.

18. HOBBIES AND INTERESTS

a. What are your hobbies and interests? (For example, reading, watching TV, sewing, playing sports, etc.)

b. How often and how well do you do these things?

c. Describe any changes in these activities since the illnesses, injuries, or conditions began.

19. SOCIAL ACTIVITIES

a. How do you spend time with others? (Check all that apply.)

☐ In person ☐ On the phone ☐ Email ☐ Texting ☐ Mail
☐ Video Chat (for example Skype or Facetime) ☐ Other (Explain) _____

b. Describe the kinds of things you do with others.

How often do you do these things? _____

c. List the places you go on a regular basis. (For example, church, community center, sports events, social groups, etc.)

Do you need to be reminded to go places?

☐ Yes ☐ No

How often do you go and how much do you take part?

Do you need someone to accompany you?

☐ Yes ☐ No

If "YES", explain.

d. Do you have any problems getting along with family, friends, neighbors, or others?

☐ Yes ☐ No

If "YES," explain.

e. Describe any changes in social activities since the illnesses, injuries, or conditions began.

SECTION D - INFORMATION ABOUT ABILITIES

20. a. Check any of the following items that your illnesses, injuries, or conditions affect:

- | | | | |
|------------------------------------|-----------------------------------|---|--|
| <input type="checkbox"/> Lifting | <input type="checkbox"/> Walking | <input type="checkbox"/> Stair Climbing | <input type="checkbox"/> Understanding |
| <input type="checkbox"/> Squatting | <input type="checkbox"/> Sitting | <input type="checkbox"/> Seeing | <input type="checkbox"/> Following Instructions |
| <input type="checkbox"/> Bending | <input type="checkbox"/> Kneeling | <input type="checkbox"/> Memory | <input type="checkbox"/> Using Hands |
| <input type="checkbox"/> Standing | <input type="checkbox"/> Talking | <input type="checkbox"/> Completing Tasks | <input type="checkbox"/> Getting Along With Others |
| <input type="checkbox"/> Reaching | <input type="checkbox"/> Hearing | <input type="checkbox"/> Concentration | |

Please explain how your illnesses, injuries, or conditions affect each of the items you checked. (For example, you can only lift [how many pounds], or you can only walk [how far])

b. Are you: ☐ Right Handed? ☐ Left Handed?

c. How far can you walk before needing to stop and rest?
If you have to rest, how long before you can resume walking?

d. For how long can you pay attention?

e. Do you finish what you start? (For example, a conversation, chores, reading, watching a movie.)

☐ Yes ☐ No

f. How well do you follow written instructions? (For example, a recipe.)

g. How well do you follow spoken instructions?

h. How well do you get along with authority figures? (For example, police, bosses, landlords or teachers.)

i. Have you ever been fired or laid off from a job because of problems getting along with other people?

☐ Yes ☐ No

If "YES," please explain.

If "YES," please give name of employer.

j. How well do you handle stress?

k. How well do you handle changes in routine?

l. Have you noticed any unusual behavior or fears?

☐ Yes

☐ No

If "YES," please explain.

21. Do you use any of the following? (Check all that apply.)

☐ Crutches

☐ Cane

☐ Hearing Aid

☐ Walker

☐ Brace/Splint

☐ Glasses/Contact Lenses

☐ Wheelchair

☐ Artificial Limb

☐ Artificial Voice Box

☐ Other (Explain)

Which of these were prescribed by a doctor?

When was it prescribed?

When do you need to use these aids?

☐ Yes☐ No☐ Yes☐ No

If "YES," please explain. (Do not list all of the medicines that you take. List only the medicines that cause side effects.)

NAME OF MEDICINE	SIDE EFFECTS YOU HAVE

Use this section for any added information you did not show in earlier parts of this form. When you are done with this section (or if you didn't have anything to add), be sure to complete the fields at the bottom of this page.

page.

Name of person completing this form (Please print)		Date (MM/DD/YYYY)
Address (Number and Street)		Email address (optional)
City	State	ZIP Code

FUNCTION REPORT - ADULT - THIRD PARTY Form SSA-3380-BK

READ ALL OF THIS INFORMATION BEFORE YOU BEGIN COMPLETING THIS FORM

IF YOU NEED HELP

If you need help with this form, complete as much of it as you can and call the phone number provided on the letter sent with the form, or contact the person who asked you to complete the form. If you need the address or phone number for the office that provided the form, you can get it by calling Social Security at 1-800-772-1213 (TTY 1-800-325-0778).

HOW TO COMPLETE THIS FORM

The information that you give on this form will be used to make a decision on the disabled person's claim. You can help by completing as much of the form as you can. When a question refers to the "disabled person," it refers to the person who is applying for or receiving disability benefits.

It is important that you tell us what you know about the disabled person's activities and abilities.

DO NOT ASK THE DISABLED PERSON TO GIVE YOU ANSWERS

- Print or type.
- **DO NOT LEAVE ANSWERS BLANK.** If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."
- Do not ask a doctor or hospital to complete this form.
- Be sure to explain an answer if the question asks for an explanation, or if you think you need to explain an answer.
- If you need more space to answer any questions, use the "REMARKS" section on Page 10, and show the number of the question being answered.
- If a specific activity is performed with the help of others, please indicate that.

**REMEMBER TO GIVE US THE NAME AND ADDRESS OF THE PERSON
COMPLETING THIS FORM ON PAGE 10**

Function Report - Adult - Third Party Form SSA-3380-BK

Privacy Act Statement

Collection and Use of Personal Information

Sections 205(a), 223(d), 1631(d)(1), and 1631(e)(1) of the Social Security Act, as amended, allow us to collect this information. Furnishing us this information is voluntary. However, failing to provide all or part of the information may prevent an accurate and timely decision on any disability claim filed.

We will use the information you provide to make a determination of eligibility for benefits. We may also share your information for the following purposes, called routine uses:

- To contractors and other Federal agencies, as necessary, for the purpose of assisting the Social Security Administration (SSA) in the efficient administration of its programs. We will disclose information under this routine use only in situations in which we may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system of records; and
- To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and to representative payees when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Social Security Act and assisting the representative payees in performing their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

In addition, we may share this information in accordance with the Privacy Act and other Federal laws. For example, where authorized, we may use and disclose this information in computer matching programs, in which our records are compared with other records to establish or verify a person's eligibility for Federal benefit programs and for repayment of incorrect or delinquent debts under these programs.

A list of additional routine uses is available in our Privacy Act System of Records Notices (SORN) 60-0089, entitled Claims Folders System, as published in the Federal Register (FR) on October 31, 2019, at 84 FR 58422, and 60-0320, entitled Electronic Disability Claim File, as published in the FR on June 4, 2020, at 85 FR 34477. Additional information, and a full listing of all of our SORNs, is available on our website at www.ssa.gov/privacy.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. We estimate that it will take about 61 minutes to read the instructions, gather the facts, and answer the questions. ***Send only comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden to: SSA, 6401 Security Blvd, Baltimore, MD 21235-6401.***

**PLEASE REMOVE THIS SHEET BEFORE RETURNING
THE COMPLETED FORM.**

FUNCTION REPORT - ADULT - THIRD PARTY

How the disabled person's illnesses, injuries, or conditions limit his/her activities

For SSA Use Only
Do not write in this box.

Anyone who makes or causes to be made a false statement or representation of material fact for use in determining a payment under the Social Security Act, or knowingly conceals or fails to disclose an event with an intent to affect an initial or continued right to payment, commits a crime punishable under Federal law by fine, imprisonment, or both, and may be subject to administrative sanctions.

SECTION A - GENERAL INFORMATION

1. **NAME OF DISABLED PERSON** *(First, Middle, Last)*

2. **YOUR NAME** *(Person completing the form)*

3. **RELATIONSHIP**
(To disabled person)

4. **DATE** *(MM/DD/YYYY)*

5. **YOUR DAYTIME TELEPHONE NUMBER** *(If there is no telephone number where you can be reached, please give us a daytime number where we can leave a message for you.)*

Area Code Phone Number

☐ Your Number

☐ Message Number

☐ None

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

6. a. How long have you known the disabled person?

b. How much time do you spend with the disabled person and what do you do together?

7. a. Where does the disabled person live? *(Check one.)*

☐ House

☐ Apartment

☐ Boarding House

☐ Nursing Home

☐ Shelter

☐ Group Home

☐ Other (What?)

b. With whom does he/she live? *(Check one.)*

☐ Alone

☐ With Family

☐ With Friends

☐ Other (describe relationship)

SECTION B - INFORMATION ABOUT ILLNESSES, INJURIES, OR CONDITIONS

8. How does this person's illnesses, injuries, or conditions limit his/her ability to work?

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

SECTION C - INFORMATION ABOUT DAILY ACTIVITIES

9. Describe what the disabled person does from the time he/she wakes up until going to bed.

10. Does this person take care of anyone else such as a wife/husband, children, grandchildren, parents, friend, other?

☐ Yes ☐ No

If "YES," for whom does he/she care, and what does he/she do for them?

11. Does he/she take care of pets or other animals?

☐ Yes ☐ No

If "YES," what does he/she do for them?

12. Does anyone help this person care for other people or animals?

☐ Yes ☐ No

If "YES," who helps, and what do they do to help?

13. What was the disabled person able to do before his/her illnesses, injuries, or conditions that he/she can't do now?

14. Do the illnesses, injuries, or conditions affect his/her sleep?

☐ Yes ☐ No

If "YES," how?

15. **PERSONAL CARE** (Check here ☐ if **NO PROBLEM** with personal care.)

a. Explain how the illnesses, injuries, or conditions affect this person's ability to:

Dress

Bathe

Care for hair

Shave

Feed self

Use the toilet

Other

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

b. Does he/she need any special reminders to take care of personal needs and grooming?

☐ Yes ☐ No

If "YES," what type of help or reminders are needed?

c. Does he/she need help or reminders taking medicine?

☐ Yes ☐ No

If "YES," what kind of help does he/she need?

16. MEALS

a. Does the disabled person prepare his/her own meals?

☐ Yes ☐ No

If "Yes," what kind of food is prepared? (For example, sandwiches, frozen dinners, or complete meals with several courses.)

How often does he/she prepare food or meals? (For example, daily, weekly, monthly.)

How long does it take him/her?

Any changes in cooking habits since the illness, injuries, or conditions began?

b. If "No," explain why he/she cannot or does not prepare meals.

17. HOUSE AND YARD WORK

a. List household chores, both indoors and outdoors, that the disabled person is able to do.
(For example, cleaning, laundry, household repairs, ironing, mowing, etc.)

b. How much time do chores take, and how often does he/she do each of these things?

c. Does he/she need help or encouragement doing these things?

☐ Yes ☐ No

If "YES," what help is needed?

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

d. If the disabled person doesn't do house or yard work, explain why not.

18. GETTING AROUND

a. How often does this person go outside? _____

If he/she doesn't go out at all, explain why not.

b. When going out, how does he/she travel? (Check all that apply.)

- ☐ Walk
 ☐ Drive a car
 ☐ Ride in a car
 ☐ Ride a bicycle
 ☐ Use public transportation
 ☐ Other (Explain) _____

c. When going out, can he/she go out alone?

☐ Yes ☐ No

If "NO," explain why he/she can't go out alone.

d. Does the disabled person drive?

☐ Yes ☐ No

If he/she doesn't drive, explain why not.

19. SHOPPING

a. If the disabled person does any shopping, does he/she shop: (Check all that apply.)

- ☐ In stores
 ☐ By phone
 ☐ By mail
 ☐ By computer

b. Describe what he/she shops for.

c. How often does he/she shop and how long does it take?

20. MONEY

a. Is he/she able to:

- | | | | | | |
|--------------|------------------------------|-----------------------------|------------------------------|------------------------------|-----------------------------|
| Pay bills | <input type="checkbox"/> Yes | <input type="checkbox"/> No | Handle a savings account | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Count change | <input type="checkbox"/> Yes | <input type="checkbox"/> No | Use a checkbook/money orders | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Explain all "NO" answers.

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

b. Has the disabled person's ability to handle money changed since the illnesses, injuries, or conditions began?

☐ Yes☐ No

If "YES," explain how the ability to handle money has changed.

21. HOBBIES AND INTERESTS

a. What are his/her hobbies and interests? (For example, reading, watching TV, sewing, playing sports, etc.)

b. How often and how well does he/she do these things?

c. Describe any changes in these activities since the illnesses, injuries, or conditions began.

22. SOCIAL ACTIVITIES

a. How does the disabled person spend time with others? (Check all that apply.)

☐ In person☐ On the phone☐ Email☐ Texting☐ Mail☐ Video Chat (for example Skype or Facetime)☐ Other (Explain) _____

b. Describe the kinds of things he/she does with others.

How often does he/she do these things? _____

c. List the places he/she goes on a regular basis. (For example, church, community center, sports events, social groups, etc.)

Does he/she need to be reminded to go places?

☐ Yes☐ No

How often does he/she go and how much does he/she take part?

Does he/she need someone to accompany him/her?

☐ Yes☐ No

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

d. Does this person have any problems getting along with family, friends, neighbors, or others?

☐ Yes

☐ No

If "YES," explain.

e. Describe any changes in social activities since the illnesses, injuries, or conditions began.

SECTION D - INFORMATION ABOUT ABILITIES

23. a. Check any of the following items the disabled person's illnesses, injuries, or conditions affect:

- | | | | |
|------------------------------------|-----------------------------------|---|--|
| <input type="checkbox"/> Lifting | <input type="checkbox"/> Walking | <input type="checkbox"/> Stair Climbing | <input type="checkbox"/> Understanding |
| <input type="checkbox"/> Squatting | <input type="checkbox"/> Sitting | <input type="checkbox"/> Seeing | <input type="checkbox"/> Following Instructions |
| <input type="checkbox"/> Bending | <input type="checkbox"/> Kneeling | <input type="checkbox"/> Memory | <input type="checkbox"/> Using Hands |
| <input type="checkbox"/> Standing | <input type="checkbox"/> Talking | <input type="checkbox"/> Completing Tasks | <input type="checkbox"/> Getting Along with Others |
| <input type="checkbox"/> Reaching | <input type="checkbox"/> Hearing | <input type="checkbox"/> Concentration | |

Please explain how his/her illnesses, injuries, or conditions affect each of the items you checked. (For example, he/she can only lift [how many pounds], or he/she can only walk [how far])

b. Is the disabled person: ☐ Right Handed? ☐ Left Handed?

c. How far can he/she walk before needing to stop and rest? _____

If he/she has to rest, how long before he/she can resume walking?

d. For how long can the disabled person pay attention? _____

e. Does the disabled person finish what he/she starts? (For example, a conversation, chores, reading, watching a movie.)

☐ Yes

☐ No

f. How well does the disabled person follow written instructions? (For example, a recipe.)

g. How well does the disabled person follow spoken instructions?

If you do not know the answer or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."

h. How well does the disabled person get along with authority figures? (For example, police, bosses, landlords or teachers.)

i. Has he/she ever been fired or laid off from a job because of problems getting along with other people?

☐ Yes☐ No

If "YES," please explain.

If "YES," please give name of employer.

j. How well does the disabled person handle stress?

k. How well does he/she handle changes in routine?

l. Have you noticed any unusual behavior or fears in the disabled person?

☐ Yes☐ No

If "YES," please explain.

24. Does the disabled person use any of the following? (Check all that apply.)

☐ Crutches☐ Cane☐ Hearing Aid☐ Walker☐ Brace/Splint☐ Glasses/Contact Lenses☐ Wheelchair☐ Artificial Limb☐ Artificial Voice Box☐ Other (Explain)

Which of these were prescribed by a doctor? If you do not know or do not recall, please write that.

When was it prescribed? If you do not know or do not recall, please write that.

When does this person need to use these aids?

25. Does the disabled person currently take any medicines for his/her illnesses, injuries, or conditions?

☐ Yes ☐ No

☐ Yes ☐ No

that cause side effects for the disabled person.)	
NAME OF MEDICINE	SIDE EFFECTS PERSON HAS

Use this section for any added information you did not show in earlier parts of this form. When you are done with this section (or if you didn't have anything to add), be sure to complete the fields at the bottom of this page.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Date (MM/DD/YYYY)

	Email address (optional)
--	--------------------------

ZIP Code

[illegible]

WORK HISTORY REPORT

PLEASE READ ALL OF THIS INFORMATION BEFORE COMPLETING THIS REPORT

The office that makes the disability decision on your case will use the information you provide in this report to understand how your illnesses, injuries, or conditions might affect your ability to do work for which you are qualified. This information tells us about the kinds of work that you did, including the physical and mental requirements of each job.

IF YOU NEED HELP

If you need help with this report, complete as much of it as you can. Then call the phone number provided on the letter sent with the report or the phone number of the person who asked you to complete the report for help to finish it. **If you cannot speak or understand English, we will provide an interpreter free of charge.**

WHAT YOU NEED TO COMPLETE THIS REPORT

- Information about all the jobs that you had in the last 5 years before you became unable to work.
- **ANSWER EVERY QUESTION FOR EACH JOB YOU DESCRIBE** unless the report indicates otherwise. Provide as much detail as possible.
- If you cannot remember all the information about your jobs, provide what you do remember. If you do not know an answer, or the answer is "none" or "does not apply," please write "don't know" or "none" or "does not apply."
- Be sure to explain an answer if the question asks for an explanation, or if you want to provide additional information.
- If you need more space to answer any questions, use **Section 3 - Remarks**.

**REMEMBER TO PROVIDE THE INFORMATION ABOUT THE PERSON
COMPLETING THIS REPORT IN SECTION 4.**

Privacy Act Statement Collection and Use of Personal Information

Sections 205(a), 223(d), 1614(a), and 1631 of the Social Security Act, as amended, allow us to collect this information. Furnishing us this information is voluntary. However, failing to provide all or part of the information may prevent an accurate and timely decision on any claim filed.

We will use the information to make a determination on eligibility for benefits. We may also share your information for the following purposes, called routine uses:

- To contractors and other Federal agencies, as necessary, for the purpose of assisting the Social Security Administration (SSA) in the efficient administration of its programs; and
- To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and to representative payees when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Act and assisting the representative payees in performing their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

In addition, we may share this information in accordance with the Privacy Act and other Federal laws. For example, where authorized, we may use and disclose this information in computer matching programs, in which our records are compared with other records to establish or verify a person's eligibility for Federal benefit programs and for repayment of incorrect or delinquent debts under these programs.

A list of additional routine uses is available in our Privacy Act System of Records Notices (SORN) 60-0089, entitled Claims Folders System, as published in the Federal Register (FR) on April 1, 2003, at 68 FR 15784, and 60-0320, entitled Electronic Disability Claim File, as published in the FR on December 22, 2003, at 68 FR 71210. Additional information, and a full listing of all of our SORNs, is available on our website at www.ssa.gov/privacy.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 40 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO THE STATE AGENCY THAT REQUESTED IT. If you have questions about how to complete the form, contact the State Agency that requested it. If you need the address or phone number for your State Agency, you can get it by calling Social Security at 1-800-772-1213 (TTY 1-800-325-0778). You may send comments on our time estimate above to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. Send only comments relating to our time estimate or any other aspects of this collection to this address, not the completed form.**

**AFTER COMPLETING THIS REPORT, REMOVE THIS SHEET
AND KEEP IT FOR YOUR RECORDS**

WORK HISTORY REPORT

For SSA Use Only- Do not write in this box.
Related SSN
Number Holder

Anyone who makes or causes to be made a false statement or representation of material fact for use in determining a payment under the Social Security Act, or knowingly conceals or fails to disclose an event with an intent to affect an initial or continued right to payment, commits a crime punishable under Federal law by fine, imprisonment, or both, and may be subject to administrative sanctions.

SECTION 1 - INFORMATION ABOUT YOU

When a question refers to "you" or "your," it refers to the person who is applying for disability benefits. **If you are completing this report for someone else**, provide information about them.

A. NAME (First, Middle Initial, Last, Suffix)

B. SOCIAL SECURITY NUMBER

C. DAYTIME PHONE NUMBER(S) where we can call to speak with you or leave a message, if needed. Include area code or IDD and country code if outside the USA or Canada.

Primary: _____ Secondary: (if available) _____

SECTION 2 - WORK HISTORY

List all the jobs you had in the **5 years before you became unable to work** because of your medical conditions:

- List your most recent job first
- List all job titles even if they were for the same employer
- **Do not include jobs you held less than 30 calendar days**
- Include self-employment (e.g., rideshare driver, hair stylist)
- Include work in a foreign country

	Job Title (e.g., Cashier)	Type of Business (e.g., Grocery Store)	Dates Worked	
			From (MM/YYYY)	To (MM/YYYY)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

SECTION 2 - WORK HISTORY (continued)

Provide more information about Job No. 1 listed in Section 2. Estimate hours and pay, if needed.
If you need more space, use section 3.

JOB TITLE NO. 1

Rate of Pay	Per (Check One)					Hours per Day	Days per Week
\$	<input type="checkbox"/> Hour	<input type="checkbox"/> Day	<input type="checkbox"/> Week	<input type="checkbox"/> Month	<input type="checkbox"/> Year		

For the job you listed in **Job Title No. 1**, describe in detail the tasks you did in a typical workday. Examples of tasks include stocking shelves, greeting customers, scheduling appointments, or maintaining records.

If any of the tasks listed above involved writing or completing reports, describe the type of report you wrote or completed and how much time you spent on it per workday or workweek.

If any of the tasks listed above involved supervising others, describe who or what you supervised and what supervisory duties you had. Examples of supervisory duties include evaluating employee job performance, making schedules, or maintaining time records.

List the machines, tools, and equipment you used regularly when doing this job, and explain what you used them for. Examples of equipment include computer, telephone, forklift, air compressor, or meat slicer.

Did this job require you to interact with coworkers, the general public, or anyone else? ☐ YES ☐ NO

If YES, describe who you interacted with, the purpose of the interaction, how you interacted, and how much time you spent doing it per workday or workweek. Examples include answering customer questions on the telephone for 5 hours per day or showing clients properties for sale in person for 4 hours per day.

SECTION 2 - WORK HISTORY (continued)

Tell us how much time you spent doing the following physical activities in a typical workday. The total hours/minutes for standing, walking, and sitting should equal the Hours per Day. The example below shows an 8-hour workday with 2 hours standing and walking, and 6 hours sitting (8 hours total).

Activity	How much of your workday? (Hours/Minutes)	Example:
Standing and walking (combined)		2 hours
Sitting		6 hours
Stooping (i.e., bending down & forward at waist)		15 minutes
Kneeling (i.e., bending legs to rest on knees)		15 minutes
Crouching (i.e., bending legs & back down & forward)		None
Crawling (i.e., moving on hands and knees)		None
Using fingers to touch, pick, or pinch (e.g., using a mouse, keyboard, turning pages, or buttoning a shirt): <input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands		2 hours (both hands)
Using hands to seize, hold, grasp, or turn (e.g., holding a large envelope, a small box, a hammer, or water bottle): <input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands		1 hour (both hands)
Reaching at or below the shoulder: <input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms		1 hour (both arms)
Reaching overhead (above the shoulder): <input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms		None
Climbing stairs or ramps		None
Climbing ladders, ropes, or scaffolds		None

Tell us about lifting and carrying in this job. Explain what you lifted, how far you carried it, and how often you did it in a typical workday.

Select the **heaviest** weight lifted:

- ☐ Less than 1 lb. ☐ Less than 10 lbs. ☐ 10 lbs. ☐ 20 lbs.
☐ 50 lbs. ☐ 100 lbs. or more ☐ Other _____

Select the weight **frequently** lifted (i.e., 1/3 to 2/3 of the workday):

- ☐ Less than 1 lb. ☐ Less than 10 lbs. ☐ 10 lbs. ☐ 25 lbs. ☐ 50 lbs. or more ☐ Other _____

Did this job expose you to any of the following? Check all that apply.

- ☐ Outdoors ☐ Extreme heat (non-weather related) ☐ Extreme cold (non-weather related) ☐ Wetness
☐ Humidity ☐ Hazardous substances ☐ Moving mechanical parts ☐ High, exposed places
☐ Heavy vibrations ☐ Loud noises ☐ Other _____

If one or more boxes are checked, tell us about the exposure(s) and how often you were exposed.

Explain how your medical conditions would affect your ability to do this job.

SECTION 2 - WORK HISTORY (continued)

Provide more information about Job No. 2 listed in Section 2. Estimate hours and pay, if needed.
If you need more space, use section 3.

JOB TITLE NO. 2

Rate of Pay	Per (Check One)	Hours per Day	Days per Week
\$ _____	<input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Month <input type="checkbox"/> Year		

For the job you listed in **Job Title No. 2**, describe in detail the tasks you did in a typical workday. Examples of tasks include stocking shelves, greeting customers, scheduling appointments, or maintaining records.

If any of the tasks listed above involved writing or completing reports, describe the type of report you wrote or completed and how much time you spent on it per workday or workweek.

If any of the tasks listed above involved supervising others, describe who or what you supervised and what supervisory duties you had. Examples of supervisory duties include evaluating employee job performance, making schedules, or maintaining time records.

List the machines, tools, and equipment you used regularly when doing this job, and explain what you used them for. Examples of equipment include computer, telephone, forklift, air compressor, or meat slicer.

Did this job require you to interact with coworkers, the general public, or anyone else? ☐ YES ☐ NO

If YES, describe who you interacted with, the purpose of the interaction, how you interacted, and how much time you spent doing it per workday or workweek. Examples include answering customer questions on the telephone for 5 hours per day or showing clients properties for sale in person for 4 hours per day.

SECTION 2 - WORK HISTORY (continued)

Tell us how much time you spent doing the following physical activities in a typical workday. The total hours/minutes for standing, walking, and sitting should equal the Hours per Day.

Activity	How much of your workday? (Hours/Minutes)
Standing and walking (combined)	
Sitting	
Stooping (i.e., bending down & forward at waist)	
Kneeling (i.e., bending legs to rest on knees)	
Crouching (i.e., bending legs & back down & forward)	
Crawling (i.e., moving on hands and knees)	
Using fingers to touch, pick, or pinch (e.g., using a mouse, keyboard, turning pages, or buttoning a shirt):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Using hands to seize, hold, grasp, or turn (e.g., holding a large envelope, a small box, a hammer, or water bottle):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Reaching at or below the shoulder:	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Reaching overhead (above the shoulder):	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Climbing stairs or ramps	
Climbing ladders, ropes, or scaffolds	

Tell us about lifting and carrying in this job. Explain what you lifted, how far you carried it, and how often you did it in a typical workday.

Select the **heaviest** weight lifted:

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 20 lbs.
☐ 50 lbs.
 ☐ 100 lbs. or more
 ☐ Other _____

Select the weight **frequently** lifted (i.e., 1/3 to 2/3 of the workday):

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 25 lbs.
 ☐ 50 lbs. or more
 ☐ Other _____

Did this job expose you to any of the following? Check all that apply.

- ☐ Outdoors
 ☐ Extreme heat (non-weather related)
 ☐ Extreme cold (non-weather related)
 ☐ Wetness
☐ Humidity
 ☐ Hazardous substances
 ☐ Moving mechanical parts
 ☐ High, exposed places
☐ Heavy vibrations
 ☐ Loud noises
 ☐ Other _____

If one or more boxes are checked, tell us about the exposure(s) and how often you were exposed.

Explain how your medical conditions would affect your ability to do this job.

SECTION 2 - WORK HISTORY (continued)

Provide more information about Job No. 3 listed in Section 2. Estimate hours and pay, if needed.
If you need more space, use section 3.

JOB TITLE NO. 3

Rate of Pay	Per (Check One)	Hours per Day	Days per Week
\$ _____	<input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Month <input type="checkbox"/> Year		

For the job you listed in **Job Title No. 3**, describe in detail the tasks you did in a typical workday. Examples of tasks include stocking shelves, greeting customers, scheduling appointments, or maintaining records.

If any of the tasks listed above involved writing or completing reports, describe the type of report you wrote or completed and how much time you spent on it per workday or workweek.

If any of the tasks listed above involved supervising others, describe who or what you supervised and what supervisory duties you had. Examples of supervisory duties include evaluating employee job performance, making schedules, or maintaining time records.

List the machines, tools, and equipment you used regularly when doing this job, and explain what you used them for. Examples of equipment include computer, telephone, forklift, air compressor, or meat slicer.

Did this job require you to interact with coworkers, the general public, or anyone else? ☐ YES ☐ NO

If YES, describe who you interacted with, the purpose of the interaction, how you interacted, and how much time you spent doing it per workday or workweek. Examples include answering customer questions on the telephone for 5 hours per day or showing clients properties for sale in person for 4 hours per day.

SECTION 2 - WORK HISTORY (continued)

Tell us how much time you spent doing the following physical activities in a typical workday. The total hours/minutes for standing, walking, and sitting should equal the Hours per Day.

Activity	How much of your workday? (Hours/Minutes)
Standing and walking (combined)	
Sitting	
Stooping (i.e., bending down & forward at waist)	
Kneeling (i.e., bending legs to rest on knees)	
Crouching (i.e., bending legs & back down & forward)	
Crawling (i.e., moving on hands and knees)	
Using fingers to touch, pick, or pinch (e.g., using a mouse, keyboard, turning pages, or buttoning a shirt):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Using hands to seize, hold, grasp, or turn (e.g., holding a large envelope, a small box, a hammer, or water bottle):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Reaching at or below the shoulder:	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Reaching overhead (above the shoulder):	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Climbing stairs or ramps	
Climbing ladders, ropes, or scaffolds	

Tell us about lifting and carrying in this job. Explain what you lifted, how far you carried it, and how often you did it in a typical workday.

Select the **heaviest** weight lifted:

- ☐ Less than 1 lb. ☐ Less than 10 lbs. ☐ 10 lbs. ☐ 20 lbs.
☐ 50 lbs. ☐ 100 lbs. or more ☐ Other _____

Select the weight **frequently** lifted (i.e., 1/3 to 2/3 of the workday):

- ☐ Less than 1 lb. ☐ Less than 10 lbs. ☐ 10 lbs. ☐ 25 lbs. ☐ 50 lbs. or more ☐ Other _____

Did this job expose you to any of the following? Check all that apply.

- ☐ Outdoors ☐ Extreme heat (non-weather related) ☐ Extreme cold (non-weather related) ☐ Wetness
☐ Humidity ☐ Hazardous substances ☐ Moving mechanical parts ☐ High, exposed places
☐ Heavy vibrations ☐ Loud noises ☐ Other _____

If one or more boxes are checked, tell us about the exposure(s) and how often you were exposed.

Explain how your medical conditions would affect your ability to do this job.

SECTION 2 - WORK HISTORY (continued)

Provide more information about Job No. 4 listed in Section 2. Estimate hours and pay, if needed.
If you need more space, use section 3.

JOB TITLE NO. 4

Rate of Pay	Per (Check One)	Hours per Day	Days per Week
\$ _____	<input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Month <input type="checkbox"/> Year		

For the job you listed in **Job Title No. 4**, describe in detail the tasks you did in a typical workday. Examples of tasks include stocking shelves, greeting customers, scheduling appointments, or maintaining records.

If any of the tasks listed above involved writing or completing reports, describe the type of report you wrote or completed and how much time you spent on it per workday or workweek.

If any of the tasks listed above involved supervising others, describe who or what you supervised and what supervisory duties you had. Examples of supervisory duties include evaluating employee job performance, making schedules, or maintaining time records.

List the machines, tools, and equipment you used regularly when doing this job, and explain what you used them for. Examples of equipment include computer, telephone, forklift, air compressor, or meat slicer.

Did this job require you to interact with coworkers, the general public, or anyone else? ☐ YES ☐ NO

If YES, describe who you interacted with, the purpose of the interaction, how you interacted, and how much time you spent doing it per workday or workweek. Examples include answering customer questions on the telephone for 5 hours per day or showing clients properties for sale in person for 4 hours per day.

SECTION 2 - WORK HISTORY (continued)

Tell us how much time you spent doing the following physical activities in a typical workday. The total hours/minutes for standing, walking, and sitting should equal the Hours per Day.

Activity	How much of your workday? (Hours/Minutes)
Standing and walking (combined)	
Sitting	
Stooping (i.e., bending down & forward at waist)	
Kneeling (i.e., bending legs to rest on knees)	
Crouching (i.e., bending legs & back down & forward)	
Crawling (i.e., moving on hands and knees)	
Using fingers to touch, pick, or pinch (e.g., using a mouse, keyboard, turning pages, or buttoning a shirt):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Using hands to seize, hold, grasp, or turn (e.g., holding a large envelope, a small box, a hammer, or water bottle):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Reaching at or below the shoulder:	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Reaching overhead (above the shoulder):	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Climbing stairs or ramps	
Climbing ladders, ropes, or scaffolds	

Tell us about lifting and carrying in this job. Explain what you lifted, how far you carried it, and how often you did it in a typical workday.

Select the **heaviest** weight lifted:

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 20 lbs.
☐ 50 lbs.
 ☐ 100 lbs. or more
 ☐ Other _____

Select the weight **frequently** lifted (i.e., 1/3 to 2/3 of the workday):

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 25 lbs.
 ☐ 50 lbs. or more
 ☐ Other _____

Did this job expose you to any of the following? Check all that apply.

- ☐ Outdoors
 ☐ Extreme heat (non-weather related)
 ☐ Extreme cold (non-weather related)
 ☐ Wetness
☐ Humidity
 ☐ Hazardous substances
 ☐ Moving mechanical parts
 ☐ High, exposed places
☐ Heavy vibrations
 ☐ Loud noises
 ☐ Other _____

If one or more boxes are checked, tell us about the exposure(s) and how often you were exposed.

Explain how your medical conditions would affect your ability to do this job.

SECTION 2 - WORK HISTORY (continued)

Provide more information about Job No. 5 listed in Section 2. Estimate hours and pay, if needed.
If you need more space, use section 3.

JOB TITLE NO. 5

Rate of Pay	Per (Check One)					Hours per Day	Days per Week
\$	<input type="checkbox"/> Hour	<input type="checkbox"/> Day	<input type="checkbox"/> Week	<input type="checkbox"/> Month	<input type="checkbox"/> Year		

For the job you listed in **Job Title No. 5**, describe in detail the tasks you did in a typical workday. Examples of tasks include stocking shelves, greeting customers, scheduling appointments, or maintaining records.

If any of the tasks listed above involved writing or completing reports, describe the type of report you wrote or completed and how much time you spent on it per workday or workweek.

If any of the tasks listed above involved supervising others, describe who or what you supervised and what supervisory duties you had. Examples of supervisory duties include evaluating employee job performance, making schedules, or maintaining time records.

List the machines, tools, and equipment you used regularly when doing this job, and explain what you used them for. Examples of equipment include computer, telephone, forklift, air compressor, or meat slicer.

Did this job require you to interact with coworkers, the general public, or anyone else? ☐ YES ☐ NO

If YES, describe who you interacted with, the purpose of the interaction, how you interacted, and how much time you spent doing it per workday or workweek. Examples include answering customer questions on the telephone for 5 hours per day or showing clients properties for sale in person for 4 hours per day.

SECTION 2 - WORK HISTORY (continued)

Tell us how much time you spent doing the following physical activities in a typical workday. The total hours/minutes for standing, walking, and sitting should equal the Hours per Day.

Activity	How much of your workday? (Hours/Minutes)
Standing and walking (combined)	
Sitting	
Stooping (i.e., bending down & forward at waist)	
Kneeling (i.e., bending legs to rest on knees)	
Crouching (i.e., bending legs & back down & forward)	
Crawling (i.e., moving on hands and knees)	
Using fingers to touch, pick, or pinch (e.g., using a mouse, keyboard, turning pages, or buttoning a shirt):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Using hands to seize, hold, grasp, or turn (e.g., holding a large envelope, a small box, a hammer, or water bottle):	<input type="checkbox"/> One Hand <input type="checkbox"/> Both Hands
Reaching at or below the shoulder:	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Reaching overhead (above the shoulder):	<input type="checkbox"/> One Arm <input type="checkbox"/> Both Arms
Climbing stairs or ramps	
Climbing ladders, ropes, or scaffolds	

Tell us about lifting and carrying in this job. Explain what you lifted, how far you carried it, and how often you did it in a typical workday.

Select the **heaviest** weight lifted:

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 20 lbs.
☐ 50 lbs.
 ☐ 100 lbs. or more
 ☐ Other _____

Select the weight **frequently** lifted (i.e., 1/3 to 2/3 of the workday):

- ☐ Less than 1 lb.
 ☐ Less than 10 lbs.
 ☐ 10 lbs.
 ☐ 25 lbs.
 ☐ 50 lbs. or more
 ☐ Other _____

Did this job expose you to any of the following? Check all that apply.

- ☐ Outdoors
 ☐ Extreme heat (non-weather related)
 ☐ Extreme cold (non-weather related)
 ☐ Wetness
☐ Humidity
 ☐ Hazardous substances
 ☐ Moving mechanical parts
 ☐ High, exposed places
☐ Heavy vibrations
 ☐ Loud noises
 ☐ Other _____

If one or more boxes are checked, tell us about the exposure(s) and how often you were exposed.

Explain how your medical conditions would affect your ability to do this job.

SECTION 3 - REMARKS

Please provide any additional information you did not give in earlier parts of this report. If you did not have enough space in the prior sections of this report to provide the requested information, please use this space to provide the additional information requested in those sections. Be sure to include the job title number and question to which you are referring. If you add more jobs than the 5 jobs listed, please provide the same information as you did for job titles numbers 1-5 on a separate sheet of paper(s).

BE SURE TO COMPLETE THE BOTTOM OF THIS PAGE.

SECTION 4 - WHO IS COMPLETING THIS REPORT

Date Report Completed (MM/DD/YYYY)

Who is completing this report?

☐ The person listed in **1.A.**

☐ Someone else (Complete the information below)

NAME (First, Middle Initial, Last)

Relationship to the Person in **1.A.**

MAILING ADDRESS (Street or PO Box) Include the apartment number, if applicable.

CITY

STATE/Province

ZIP/Postal Code

COUNTRY (if not USA)

DAYTIME PHONE NUMBER where we may reach you or leave a message, if needed. Include the area code or IDD and country code if outside the USA or Canada.

Name Change Procedure

Anyone can file for a name change in Wisconsin at the Circuit Court for their county of residence. Name changes in Wisconsin are public by default, and petitioners must publish notice of a proposed name change in a newspaper for three consecutive weeks before a name change can be granted. A petitioner can request a **confidential name change** if they have reason to fear that they may be put in danger if their name change is publicized. The petitioning process for both kinds of name changes requires filing 4 forms, copies of which are attached here. Note that a person required to register as a sex offender is categorically ineligible for a name change in Wisconsin. Additionally, people with professional licenses (besides teachers) are required to show proof of permission from their license's governing body before they can obtain a name change.

After filing, a petitioner requesting a non-confidential name change must comply with the publication requirement by issuing a public notice with the paper of record for the county in which they are filing. This will usually cost money, though the Wisconsin State Journal (Dane County) has allowed petitioners to show proof of a fee waiver for the court filing and waived their publication costs. The Clerk of Court will give the petitioner information on which newspapers will satisfy the county's publication requirement. A notice must run for three consecutive weeks prior to a hearing, and most courts will schedule a hearing 4-5 weeks from the filing date to give petitioners time to publish. When the notice has run for **three weeks**, the newspaper will give the petitioner proof of publication, which they should bring to their hearing. A petitioner should also bring a certified copy of their birth certificate, if possible. When a name change petition is filed, a case will be created in the public court record under the petitioner's old legal name. In some cases, the Court will associate the new legal name with that case, meaning that the name change case would appear if someone searched the new legal name on CCAP, but most of the time the new legal name will not be associated with the name change case.

A petitioner requesting a confidential name change will need to submit evidence, such as an affidavit, that shows that there is a risk of endangerment associated with publicizing their name change. The judge may ask the petitioner questions regarding an affidavit or other evidence they submit, and the judge determines whether the petitioner has met the endangerment requirement or not. Note that a recent Court of Appeals decision from District III has construed the endangerment requirement narrowly, requiring a petitioner to show specific risk of physical harm to them, personally, if the name change were to be publicized. If a confidential petition is denied, the petitioner can still ask for a non-confidential name change.

When a petition is granted, the judge will give the petitioner a copy of the order. The petitioner has to file that order with the Department of Health Services to enter the name change into effect, or with another state's equivalent custodian of records if they have a non-Wisconsin birth certificate. Once a birth certificate has been changed, a petitioner can petition for other state documents (e.g. driver's licenses) and federal records (Social Security, passports) to be updated to reflect the change.

Gender Marker Change Procedure

Wisconsin allows the gender marker on a birth certificate to be changed via court order. Standardized forms, very similar to the name change forms, were published by the Circuit Courts in 2023. There is a \$164.50 filing fee for a gender marker change petition, which may be requested to be waived by completing a fee waiver form. Wisconsin law requires that someone requesting a gender marker change shows proof of a “surgical sex change procedure” before a judge may approve a gender marker change request. Additionally, Wisconsin only allows a gender marker to be “male” or “female,” with no allowances for any third option or “X.” This is different from some other ID, such as driver’s licenses, which allow an “X” gender marker; it is also different from the practices of some other jurisdictions.

People who want to petition for a gender marker change will typically need a letter from their physician or another medical professional attesting to any treatment or therapy they have received related to a gender transition. The “surgical sex change procedure” requirement is onerous in practice and gives judges grounds to deny petitioners who may have undergone hormone therapy or other treatments, but who have elected not to undergo surgery or are unable to afford it. If someone does want to pursue a gender marker change, it is helpful to get letters from the client’s physician(s) or other health professionals describing the gender-affirming care that the petitioner has received. It is important to note that any supporting documents submitted with a name change or gender marker change petition will be part of the public case record unless sealed, which can be done through the standard sealing process for sensitive (e.g. medical) information.

There is no process for requesting that a gender marker change petition be confidential. If someone is petitioning for a gender marker change after they have successfully petitioned for a name change, the courts will sometimes consolidate the gender marker change case with the name change case rather than open a new file, but this is also not consistent throughout Wisconsin. If a gender marker change petition and a name change petition are filed at the same time, they will usually be consolidated, which means that a confidential name change petition filed with a gender marker change petition will extend to the gender marker change petition as well. Otherwise, gender marker change cases appear in the public court record and are searchable on CCAP.

Like with a name change, the court will give a petitioner an order approving the gender marker change at the end of the hearing. That order must be sent to the Department of Health Services in Wisconsin to correct the Wisconsin birth certificate, or another jurisdiction’s equivalent agency/custodian of records for out-of-state birth certificates. There will usually be a note on the amended birth certificate indicating the gender marker change. The processes for updating other ID information is largely the same as with updating after a name change, with the notable differences being in federal documents. The Social Security Administration will not (as of July 2025) change gender markers in their records. Gender marker changes on passports are currently subject to several lawsuits, and any State Department policy regarding passports is subject to change. Currently, a Wisconsin driver’s license can be updated with a copy of a corrected birth

certificate. Wisconsin driver's licenses notably have an "X" gender marker option, unlike birth certificates which must be M or F.

Practical Concerns

While all of these policies and procedures make it theoretically possible for most people to obtain name changes or gender marker changes, in practice there are serious practical barriers and safety concerns associated with a name change, particularly for transgender people, as well as gender marker changes. Petitioners need to consider whether there could be disparities between multiple forms of ID, which besides causing practical headaches with things like hospitals, insurance, banks, and more, can have serious implications for interactions with law enforcement, and can potentially out a person as being transgender or gender nonconforming in environments where their safety may be at risk. There are also legitimate concerns related to government policy and anti-trans rhetoric and legislation that has been advanced throughout the United States in recent years. The Wisconsin legislature passed three anti-trans bills in 2023, all of which were vetoed, and there have been 16 anti-trans bills proposed in the legislature in 2025. Nationally, there have been 947 anti-trans bills proposed between January and July 2025, and 118 have passed. There is also immense hostility towards transgender people at the federal level, including several anti-trans executive orders issued since January 2025. In June 2025, GLAAD published a report indicating that attacks on transgender and gender nonconforming people accounted for half of all anti-LGBTQ+ incidents reported to them between May 2024 and 2025. Hostility towards transgender people, encouraged by elected officials and government policy, means that petitioners for name changes and especially gender marker changes have to consider more than just what the law allows and prescribes. Would their safety be put at risk, even in ways that might not meet the requirement for a confidential name change petition, if their name change/gender marker change case were part of a public court record and discoverable with a name search on CCAP? Will a name and gender marker on a driver's license differ from what appears on a passport, or another form of ID? Are they comfortable with a note on a birth certificate indicating that the gender marker was changed from what was assigned at birth? The unfortunate reality of transgender rights in 2025 means that it is important to counsel clients honestly and to keep up to date with litigation and changing administrative policy in order to help petitioners make the best decision for them.

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY		
Enter the current name of the person whose gender is proposed to be changed on Wisconsin Birth Certificate.	<div style="text-align: right;"><input type="checkbox"/> Amended</div> <div style="text-align: center;">Order on Petition for Gender Change on Wisconsin Birth Certificate</div>		
Enter the case number.	First Name _____	Middle Name _____	Last Name _____
	Case No. _____		
Enter the county and the date of the hearing.	The Petition for Gender Change on Wisconsin Birth Certificate was heard by the Circuit Court of _____ County, Wisconsin on the _____ day of _____, 20____.		

THE COURT FINDS:

In 1, check the appropriate box.
In 2, check the appropriate box.
In 3, enter the address.
In 4, enter the date of birth.

- The gender that appears on the petitioner's Wisconsin birth certificate is
☐ male ☐ female.
- The petitioner requests the gender on the Wisconsin birth certificate be changed to
☐ male ☐ female.
- The petitioner's address is _____, in _____ County.
- The petitioner's date of birth is _____.
- It has jurisdiction and notice of the hearing, if required, has been given.
- The facts of the Petition are true and correct.

In 7, enter any other info.

- ☐ 7. Other: _____

<p>STOP!</p> <p>The court will complete the rest of this form.</p>
--

THE COURT ORDERS:

- The Petition for Gender Change on Wisconsin Birth Certificate is
☐ **granted**
☐ **denied** because _____.
- Other: _____

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

DISTRIBUTION:

- Court
- Certified Copy - Register of Deeds
- Petitioner

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
Enter your current name . You are the Petitioner .	IN THE MATTER OF _____ First Name Middle Name Last Name	
The clerk will enter the case number.		<div style="text-align: right;"><input type="checkbox"/> Amended</div> <div style="text-align: center;">Petition for Gender Change on Wisconsin Birth Certificate for Adult or Minor 14 or Older</div> <div style="text-align: right;">Case No. _____</div>

☐ I require the services of an interpreter. Which language? _____
Complete and file the Interpreter Request ([GF-149](#)) form.

I am the Petitioner and state:

In 1, enter your complete address.	1. My address is [Street Address, City, State and Zip] _____.
In 2, enter the County where you live.	2. I live in _____ County, Wisconsin.
In 3, enter the date of your birth.	3. I was born on [Date] _____ in the State of Wisconsin.
The Court can only grant petitions to change a Wisconsin birth certificate.	4. My birth certificate was issued in the State of Wisconsin.
In 5, check the appropriate box.	5. The gender that appears on my Wisconsin birth certificate is <input type="checkbox"/> male <input type="checkbox"/> female.
In 6, check the appropriate box.	6. I wish to change the gender that appears on my Wisconsin birth certificate to <input type="checkbox"/> male <input type="checkbox"/> female.
	7. I understand that, according to Wisconsin law, the court can only grant my request if I have undergone a surgical sex-change procedure.
If you have not previously petitioned for a name change, but would like to, please see form CV-450.	<input type="checkbox"/> 8. I previously petitioned for a name change in this county [provide case number _____.]

I declare under the penalty of false swearing that the information I have provided is true and accurate.



Signature _____

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No (if any)

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY
Enter the current legal name of the person whose name is proposed to be changed.	IN THE MATTER OF THE CONFIDENTIAL NAME CHANGE OF <div style="text-align: right;"><input type="checkbox"/> Amended</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;"> Notice and Order for Confidential Name Change Hearing </div>
Enter Petitioner's and Co-Petitioner's (if any) name(s). Enter the case number on the far right.	<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>By: (Petitioner) _____</p> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> First Name Middle Name(s) Last Name </div> </div> <div style="width: 35%; text-align: right;"> <p>Case No. _____</p> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;"> <p>By: (Co-Petitioner) _____</p> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> First Name Middle Name(s) Last Name </div> </div> </div>
Enter the current legal name. Enter the proposed new name. Enter the name as it currently appears on the birth certificate.	NOTICE IS GIVEN: A Petition was filed asking to change the name of the person listed above: <div style="margin-left: 40px;"> From: [First] _____ [Middle] _____ [Last] _____ To: [First] _____ [Middle] _____ [Last] _____ </div> <div style="margin-left: 40px; margin-top: 10px;"> Birth Certificate: [First] _____ [Middle] _____ [Last] _____ </div>
The court will enter the judge's name, county, place, date and time for the name change hearing.	IT IS ORDERED: This Petition will be heard in the Circuit Court of _____ County, State of Wisconsin: <div style="margin-left: 40px;"> Judge's Name _____ Place _____ _____ _____ Date _____ Time _____ </div>
If you require reasonable accommodations due to a disability to participate in the court process, please call _____ prior to the scheduled court date. Please note that the court does not provide transportation.	

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY
Enter your current name . You are the Petitioner .	IN THE MATTER OF THE CONFIDENTIAL NAME CHANGE OF _____ First Name Middle Name Last Name
The clerk will enter the case number.	<div><input type="checkbox"/> Amended</div> <div>Petition for Confidential Name Change for Adult or Minor 14 or Older (30708)</div> <div>Case No. _____</div>

Case No. _____

I am the petitioner and state:

In 5, enter the name as it appears on the birth certificate.

In 7, check a or b.

In 8, check the appropriate box.

In 9, enter reasons why you want your name change confidential.

In 10, enter your proposed new name.

Enter the reason(s) you want to change your name.
Check 11, if you want your name changed on your WI birth certificate.

I declare under the penalty of false swearing that the information I have provided is true and accurate.



Signature

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
Enter the current legal name of the person whose gender is proposed to be changed on Wisconsin birth certificate.	IN THE MATTER OF _____ First Name Middle Name Last Name	<input type="checkbox"/> Amended Notice and Order for Hearing on Gender Change on Wisconsin Birth Certificate Case No. _____
Enter the case number on the far right.		

A Petition was filed asking the Court to change the gender on the petitioner's Wisconsin birth certificate:

Check the current gender.	From: <input type="checkbox"/> male <input type="checkbox"/> female.
Check the proposed new gender.	To: <input type="checkbox"/> male <input type="checkbox"/> female.

IT IS ORDERED:

This Petition will be heard in the Circuit Court of _____ County, State of Wisconsin:

The court will enter the judge's name, county, place, date and time for the gender change hearing.	Judge's Name	_____
	Place	_____
	Date	_____
	Time	_____
If you require reasonable accommodations due to a disability to participate in the court process, please call _____ prior to the scheduled court date. Please note that the court does not provide transportation.		

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY		
Enter the current name of the person whose name is proposed to be changed.	IN THE MATTER OF THE NAME CHANGE OF _____ <input type="checkbox"/> Amended Order for Name Change		
Enter the case number.	First Name _____	Middle Name _____	Last Name _____ Case No. _____
Enter the county and the date of the hearing.	The Petition for Name Change was heard by the Circuit Court of _____ County, Wisconsin on the _____ day of _____, 20____.		

THE COURT FINDS:

In 1, enter the county name.	1. The person whose name is to be changed lives in _____ County, Wisconsin.
In 2, enter the name as it appears on the birth certificate.	2. The name that appears on the birth certificate is [First] _____ [Middle] _____ [Last] _____
In 3, enter the first, middle and last name if the person whose name shall be changed.	3. The name of this person shall be changed to [First] _____ [Middle] _____ [Last] _____
In 4, enter the address.	4. The address of the person whose name is to be changed is _____.
In 5, enter the date of birth.	5. The date of birth of the person whose name is to be changed is _____.
	6. It has jurisdiction and notice of the hearing, if required, has been given.
	7. The facts of the Petition are true and correct.
	8. The Petition was published as a class 3 notice.
In 8, enter any other info.	<input type="checkbox"/> 9. Other: _____

STOP!

The court will complete the rest of this form.

THE COURT ORDERS:

1. The Petition for Name Change is granted.

-
2. If the person was born in Wisconsin, the Wisconsin birth certificate
☐ shall ☐ shall not be changed.
3. If the person was married in Wisconsin, the Wisconsin marriage certificate
☐ shall ☐ shall not be changed.
- ☐ 4. Other: _____

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

DISTRIBUTION:

1. Court
2. Certified Copy - Register of Deeds
3. Petitioner

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY
Enter the current legal name of the person whose name is proposed to be changed.	IN THE MATTER OF THE NAME CHANGE OF <div style="display: flex; justify-content: space-between; margin-top: 5px;"> _____ <input type="checkbox"/> Amended </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> First Name Middle Name Last Name </div>
Enter Petitioner's and Co-Petitioner's (if any) name(s) if the name change is for a minor under 14 years of age. Enter the case number on the far right.	<div style="text-align: right; font-weight: bold; margin-bottom: 10px;"> Notice and Order for Name Change Hearing </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> By (Petitioner) _____ Case No. _____ </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> First Name Middle Name(s) Last Name </div> <div> By (Co-Petitioner) _____ <div style="display: flex; justify-content: space-between; margin-top: 5px;"> First Name Middle Name(s) Last Name </div> </div>
Enter the current legal name. Enter the proposed new name.	NOTICE IS GIVEN: A Petition was filed asking to change the name of the person listed above: <div style="margin-left: 40px;"> From: [First] _____ [Middle] _____ [Last] _____ To: [First] _____ [Middle] _____ [Last] _____ </div>
Enter the name as it currently appears on the birth certificate.	Birth Certificate: [First] _____ [Middle] _____ [Last] _____
The court will enter the judge's name, county, place, date and time for the name change hearing.	IT IS ORDERED: This Petition will be heard in the Circuit Court of _____ County, State of Wisconsin: Judge's Name _____ Place _____ _____ Date _____ Time _____
If you require reasonable accommodations due to a disability to participate in the court process, please call _____ prior to the scheduled court date. Please note that the court does not provide transportation.	
Note: Enter the name of the newspaper and the county. You must publish this notice in the newspaper as ordered here.	IT IS FURTHER ORDERED: Notice of this hearing shall be given by publication as a Class 3 notice for three (3) weeks in a row prior to the date of the hearing in the _____, a newspaper published in _____ County, State of Wisconsin.

Notice to Printers: Do not print the instructional text in the boxes along the left-hand column when publishing this notice. Print bolded text in bold typeface.

Enter the name of the county in which this case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY		
Enter the current name of the person whose name is proposed to be changed.	IN THE MATTER OF THE CONFIDENTIAL NAME CHANGE OF <input type="checkbox"/> Amended		
Enter the case number.	First Name	Middle Name	Last Name
	Order for Confidential Name Change Case No. _____		

Enter the county and the date of the hearing.	The Petition for Confidential Name Change was heard by the Circuit Court of _____ County, Wisconsin on the _____ day of _____, 20_____.
---	---

THE COURT FINDS:

In 1, enter the county name.	1. The person whose name is to be changed lives in _____ County, Wisconsin.
In 2, enter the name as it appears on the birth certificate.	2. The name that appears on the birth certificate is [First] _____ [Middle] _____ [Last] _____
In 3, enter the name of the person whose name shall be changed.	3. The name of this person shall be changed to [First] _____ [Middle] _____ [Last] _____
In 4, enter the address.	4. The address of the person whose name is to be changed is _____.
In 5, enter the date of birth.	5. The date of birth of the person whose name is to be changed is _____.
	6. It has jurisdiction and notice of the hearing, if required, has been given.
	7. The facts of the Petition are true and correct.
	8. Publication of the Petition could endanger the person whose name is to be changed and the publication requirement is waived.
	9. The person whose name is to be changed is not seeking a name change in order to avoid a debt or conceal a criminal record.

In 10, enter any other
information.

☐ 10. Other: _____

STOP!
The court will complete the rest of this form.

THE COURT ORDERS:

1. The Petition for Confidential Name Change is granted.
2. If the person was born in Wisconsin, the Wisconsin birth certificate
☐ shall ☐ shall not be changed.
3. All records related to the petitioner's name change remain confidential and are exempt from disclosure if a request to inspect or copy is made.
- ☐ 4. Other: _____

DISTRIBUTION:

1. Court
2. Certified Copy - Register of Deeds
3. Petitioner

Decolonizing Delinquencies: A Discussion Among System Actors in Wisconsin's Juvenile Legal System

Attorney Alaina Fahley
Attorney Breanna Magallones

Introduction, History, and Data

"Society has used the juvenile courts to create a caste system where there are throw-away people."
- James Bell

A few years ago, The Wisconsin Council on Children and Families produced a publication called *Race to Equity, A Baseline Report on the State of Racial Disparities in Dane County*, which outlined the significant disparities that existed in the various systems of Dane County, WI (Madison is the biggest city in this county). That report highlighted, with statistical support, the disparities in school discipline rates and in our juvenile justice system. One data sample revealed that an African American youth was **15 times** more likely to spend time in the county's secure detention program than a white youth and **25 times** more likely to be sent to the state's secure juvenile prison. The *Race to Equity* Report highlighted a number of scary factual realities that not only exist in Dane County but in counties throughout our nation. Significant disparities have been reported throughout our nation's schools and school districts, but those same significant disparities have also been reported to exist in our juvenile justice systems.

Racial and ethnic disparity refers to unequal treatment of youth of color in the juvenile justice system. Racial and ethnic disparity results in disparate outcomes for similarly situated youth. Disparate treatment can happen at all stages of the juvenile justice system, from arrest, summons, processing, arraignment, detention and commitment.

And the reality of our current educational and juvenile justice systems is clear: there are racial inequities in our schools whose long-term impact is to populate our prisons, and studies and nationwide statistics show that a School-to-Prison Pipeline is a legitimate reality in our various communities. We must dismantle the School-to-Prison Pipeline by attacking and eliminating the factors that contribute to the discrepancies.

"The rules of professional conduct require a constantly evolving understanding of our role and not a static understanding of our obligations. Those ethical rules challenge us to be competent in our representation of our clients and addressing the role and impact of race is a significant part of that competency." - Jeffrey Robinson

According to the Center for Coordinated Assistance to States, we must "provide a forum for connecting with peers and sharing innovative ideas, information, and resources for implementing policy, practice, and system improvement strategies at the state, territorial, local, and tribal levels, as applicable, to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system."



In order to understand how to best work with Indigenous youth, it is important to know the history of forced removal, intergenerational trauma, and how it continues to impact tribes in Wisconsin. First school by Western settlers to re-educate Native American youth to conform with western values opened in approximately 1633 in Southern Maryland. The United States Federal Government's Office of Indian Affairs was established in 1824, which was originally established to negotiate and enforce treaties with Tribal Nations. By 1858, the United States government officially moved away from the idea of recognizing tribes as independent or even quasi-independent nations and began towards a policy of Americanization.

In 1865, the US government began to make contracts with schools operated by religious groups primarily Protestants to assimilate Native children. By 1871, President Grant's "Peace" Policy: enabling civilians especially Protestants and Catholics to deal with issues on the reservation.

"They are being cared for in such a way, it is hoped, as to induce those still pursuing their old

habits of life to embrace the only opportunity which is left them to avoid extermination”

- Ulysses Grant at the State of the Union address

In 1883, the government created the Code of Indian Offenses: laws put in place to criminalize Native customs which were considered a hindrance to assimilation, included bans on behavior at traditional dances and feasts, funeral rites, medicine men, etc. Punishment for violations was 10 to 90 days of imprisonment and 30 day ban on rations. This code remained in effect until 1933.

By 1902, twenty-five federally funded non-reservation schools across fifteen states and territories with a total enrollment of over 6,000

Life at boarding schools during this time period:

- They were usually given new haircuts, uniforms of European-American style clothes, and even new English names, sometimes based on their own, other times assigned at random. They could no longer speak their own languages, even with each other. They were expected to attend Christian churches. Their lives were run by the strict orders of their teachers, and it often included grueling chores and stiff punishments.
- Additionally, infectious disease was widespread in society, and often swept through the schools. This was due to lack of information about causes and prevention, inadequate sanitation, insufficient funding for meals, overcrowded conditions, and students whose resistance was low.
- They were generally forbidden to speak their native languages, taught Christianity instead of their native religions, and in numerous other ways forced to abandon their Indian identity and adopt American culture.
- Many cases of mental and sexual abuse have been documented, as in North Dakota
- Family visitation was often impossible
- Bounties were offered for students who tried to run away and many students committed suicide. Students who died were sometimes placed in coffins and buried in the school cemetery by their own classmates

[The U.S. history of Native American Boarding Schools — The Indigenous Foundation](#)

By 1972, the highest population of Native children were enrolled in boarding schools. In 1975, the government passed Indian Self-Determination and Education Assistance Act of 1975, which guaranteed tribes the opportunity to determine their own futures and the education of their children through funds allocated to and administrated by individual tribes. In 1978, the Indian Child Welfare Act was passed and enrollment in boarding schools began to gradually decrease. Some important testimony from Tribal leaders and members during the passing of ICWA:

“ I think the cruelest trick that the white man has ever done to Indian children is to take them into adoption court, erase all of their records and send them off to some nebulous family ... residing in a white community and he goes back to the reservation and he has absolutely no idea who his relatives are, and they effectively make him a non-person and I think ... they destroy him.”

- Louis La Rose (Winnebago Tribe of Nebraska)

“ One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by non-tribal governmental authorities who have no basis for

intelligently evaluating the cultural and social premises underlying Indian home life and child rearing. Many of the individuals who decide the fate of our children are, at best, ignorant of our cultural values and, at worst, have contempt for the Indian way and convinced that removal, usually to a non-Indian household or institution can only benefit an Indian child.”

- Calvin Isaac (Choctaw Tribal leader)

Today four off reservation boarding schools still exist and are in operation although with a changed curriculum. On reservation schools are operated by or in conjunction with the Bureau of Indian Education. Many on reservation schools face significant issues because Tribes cannot levy taxes to pay for schools and local taxes cannot pay for schools so they are historically underfunded which can lead to incredibly poor academic performance for years. Each new presidential administration promises to fix these issues and they never follow through. Four such schools are operating in Wisconsin and the schools are often in rural areas.

Native youth still face several challenges within the American education system. They rarely have access to curriculums that are culturally relevant to them and experience difficulties in the classroom at alarming rates. According to reports given by the *Kids Count Data Center* and *The National Violent Death Reporting System*, Native students are:

1.2 times more likely to be behind in 4th-grade reading and 8th-grade math

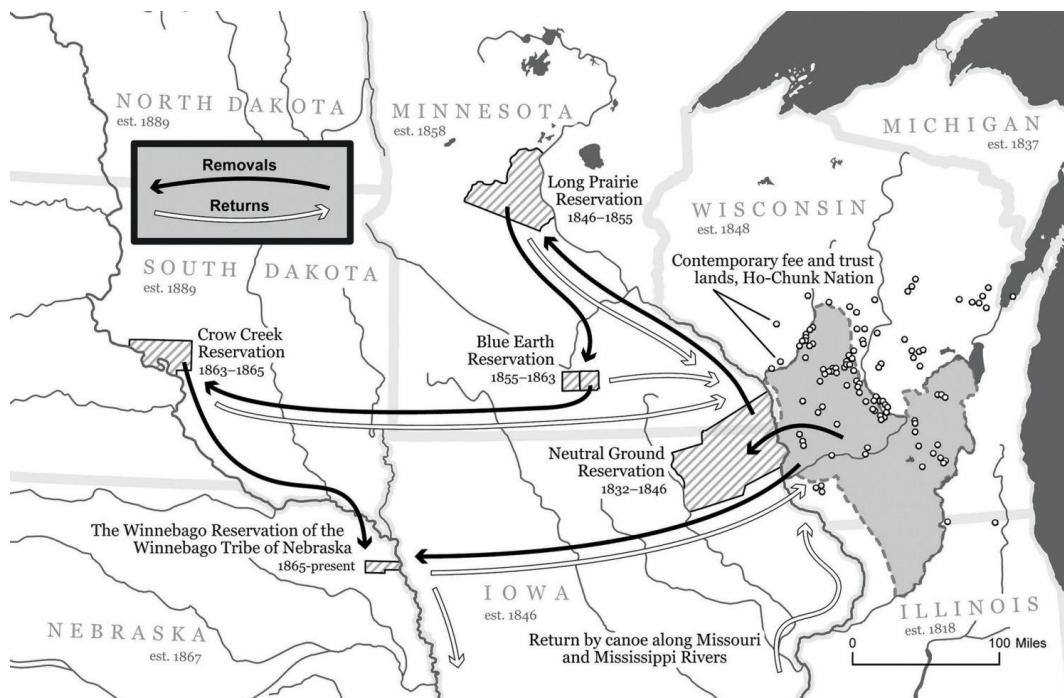
1.4 times more likely to be suspended from school

1.5 times more likely to die in a homicide or suicide

1.7 times more likely to experience two or more adverse childhood experiences

1.8 times more likely to attend a high-poverty school

2.0 times more likely to drop out of high school



1. What Does the Current Data Tell Us?

Tribal Youth 3.7 Times As Likely To Be Incarcerated As White Peers. Nationally, the youth placement rate was 74 per 100,000 in 2021. The Tribal youth placement rate was 181 per 100,000, compared to the white youth placement rate of 49 per 100,000.

- *The Sentencing Project, Tribal Disparities in Youth Incarceration* (see attached document).

The Wisconsin Department of Justice - Juvenile Justice System Programs' Racial and Ethnic Disparities Fact Sheet indicates:

- Native American youth are nearly **3 times** more likely than White youth to be arrested, despite total arrests in 2022 remaining below pre-pandemic levels.
- Black, Native American, and Asian youth are more likely than White youth to be confined in a juvenile correctional facility. The total number of youth placed in secure correctional facilities has returned to pre pandemic levels.
- Native American youth are **5 times** as likely to be waived into adult court, as compared to White youth.

Native Children are **8.4 times** as likely to be held in pretrial detention compared to white youth. Native Children are **10.1 time** as likely to be held in secure detention. (FY2023 R-ED PLAN – Wisconsin DEPARTMENT OF JUSTICE)

In the most recent report from the Wisconsin Department of Children and Families (DCF), it was clear that “Black and **Native American youth are overrepresented among youth referred**” to the juvenile justice system, “continuing a trend that has persisted since 2019.”

In addition, school-based offenses that were referred to youth justice grew slightly in 2022. Black and Native American youth in Wisconsin are referred for delinquency charges “**at rates significantly higher than the state’s average,**” and **the rate of Native American youth referred for delinquency jumped by 25% in 2022.**”

[Wisconsin Youth Justice Referrals and Intake Report for Calendar Year 2022](#), Wisconsin Department of Children and Families, Feb. 2024.

In 2017-18, **Wisconsin was more likely than any other state to refer Native students to law enforcement**, reporting a rate over **three** times higher than the rate of referral for their white peers.

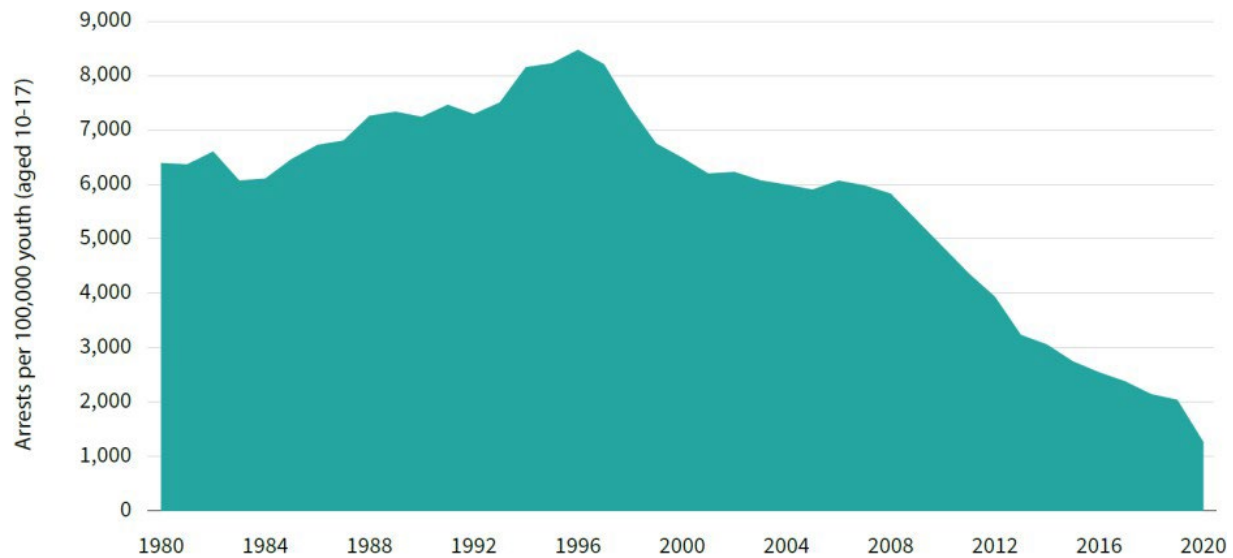
Wisconsin Watch, “[Wisconsin Schools Called Police on Students at Twice the National Rate – for Native Students, It Was the Highest](#),” Sept. 27, 2021.

In terms of child welfare and dually involved youth, Wisconsin children are disproportionately impacted in multiple systems: “Across the state, Native children account for almost 11% of kids removed from their homes, while accounting for 2% of Wisconsin’s child population. Those numbers have remained steadily high over the last five years of available data

from the agency.”

<https://www.postcrescent.com/story/news/local/2023/06/01/in-brown-outagamie-counties-native-children-are-separated-from-families-at-disproportionate-rate/70147925007/>

National statistics regarding youth arrests per the Sentencing Project related to tribal youth (see additional handout):



Bias and Interrupting Bias

Implicit bias, also known as implicit prejudice or implicit attitude, is a negative attitude, of which one is not consciously aware, against a specific social group.

Implicit bias is thought to be shaped by experience and based on learned associations between particular qualities and social categories, including race and/or gender. Individuals' perceptions and behaviors can be influenced by the implicit biases they hold, even if they are unaware they hold such biases. Implicit bias is an aspect of implicit social cognition: the phenomenon that perceptions, attitudes, and stereotypes can operate prior to conscious intention or endorsement.

Implicit bias thrives in “cognitively taxing environments”, with “complex decisions under time pressure”, with imperfect information, when decision-makers are cognitively depleted, anxious, or distracted, and when the task is complex or a decision difficult.

Implicit Association Test

1. Blindspot Bias:

Blindspot bias involves “attitudes or stereotypes that affect our understanding, decision-making, and behavior without our even realizing it.”

Blindspot bias *functions automatically*, including in ways the person *would not endorse* if he or she had conscious awareness.

Bias is a habit that can be broken by:

- Becoming aware of one's implicit bias.
- Acknowledging and being concerned about the consequences of bias.
- Learning to replace biased responses with non-biased responses.

Long-term reduction in implicit race bias: A prejudice habit-breaking intervention, Patricia Devine, et al (2012), Journal of Experimental Social Psychology, 48(6), 1267–1278.

Microaggressions are “series of minor but constant indignities,” “incessant, often gratuitous and subtle offenses” based on race, that serve to undermine confidence, reduce one’s sense of belonging, and subordinate people. Microaggressions can impair the performance of persons of color by sapping the mental, psychic, and spiritual energy of recipients

2. Strategies in Interrupting Bias:

- **Stereotype Replacing:** Replace stereotypical response with non stereotypical response. Step 1: Recognize Behaviors, Step 2: Reflect, Step 3: Alter Response.
- **Counter Stereotype Imaging:** Imagine non stereotypical group members to create a new shortcut.
- **Individuation:** Prevent or counter stereotypic inferences by obtaining specific information about group members. Learn to evaluate a member of a group based on their personal attributes, rather than group attributes.
- **Increasing Opportunities for Positive Contact:** Seek opportunities to encounter and engage in

positive interactions with out-group members

- **Microaffirmations:** Little things anyone can do to make others feel respected, valued, and included. There is a range of microaffirmations, from publicly acknowledging others' contributions, actively listening to people with a smile, inviting people on both social outings and work collaborations, and more.
- **Other Strategies:** 1. Slow everything down, 2. Be Mindful, and 3. Use Checklists

3. **Cultural Competency:** Every client has a story and it is our responsibility to tell each client's story in a culturally humble way that does not interject us into it. Every client should receive legal representation that is client centered, individualized, and free of bias. Each of us must identify those biases, prejudices and stereotypes that impact both our ability to hear our clients and to represent them. Every client has a story and it is your duty to tell each client's story in a culturally humble way, while protecting their rights. Our feelings and experiences can dictate how we look at the world and how we see the people that we interact with.

Attitudes, Stereotypes, and Prejudices are all things that can influence our behavior and feelings toward an individual or group, **as will lack of understanding of your client's culture, community, and circumstances.**

Improving Outcomes for Wisconsin's Indigenous Youth

How do we improve outcomes for Wisconsin's Indigenous Youth? To improve outcomes, we must:

- Positive youth development
- Centering local narratives
- Helping youth to identify relatable role models
- Challenging the norms and stigma
- Providing space in legal and non-legal spaces for breaking through stigma
- Identifying supports that come from Indigenous perspectives
- Seeking out Indigenous content outside of the legal context

National Resources:

Great Lakes Indigenous Law Center

975 Bascom Mall
Law Building Room 7110
Madison, WI
53706-1399

Native American Law Center

William H. Gates
Hall Box 353020
Seattle, WA 98195-3020

National Indigenous Women's Resource Center

12 Bowstring Street
Lame Deer, MT
59043 Phone:
406.477.3896

Tribal Law and Policy Institute

8229 Santa Monica Blvd., Suite
201 West Hollywood, CA 90046
Phone: (323) 650-5467

Native American Rights Fund

250 Arapahoe Ave.
Boulder, CO 80302
(303) 447-8760

Indian Law Resource Center

602 North Ewing Street
Helena, MT 59601
406.449.2006

American Indian Law Center, Inc.

P.O. Box 4456
Albuquerque, NM 87196
(505) 277-5462

American Indians and Alaska Natives in the Justice System: Marginalization, Victimization, and Challenges

Incarceration Statistics

➤ **4.3%** ➤

The incarceration rate in local jails for American Indian/Alaska Natives (AI/AN) increased by an average of 4.3%, compared to an increase of 1.4% per year for all other races combined (1999-2014).

➤ **38%** ➤

AI/AN were incarcerated at a rate 38% higher than the national incarceration rate (1992-2002).

➤ **22.7k** ➤

22,744 AI/AN were incarcerated in state and federal facilities (2016). AI/AN were about 2.1% - 3.7% of the federal offender population (2019).

➤ **60%** ➤

AI/AN incarceration rates have steadily increased over the last few decades, increasing 60% from 1990-2020.

Policing and Jail Populations

➤ **10.4k** ➤

10,400 AI/AN individuals were held in jails at midyear 2014.

➤ **316** ➤

AI/AN individuals are detained in local jails at a rate of 316 per 100,000; the national rate is 192 per 100,000, and 157 per 100,000 for whites.

➤ **3x** ➤

The ratio of deaths by police shootings is 3x higher for AI/AN individuals than for White Americans.

➤ **1.4%** ➤

AI/AN accounted for 1.4% of the total jail population in 2014.

Historical Traumas and Lasting Effects

AI/AN individuals face unique challenges and historical traumas that continue to contribute to disproportionate incarceration rates and systemic inequalities. Historical acts of oppression and trauma make Native individuals and communities particularly vulnerable to factors that lead to incarceration, such as mental illness, substance abuse, poverty, lack of resources and support, and overpolicing.

Removal

European settlers forced the removal of AI/AN people from their homelands and into reservations that held no regard for culture or access to resources.

Reorganization

Congress began to encourage tribal government development. While tribal sovereignty was established, U.S. government still opposed traditional approaches to leadership.

Self-Determination

Tribal sovereignty grows although tribal governments are often excluded from beneficial federal policies. Pipeline projects and violence against AI/AN continue to threaten AI/AN individuals and communities.



Co-existence

Trade between AI/AN people and European settlers existed, and boundaries were maintained between territories as colonists began expanding West.

Assimilation

Settlers forced AI/AN children to attend boarding schools that stripped them of their culture and language. Traditional AI/AN cultural practices were outlawed nationally.

Termination

The U.S. government continued assimilation efforts by relocating tribes, and liquidating and distributing tribal assets. From the 1940's to the 1960's, more than three million acres of tribal lands are estimated to have been relinquished nationwide as a result of termination.

What's Missing?

AI/AN representation in data collection is often incomplete and inaccurate, often omitting or misclassifying AI/AN populations, resulting in miscalculations in the representation of AI/AN impacted by the justice system.

➔ The Bureau of Justice reports on jails in Indian Country separately from other locally-operated jails and obscures the total number of AI/AN in local jails.

➔ Participation in the FBI's Uniform Crime Reporting is voluntary. Some tribes report partial data, and some do not report data at all.

Victimization



More than **4 in 5** AI/AN individuals have experienced violence in their lifetime.



The murder rate for women living on reservations is **10x** higher than the national average.



An estimated **40%** of women who are victims of sex trafficking are AI/AN.



The Missing and Murdered Indigenous Peoples movement seeks to bring attention and resources to battling violence against Indigenous people in the U.S. and Canada.



Wičhóyanke
NETWORK



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CHANGE

American Indians and Alaska Natives in the Justice System: **Models for Success**



Native-led support programs for justice-involved individuals focus on holistically strengthening the individual as well as their connections to culture, family, and community. What's more, implementing Western models of Evidence-Based Practices within AI/AN communities is currently an area of debate. Indigenous worldviews tend to focus on well-being, balance, and harmony in their connections to other people and the natural and spiritual world.

Pre- and Post- Release Cultural Programming



I. Am. Legacy

I. Am. Legacy (South Dakota) relies on core Lakota values as the root of their prevention, intervention, outreach, and healing services. I. Am. Legacy programs strengthen cultural connections, positive role models based on the Lakota kinship system and a strong foundation of cultural education to support justice-involved individuals.



The Flathead Reservation Reentry Program (FRRP) in Montana serves AI/AN individuals transitioning from correctional facilities back to the Flathead Reservation, with a focus on individuals struggling with mental health or substance abuse issues. FRRP uses cultural mentoring to reconnect clients with their tribal communities. The program allows clients to self-identify their own needs and requests for services, preserving autonomy of reentering individuals while connecting them to material and cultural supports.

Indigenous Mobile Response Teams



South Dakota Urban Indian Health's pilot Wo'Okkiye Project partners with local programs to provide mobile primary support and aid law enforcement responding to low-level calls. By providing cultural support at first contact, the Wo'Okkiye project to assist law enforcement with mitigation services, and connect vulnerable populations with care networks and available resources to break the cycle of justice involvement.

Mental Health and Substance Abuse Services



The Pascua Yaqui Behavioral Health Centered Spirit Program in Southern Arizona assists Pascua Yaqui members and immediate family seeking mental health and substance abuse services. The Centered Spirit Program focuses on "healing, personal growth, and healthy living for the individual, the family and the community". Alongside methadone/suboxone maintenance and psychiatric services, the program offers youth life skills group and therapy sessions, centering not just physical health.

Special Thanks To:

- Andrew Robeartson
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- Erik Bringswhite
- George Galvis
- Jessica Ryan
- Megan Pirie
- Michaela Seiber
- Miguel Flores
- Misty Haran
- Selso Villegas
- Shirley Montoya



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Identity terminology¹

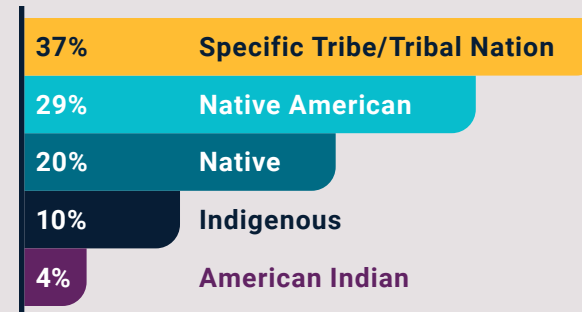
Above all, allies and partners must understand that Indigenous identity is nuanced. There is no one-size-fits-all approach to Indigenous identity, and individual preferences may vary from person to person. According to the 2020 Indigenous Futures Survey, “Most Native American participants identify themselves to others using their Specific Tribe or Tribal Nation, while some prefer to identify themselves as Native American, Native or Indigenous. Notably, American Indian, which used to be a common term for Natives in North America has generally fallen out of favor.”²

Note: Many of the terms listed below are legal terms that are used in treaty documents, the United States Constitution, modern case law, and more, and thus require continued use today even though some Indigenous communities do not prefer these terms.

Pluralization: When referring to Indigenous Peoples and cultures, you should use the plural form to note the diversity of these communities. For more information, see the section titled “Indigenous cultures are distinct, not monolithic.”

- **Aboriginal:** Aboriginal (with a capital ‘A’) is generally not used to describe the Indigenous Peoples of what is now known as North America and is more widely used to describe the Indigenous Peoples of what is now known as Australia. However, the appropriate language and terminology used to name Aboriginal and Torres Strait Islander peoples is a nuanced issue that is NOT explored in this guide and we encourage you to seek out additional resources.

How do Native Americans most often identify themselves?



Note:
Native Americans
account for 94%
of sample

- **Alaska Native:** Alaska Natives are the Indigenous Peoples of what is now known as Alaska.
- **American Indian:** A term that refers to the Indigenous Peoples of what is now known as the contiguous United States and usually excludes Alaska Natives and Native Hawaiians. This term is more commonly used in academia and as a demographic label, and are codified legal terms used in treaty documents. As noted in the 2020 Indigenous Futures Survey referenced above, this term has generally fallen out of favor for self-identification.
- **First Nations:** A term that refers to the Indigenous Peoples of what is now known as Canada.

1 <https://ippreport.nativephilanthropy.org/>.

2 https://live-cnay.pantheonsite.io/wp-content/uploads/2020/12/indigenous_Futures_Survey_report_finalforemail.pdf

- **Indian:** Some Indigenous Peoples use “Indian” or “NDN” as a colloquial or slang name for each other, but this term should never be used by non-Indigenous people to refer to an Indigenous person or Peoples. However, the word “Indian” is also still used in the following contexts:
 - Federal agencies such as the Bureau of Indian Affairs or Indian Health Services.
 - Names of federally recognized Tribes.
- **Indian Country:** Among Native peoples, this term is used as the collective name for Native communities in what is now known as the United States. It is also used as a legal term to classify the lands in which Native peoples can practice tribal self-governance.

- **Indigenous:** The original inhabitants of a geographic location. It is often used as an umbrella term for Native Peoples no matter where they originate from. When referring to Indigenous Peoples, be sure to capitalize the word.
- **Native:** A term growing in popularity that many feel is more appropriate than “Native American” as a descriptor for Peoples whose ancestry predates America as a country. It is also used as a synonym for Indigenous. The “N” should always be capitalized.
- **Native American:** A term that refers to American Indians and Alaska Natives and usually excludes Native Hawaiians.
- **Native Hawaiian:** Native Hawaiians or Kānaka Maoli, are the Indigenous Peoples of Hawai’i. It is considered both inappropriate and inaccurate to address Native Hawaiians as Native Americans since the Kingdom of Hawai’i was overthrown in a coup led by American businessmen with the help of U.S. troops. In 1993, the U.S. Government officially apologized in a resolution that acknowledged the coup as illegal and “further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands.”



Terms to use with caution

Philanthrospeak

Philanthrospeak is when mainstream philanthropy uses jargon and complicated terms to refer to basic concepts. These terms often have Eurocentric, capitalistic roots and may be used to intentionally or unintentionally exclude marginalized communities from mainstream philanthropy. These terms do not necessarily need to be avoided all the time, but it's important to be aware of the additional meanings they can carry.

- **Partner:** Philanthropic giving among Indigenous communities are reciprocal. The key principle of keeping reciprocity at the core is established by building trusting relationships and viewing one another as equal partners.
- **Stakeholder:** This term comes from the colonial practice of claiming land with a stake and removing Indigenous Peoples, the rightful land holders. In a corporate context today, the term is used to describe someone who has a vested interest or whose support is required for an organization to exist. This term is transactional in nature and implies that the stakeholder is in a position of power. Instead of using this term, consider using a word that offers more clarity on who you are in relationship with (collaborator, supporter, audience, funder, etc).

- **Capacity building:** The term capacity building uses deficit-focused language and often reinforces harmful power dynamics. The phrase implies that funders know best, rather than the communities who are closest to the issue, and can perpetuate white-dominant norms of effectiveness.³

3 <https://nonprofitquarterly.org/should-we-cancel-capacity-building/>



Terms to avoid

This list of terms to avoid is not exhaustive; we've chosen to focus on words or phrases that we have seen in the philanthropy sector.

Dehumanizing & Offensive Language

The terms below are based on offensive and harmful stereotypes of Indigenous Peoples and should not be used at all.

- **Savage:** An extremely offensive term, it is never okay to use this term in any context. This term is used often in modern context with a positive connotation; however, this word is disrespectful to Indigenous Peoples and should be avoided in any context.

- **Civilized/Uncivilized:** Since colonial contact, these terms have been used by European colonizers to characterize everything from land ownership practices to religious beliefs of Indigenous Peoples. The belief that Indigenous Peoples and their practices were “uncivilized” postulates that Europeans, being civilized, were superior and therefore had an inherent right to do with land and Indigenous Peoples as they pleased. In the early 1800s, the new United States government began codifying these terms to justify harmful policies developed for the forced removal of land, children, and cultural practices.
- **Wild or re-wild:** Using either term reinforces the idea that the land here before colonization was a wild uninhabited paradise. The truth is that this land was carefully and intentionally stewarded by Indigenous Peoples through practices like controlled burns, propagation and cultivation of crop plants, and responsible harvesting techniques. The assumption that Indigenous Peoples did not use the land properly, because they didn't use it as Europeans would allow white people to use the term 'wild' to keep Indigenous Peoples off their land. The use of the term “re-wild” to refer to restoring a natural uncultivated state of wilderness perpetuates the belief that the land was not cared for prior to colonization, and serves as erasure for traditional ecological knowledge of land stewardship.





Stereotypes & appropriation

The terms below either have Indigenous origins or have been mistakenly thought to come from Indigenous cultures. These terms are often used in business settings and within the philanthropic sector and should be avoided because they are culturally insensitive.

- **Off the reservation:** This phrase is sometimes used to describe someone who is acting irrational. It stems from the late 1800s when Indigenous Peoples were violently punished or murdered if they left the reservation. Using this phrase implies that Indigenous Peoples are inherently irrational and deserve to be confined to reservations.⁴
- **Too many chiefs, not enough Indians:** This phrase is typically used when referring to a hierarchy. It's inappropriate to use because it wrongly stereotypes Indigenous Peoples as lazy and incapable of making decisions.⁵
- **Discover:** In 1493, Pope Alexander issued a proclamation claiming that any land not inhabited by Christians was available to be "discovered." In a historical context, the term continues to be used as if Indigenous Peoples were never living on the land. There was no discovery of land, only acts of colonization.⁶
- **Powwow:** Many non-Indigenous people use the term for almost any event or gathering, disregarding the importance of these sacred ceremonies and the struggle that Indigenous Peoples faced when these ceremonies were forbidden by law. Indigenous Peoples use this ceremony to celebrate their heritage, art, and community, not for a casual office meeting.²

- **Spirit animal:** People will use this term as a means to reference themselves as a person, thing, or animal that best represents them. However, using "spirit animal" in that context both misinterprets sacred relationships with animals and misrepresents the various spiritual ceremonies that many Tribes practice. While not all Indigenous Peoples share these beliefs, for those that do these practices are sacred and can be very private.
- **Low man on the totem pole:** Some people may use this phrase to refer to an unimportant person with a low rank, but totem poles are sacred objects in many Indigenous cultures. This phrase diminishes and misrepresents the symbolic meaning that totem poles have. In some cultures, the carvings at the bottom of the totem pole are actually seen as the most significant.²

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- 4 Kapitan, A. (2021, January 21). *Thirty everyday phrases that perpetuate the oppression of indigenous peoples*. Radical Copyeditor. Retrieved June 30, 2022, from <https://radicalcopyeditor.com/2020/10/12/thirty-everyday-phrases-that-perpetuate-the-oppression-of-indigenous-peoples/>
 - 5 Lutz, J. (2015, May 26). John Lutz: Government policy created the myth of the "lazy Indian". The Georgia Straight. Retrieved June 30, 2022, from <https://www.straight.com/article-201674/john-lutz-government-policy-created-myth-lazy-indian>
 - 6 Words matter case study. Words Matter Case Study. (n.d.). Retrieved June 30, 2022, from <https://americanindian.si.edu/nk360/plains-treaties/words-matter>



ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Protecting Sovereignty • Preserving Culture
Educating Youth • Building Capacity

Healing Native Youth through Youth Justice Reform

By Kim Mettler, Mandan-Hidatsa-Arikara Nations.¹

If you are reading this, it is presumably because you are committed to and engaged in juvenile justice reform efforts. You may not be aware, however, that the successes of this reform have not yet reached Native youth. You also may not be aware of what makes justice involvement for Native youth different than for other youth such as: the circumstances that bring Native youth² into justice-system involvement; or the disproportional representation in the system; or the involvement of their separate and sovereign Native Nations,³ for example.

Here we will provide you with information about what you can do to reduce disproportionality and improve outcomes for Native youth. We will offer suggestions for how you might work to reform punitive systems into restorative systems that can heal Native youth. They deserve the best from us, including our collaboration, partnership, innovation and creativity.

Please note that there is a link at the end of this article to request more information, training, or technical assistance. We would also like to invite you to attend our upcoming webinar

¹ Kim Mettler is a citizen of the Mandan, Hidatsa and Arikara Nations, is an attorney and has been training state and local officials about the Indian Child Welfare Act for two decades. You can learn more about Kim at <https://www.heartrivercoaching.com/>.

² The Association has eliminated the term “juvenile” in its programming or in any description referring to a Native youth who is justice involved. Using the term “youth” allows our young people to retain their humanity, dignity and their place within our circles of family, community, Tribe and universe. The term “juvenile” reduces young people to a label that is often used in a derogatory manner, stigmatizing their self-worth and identity. See also National Juvenile Justice Network’s Language of Inclusiveness, accessed December 11, 2022 at <https://www.njjn.org/our-work/guidelines-for-inclusiveness>.

³ Native youth under the age of 24 comprise almost 25% of Native Nations populations (See footnote 4). Removing Native youth from their homes, communities and Nations and placing them in justice systems is significantly detrimental to Native Nations. As the Association on American Indian Affairs states, “the strength and well-being of Native youth is inextricably connected to the continuing cultural vitality and sovereignty of Native Nations and Tribes. If we do not protect our youth, Tribes will not be able to protect their diverse cultures and sovereignty. See *Juvenile Detention Alternatives Initiative: Examining How JDAI Sites Interact with Native Youth and Tribes*. Association on American Indian Affairs, 2018 at page 1. Accessed at https://www.indian-affairs.org/uploads/8/7/3/8/87380358/2018_final_jdai_site_report.pdf.

hosted by the Annie E. Casey Foundation, on Thursday, March 16, 2023, to help youth justice staff achieve better outcomes for Native youth who are involved in the justice system.

Let Me Tell You a Story

Johnette Hawk, Lakota,⁴ sits alone on a bed in a cinder-block cell. A coverless book, a page torn from a magazine, a pen with a chewed cap and an open, worn journal rest on a rickety table. Though the fluorescent light buzzes brightly, the walls glow a dingy, dirty gray. A small window with wire-enforced glass siphons gloomy light from the outside, feeding into the dark mood of the cell.

Johnette, 17, has raven-black hair twisted into two braids that drape off her rounded shoulders.⁵ Her 5'7" frame looks small as she curls into herself, staring at the floor. Her skin, the color of tobacco, is smooth, except for her arms. They are textured by the scars from two suicide attempts and slashes from knives, razors, sharp plastic or torn pop cans used to cut herself. A long finger absently traces the map of the life engraved into her skin. She is currently incarcerated in a facility far from home. She is lonely, depressed and struggles with PTSD.⁶ She participates in a state program that will help her get her GED, but she is not receiving culturally appropriate services to address her ongoing mental health or barriers to re-entry when she is released.⁷

Her story actually begins in the 1800s when the United States first began to assert federal control over Native youth through the forced relocations of young people into its boarding schools.⁸ Johnette's great-grandparents and grandparents, both maternal and paternal, had been rounded-up, taken away from their families and sent to boarding schools far from their homes in others states as part of U.S. policy to eliminate Native cultures (and peoples, if they didn't assimilate).

Young people in the boarding schools were prohibited from speaking their languages or engaging in any cultural or spiritual practices and were severely punished when they did. They were stripped of their traditional clothing, their hair cut. Thousands of Native children and youth endured physical, emotional and sexual abuse. Many never returned home and today remain unaccounted for.⁹

⁴ Johnette Hawk is a fictitious name. Any association with a real person, any Lakota Tribe or both is unintended and purely coincidental.

⁵ Johnette is an example of one of the young people under the age of 24 that comprise almost one quarter of Native Nations populations. Indian Country Today "2020 Census: Native population increased by 86.5 percent." August 13, 2021. Accessed on December 11, 2022 at <https://indiancountrytoday.com/news/2020-census-native-population-increased-by-86-5-percent>.

⁶ Native youth experience post-traumatic stress disorder (PTSD) at 3 times the national average, which is approximately the same as veterans who have served in Iraq and Afghanistan. See "A Report Aims to Change the Way We Think About Native Justice" by Krista Langlois. High Country News published December 19, 2013. Accessed December 22, 2022 at <https://www.hcn.org/blogs/goat/a-new-report-hopes-to-shame-america-into-rethinking-native-justice>

⁷ National Congress of American Indians, Tribal Juvenile Justice Background and Recommendations at page 6. Accessed January 16, 2023 at https://www.ncai.org/resources/ncai_publications/tribal-juvenile-justice-background-recommendations

⁸ The National Native American Boarding School Healing Project. Accessed January 16, 2023 at <https://boardingschoolhealing.org/education/us-indian-boarding-school-history/>

⁹ Ibid.

The boarding schools disrupted transfers of knowledge from one generation to another about age and gender roles within their Nations and communities, understanding of one's responsibilities to their community, traditional family roles and parenting, and personal and community accountability. It introduced new kinds of violence. These disruptions, along with other historical trauma and the unresolved intergenerational trauma caused by boarding schools have been passed down and have directly created the circumstances Native youth struggle with today.

Today's American Indian and Alaska Native youth, according to the Indian Law and Order Commission, have inherited the legacy of centuries of eradication and assimilation-based policies directed at Native people in the United States, including removal, relocation, and boarding schools.¹⁰ Native youth are among the most vulnerable children in the U.S., disproportionately experiencing poverty, substance abuse, suicide, and exposure to violence and loss as compared to their non-Native counterparts.¹¹

Johnette grew up bouncing between her Native Nation's reservation, staying with relatives from her large extended family, and a city 100 miles away where she lived with her mother. She has lived in extreme poverty, and housing was not always stable, safe or habitable. Johnette remembers being homeless once, huddled with her mother against the harsh South Dakota winter while waiting to be accepted into a shelter.

Her mother tried to care for her as best as she could but struggled with her own unresolved trauma. Johnette's mother was an alcoholic, with untreated mental illness and physical ailments resulting from unattended medical issues and years of domestic abuse. This made it difficult for her to maintain a job. Johnette's father was not around.

Although very intelligent, Johnette struggled in school, and she was often bullied by other students and targeted by some teachers because she was Native and others who thought Johnette was just being lazy. She hovered between excessive absences and truancy, which marked her first encounters with both child protective services and law enforcement. She was often defiant with teachers who picked on her; she began fighting back against other students who tormented her. Over the course of her teenage years, she developed a criminal history of truancy, vandalism, underage drinking, theft, and fighting. This is not the first time she has been incarcerated.

The rest of Johnette's story and the possible outcomes for her depend on a number of factors. For example, she can potentially be prosecuted by three jurisdictions: Tribal,¹² state and federal. This maze of jurisdiction that only applies to Native youth was created by years of

¹⁰ Indian Law and Order Commission Report: A Roadmap for Making Native America Safer: hearing before the Committee on Indian Affairs, United States Senate, One Hundred Thirteenth Congress, second session, February 12, 2014. Chapter 6, Juvenile Justice at page 149.

¹¹ Attorney General's Advisory Commission on American Indian/Alaska Native Children Exposed to Violence, Ending Violence So Children Can Thrive (hereafter, the Thrive Report) 2014 at page 217.

¹² Native Nations are sovereign governments that are on equal footing with states. They have a government-to-government relationship with each other in much the same way they both have a government-to-government relationship with the federal government. Tribes have the authority to criminally prosecute their members for crimes committed within the boundaries of their lands.

assimilative federal Indian policy and Supreme Court decisions.¹³ Tribal courts generally handle the less serious crimes and crimes between Native people, while federal courts handle more serious ones, and state court jurisdiction is dependent on where the crime took place.¹⁴ If federally prosecuted, Johnette would receive a much harsher and longer sentence; there is no juvenile division in the federal system, so there is no diversion or juvenile probation. There is only punishment, not rehabilitation.¹⁵ If she is in federal or state jurisdiction, there would likely be little or no educational programs or trauma-informed, culturally appropriate services for her.

What we know for certain is this:

- She was always at greater risk of entering the justice system as Native youth are at greater risk than other youth of entering the system.¹⁶
- She and other justice-involved Native youth need support, treatment and rehabilitation in response to the levels of historical, intergenerational and contemporary trauma they have experienced.¹⁷ Experts consistently recommend these services be close to or in the youth's community for best outcomes.¹⁸
- Collaboration with Native Nations and across jurisdictions is the key to obtaining those services and supporting change.

Where To Start

Creating meaningful, inclusive justice reform and reducing disproportionality begins with engaging and building partnership with Native Nations. It has been demonstrated time and again that connecting with culture creates protective factors for Native youth. Many Native Nations have programs that serve justice-involved youth that have been successful, including Mississippi Band of Choctaw Indians, the Pueblo of Isleta, and Little River Band of Ottawa Indians.

In 2018, the Association published the results of a study it conducted to examine how Juvenile Detention Alternatives Initiative (JDAI) sites and their interactions with Native youth and Native Nations. The Association found that the responding sites did not have a reliable process for identifying Native American youth and were not engaging in outreach to the Native youths' families or Nations to gather information on the youth's status as citizens of their Native

¹³ *Native Youth Navigate Complex, Contradictory Jurisdictions* by Calah Schlabach, José-Ignacio Castañeda Perez, Matthew Hendley and Layne Dowdall. Published August 21, 2020. Accessed December 11, 2022 at <https://kidsimprisoned.news21.com/native-kids-justice-system/>.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ National Congress of American Indians, Tribal Juvenile Justice Background and Recommendations at page 6. According to one source, Native youth are confined by the justice system at rates greater than white, Hispanic and Asian youth combined, and, while arrest rates for other youth are falling, they continue to rise for Native youth. See *The U.S. Criminal Justice System Disproportionately Hurts Native People: the data, visualized* by Leah Wang. October 8, 2021. Accessed on January 9, 2023 at <https://www.prisonpolicy.org/blog/2021/10/08/indigenouspeoplesday/>.

¹⁷ Ibid at page 7.

¹⁸ National Congress of American Indians, Tribal Juvenile Justice Background and Recommendations at page 13 and at footnote 59.

Nation.¹⁹ JDAI sites relied on youth self-reporting or on a probation or police officer or youth justice worker to unilaterally identify a youth's ethnicity – which may merely be based on skin color or stereotypes.

With 574 federally recognized Native Nations in the U.S. and more than 400 other Tribes, Bands and Communities recognized by states or not yet federally-recognized, it will be difficult to engage with a justice-involved youth's Nation if you don't know what it is. These current methods being used do not support consistency or accuracy in obtaining and maintaining important information.

For one reason, centuries of genocide and assimilation policies have caused families to experience significant historical and intergenerational trauma, much of which is unresolved. As a result, some youth may not fully know their connections to a Native Nation, or they may be embarrassed or afraid to disclose the relationship. Additionally, some youth may not be old enough to consent to or share relevant information to develop an appropriate, culturally relevant case plan.

For another reason, without direct inquiry, workers rely on whether a youth “looks Native” or their surnames. Neither are reliable ways to identify Native youth and perpetuate negative stereotypes of Native Peoples. Native Nations and individual family histories are quite diverse, and as a result, not all Native people have features that fit the stereotypical image that has been promoted by the dominant culture through myth or media. Surnames cannot accurately be indicators because during the allotment era, federal Indian agents gave Native citizens European names to simplify managing the land allotment process, and names were changed when children were forced into boarding schools.²⁰ Across Southern California and the Southwest for example, it is common for Native Nation citizens to have Spanish surnames as a result of Mexican land ownership.

The only way to accurately identify Native youth and to connect them with their Nations, cultures and communities is to ask in every case and notify every Nation in which the youth may be a citizen or eligible for citizenship. Not only should the Native youth be asked their Native citizenship or heritage, but so should their family members, members of their community (such as Native Nation social workers or Native youth justice workers) and others who would reasonably be aware of the youth's status.

Engaging and Collaborating with Native Nations

Once the Native youth's Nation(s) has been identified, they should be engaged and invited to collaborate in assessing the youth, identifying appropriate services, and then connecting them. In collaborating with the Native Nation, agencies increase the pool of resources available to serve the youth, which likely include services that can address underlying trauma, provide community-based support and supervision, and provide rehabilitative support rather than punishment. All will improve outcomes, as well as culturally appropriate alternatives to detention for Native youth.

¹⁹ Juvenile Detention Alternatives Initiative: Examining How JDAI Sites Interact with Native Youth and Tribes. Association on American Indian Affairs, 2018 at page 1. Accessed at https://www.indian-affairs.org/uploads/8/7/3/8/87380358/2018_final_jdai_site_report.pdf.

²⁰ Renaming Indians accessed on December 4, 2022 at <http://nativeamericannetroots.net/diary/1458>.

But there are even more, far-reaching and impactful reasons for engaging and collaborating with Native Nations. Engaging and collaborating with Native Nations is more than a best practice – it is the gold standard in working with Native children and youth.²¹ Engaging and collaborating with Native Nations is a tenet of anti-oppressive youth justice work and youth justice reform. Moreover, engaging and collaborating with Native Nations to address the issues underlying youth involvement in the justice system, your agency becomes a partner in strengthening Native Nations and government-to-government relations – as well as strengthens your agency’s ability to provide collaborative support and programming.

Resources

For those with little or no experience working with Native youth or developing partnerships with their Nations, the prospect of doing so may seem daunting and intimidating. However, there are resources available to support leadership and case managers in developing and implementing capacity to address inquiry and outreach concerns. For example, the 2016 Guidelines for Implementing the Indian Child Welfare Act contain a number of best practices that could assist states in developing processes to better team and engage with Native Nations. States that have codified ICWA, such as California, also can serve as examples.²²

If your jurisdiction is interested in receiving training or in learning more about developing an inquiry and notice process, identifying Native youth, or relationship building with Native Nations, reach out to the Association on American Indian Affairs by using [this link](#):

Supporting Native youth uplifts our shared futures. Be a part of a world where diverse Native cultures and values are lived, protected and respected. #ChildrenBack #IdentityBack #CultureBack #EverythingBack

²¹ National Indian Child Welfare Association. Setting the Record Straight ICWA Fact Sheet. Accessed January 17, 2023 at <https://www.nicwa.org/wp-content/uploads/2017/04/Setting-the-Record-Straight-ICWA-Fact-Sheet.pdf>.

²² There are other recommendations that can support justice reform for Native youth. See *A Roadmap For Making Native America Safer: Report To The President And Congress Of The United States*. Chapter 6, Juvenile Justice: Failing the Next Generation. Indian Law and Order Commission. November 2013.

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Representation in Immigration Bond Proceedings

Legal Authority to Detain Noncitizens

Defined by the Immigration and Nationality Act →

- INA § 236 – Detained pending removal proceedings
- INA § 235 – “Arriving alien” detained pending decision on admission (Usually also means during removal proceedings)
- INA § 241 – Detained with final order of removal, pending removal from the United States

Mandatory Detention

- Not eligible for bond if:
 - INA § 236(c): “People with certain criminal convictions”
 - Noncitizens in removal proceedings with convictions for certain offenses, including “aggravated felonies” and in some circumstances controlled substance offenses, “crimes involving moral turpitude,” firearms offenses, and other grounds.
 - INA § 235(b): “Arriving Aliens” These are people deemed to be seeking admission at the border, but may be new arrivals OR long time LPRs....strange category
 - INA § 241: People with final removal orders Unless they pass a “reasonable fear” interview and are in withholding-only proceedings (*Guerra v. Shanahan*)
- Laken Riley Act (Jan 2025): new grounds of mandatory custody now include pre-conviction arrests and charges for burglary theft, shoplifting, larceny, and assault of a law enforcement officer, and any offense that results in death or serious bodily injury to another person.
- BUT...*Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999)
 - An IJ can set bond if it is “substantially unlikely” that DHS will establish the charge(s) that subjects the individual to mandatory detention
- Other Grounds of Mandatory ICE Detention
 - Reinstatement (prior removal order + returns) – INA § 241(a)(2)
 - Final administrative removal order (Aggravated felony + undocumented) – INA § 238(b)
 - Expedited Removal for arriving noncitizens (individuals who present at port of

entry or are apprehended 100 miles of border within 14 days of crossing) – INA § 235(b)(1)(B)(IV)

- *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)
 - Respondent (R) crossed the southern border in June 2022 between ports of entry.
 - DHS arrested R without a warrant 100 yards north of the border and 5.4 miles from the nearest port of entry.
 - The next day, DHS released R on parole under § 212(d)(5)(A).
 - At a scheduled ICE check-in two years later, DHS took R into custody and initiated removal proceedings against her, with INA § 212(a)(6)(A)(i) NTA charge.
 - IJ found R ineligible for bond, concluding that her detention was under INA § 235(b)(2)(A).
 - Holding:
 - “[W]e hold that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA . . . and is ineligible for any subsequent release on bond under section 236(a) of the INA. . . .”
 - Only exception permitting release is § 212(d)(5)(A) parole.
 - If DHS paroles a noncitizen detained under § 235(b) but later redetains the noncitizen and terminates their parole grant, the noncitizen is again detained under § 235(b) pending the completion of removal proceedings.

Legal Authority to Release Noncitizens

- Discretionary Detention - § INA 236(a)
 - May be detained OR
 - Released on bond (at least \$1500) OR
 - Granted conditional parole (ROR)
- Under 8 C.F.R. § 236.1(c)(8) ICE can do any of the above
- Under INA § 236(a)(2)(A)-(B) the immigration judge can review the original decision and grant any of the above

Recommended practice: Gather information on the Respondent’s manner(s) of entry into the United States, gather information on any exits from the United States and whether any resulted in deportation, their current immigration status, whether they have any criminal arrests, charges, or convictions (even if dismissed) to determine bond eligibility

Legal Standard for Release

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)
 - Under INA § 236(a), Immigration Judges have the authority to grant bond or

conditional parole in an exercise of discretion.

- IJs determine whether the noncitizen is a **danger or a flight risk** in deciding whether to grant bond or conditional parole, so long as the decision is reasonable based on the evidence.
- *Matter of Fatahi*, 26 I&N Dec. 791, 795 n.3 (BIA 2016)
 - Noncitizens have the burden to demonstrate eligibility for a bond

Evidence in Bond Proceedings

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)
 - Any “probative and specific” evidence may be considered.
- *Matter of D-R-*, 25 I&N Dec. 445, 458 (BIA 2011) T
 - The Federal Rules of Evidence are not binding in immigration proceedings.
- *Matter of Grijalva*, 19 I&N Dec. 713 (BIA 1988)
 - Hearsay evidence is admissible in immigration proceedings unless its fundamentally unfair.
 - The admission into evidence of police reports concerning the circumstances of a noncitizen’s arrest is especially appropriate in cases involving discretionary relief.

Possible Supporting Documents to Gather

- Letters of support from family, friends, or employers
- Proof of eligibility for relief (Often the application)
- Proof of date and manner of entry
- Certificates of disposition for convictions
- RAP sheet to show no bench warrants
- Bills or records showing fixed address
- Birth and marriage certificates
- Proof of employment and tax history
- Proof of rehabilitative programs or probation compliance
- Evidence of limited ability to pay high bond (???)

Useful Immigration Documents

- Notice to Appear
- Form I-213
- If enter ECAS appearance for “bond only” these won’t be available online
- Can request these from OPLA/IJ
 - OPLA Chicago Detained Duty Email: OPLA-CHI-DetainedDuty@ice.dhs.gov

Recommended practice: Interview Respondent in order to gather information on the reason detained, positive equities, mitigating factors, and evidence supporting their release. Make arguments within the bond motion to mitigate negative factors, citing evidence included in an index to the motion.*

**A sample bond motion and supporting documents has been provided in the materials

Notice of Entry of Appearance as Attorney or
Representative Before the Immigration Court

(Type or Print) NAME AND ADDRESS OF REPRESENTED PARTY			ALIEN ("A") NUMBER (Provide A-number of the party represented in this case.) <div style="background-color: black; width: 100px; height: 1.2em; margin-top: 5px;"></div>
<div style="background-color: black; width: 100%; height: 1.2em; margin-bottom: 5px;"></div> <div style="text-align: center;">(First)</div>	<div style="background-color: black; width: 100%; height: 1.2em; margin-bottom: 5px;"></div> <div style="text-align: center;">(Middle Initial)</div>	<div style="background-color: black; width: 100%; height: 1.2em; margin-bottom: 5px;"></div> <div style="text-align: center;">(Last)</div>	
Dodge County Jail, 216 W Center St			
<div style="text-align: center;">(Number and Street)</div>		<div style="text-align: center;">(Apt. No.)</div>	
Juneau	WI	53039	
(City)	(State)	(Zip Code)	
Attorney or Representative (please check one of the following):			
<input checked="" type="checkbox"/> I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following states(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary) and I am not subject to any order disbaring, suspending, enjoining, restraining or otherwise restricting me in the practice of law in any jurisdiction (if subject to such an order, do not check this box and explain on reverse).			
Full Name of Court <u>Supreme Court of Wisconsin</u> Bar Number (if applicable) <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>			
<input type="checkbox"/> I am a representative accredited to appear before the Executive Office for Immigration Review as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:			
<input type="checkbox"/> I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).			
<input type="checkbox"/> I am a reputable individual as defined in 8 C.F.R. § 1292.1(a)(3).			
<input type="checkbox"/> I am an accredited foreign government official, as defined in 8 C.F.R. § 1291.1(a)(5), from _____ (country).			
<input type="checkbox"/> I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).			
Attorney or Representative (please check one of the following):			
<input checked="" type="checkbox"/> I hereby enter my appearance as attorney or representative for, and at the request of, the party named above.			
<input type="checkbox"/> EOIR has ordered the provision of a Qualified Representative for the party named above and I appear in that capacity.			
I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representations before the Immigration Court. By signing this form, I consent to publication of my name and any findings of misconduct by EOIR, should I become subject to any public discipline by EOIR pursuant to the rules and procedures at 8 C.F.R. 1003.101 <i>et seq.</i> I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.			
SIGNATURE OF ATTORNEY OR REPRESENTATIVE		EOIR ID NUMBER	DATE
X <div style="background-color: black; width: 250px; height: 1.2em; display: inline-block;"></div>		<div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>	<div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>
NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & EMAIL ADDRESS			
Name: <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div> <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>			
<div style="text-align: center;">(First)</div>		<div style="text-align: center;">(Middle Initial)</div>	
<div style="text-align: center;">(Last)</div>			
Address: <div style="background-color: black; width: 150px; height: 1.2em; display: inline-block;"></div>			
<div style="text-align: center;">(Number and Street)</div>			
<div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>		<div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>	
<div style="text-align: center;">(City)</div>		<div style="text-align: center;">(State)</div>	
<div style="text-align: center;">(Zip Code)</div>			
Telephone: <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div> Facsimile: <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div> Email: <div style="background-color: black; width: 150px; height: 1.2em; display: inline-block;"></div>			
<input type="checkbox"/> Check here if new address			

Indicate Type of Appearance:

☒ Primary Attorney/Representative ☐ Non-Primary Attorney/Representative

☐ On behalf of _____ (Attorney's Name) for the following hearing: _____ (Date)

I am providing pro bono representation. Check one: ☒ yes ☐ no

Proof of Service

I (Name) _____ mailed or delivered a copy of this Form EOIR-28 on (Date) 3-7-21
to the DHS (U.S. Immigration and Customs Enforcement – ICE) at via OCC E-service

X _____

Signature of Person Serving

APPEARANCES - An attorney or Accredited Representative (with full accreditation) must register with the EOIR eRegistry in order to practice before the Immigration Court (see 8 C.F.R. § 1292.1(f)). Registration must be completed online on the EOIR website at www.justice.gov/eoir. An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). A Form EOIR-28 shall be filed either as an electronic form, or as a paper form, as appropriate (for further information, please see the Immigration Court Practice Manual, which is available on the EOIR website at www.justice.gov/eoir). The attorney or representative must check the box indicating whether the entry of appearance is for custody and bond proceedings only, for all proceedings other than custody and bond, or for all proceedings including custody and bond. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that although separate appearances in custody and non-custody proceedings are permitted, appearances for limited purposes within those proceedings are not permitted. See *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-28 that reflects a new address.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see *How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review*, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. §§ 1229(a), 1362 and 8 C.F.R. § 1003.17 in order to enter an appearance to represent a party before the Immigration Court. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999). Furthermore, the submission of this form acknowledges that an attorney or representative will be subject to the disciplinary rules and procedures at 8 C.F.R. 1003.101 *et seq.*, including, pursuant to 8 C.F.R. §§ 292.3(h)(3), 1003.108(c), publication of the name of the attorney or representative and findings of misconduct should the attorney or representative be subject to any public discipline by EOIR.

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (240) 314-1500.

FURTHER INFORMATION - For further information, please see the *Immigration Court Practice Manual*, which is available on the EOIR website at www.justice.gov/eoir.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Pro Bono Counsel

DETAINED

[REDACTED]

[REDACTED]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
CHICAGO, ILLINOIS

In the matter of:

[REDACTED]

In removal proceedings

)
)
)
)
)
)
)

File No.:

[REDACTED]

Immigration Judge Samuel B. Cole

March [REDACTED] 20[REDACTED] at 9:00 a.m.

MOTION FOR CUSTODY REDETERMINATION AND
SUBMISSION OF EVIDENCE IN SUPPORT OF CUSTODY REDETERMINATION

RESPECTFULLY submitted on March 1, 1964.

I. Mr. [REDACTED] is not a flight risk.

A. Over 20 years residence in the United States

Mr. [REDACTED] has resided in the United States since 2000. He has not left the United States in over two decades.

B. Family Ties: Twelve Year Old United States Citizen Daughter with Autism

Mr. [REDACTED] has a [REDACTED] year old daughter, [REDACTED] (DOB: [REDACTED]). See Exhibit B. Mr. [REDACTED] has joint custody of his daughter, and prior to his detention, [REDACTED] lived with him on weekends. [REDACTED] has been diagnosed with autism and ADHD. Mr. [REDACTED] is “devoted” to his daughter and “has always been an exemplary, loving and attentive parent, and he misses [REDACTED] greatly.” See Exhibits C & D. Mr. [REDACTED] completed parent education classes when separating from his ex-wife. See Exhibit E. While detained, Mr. [REDACTED] recently earned a Certificate for completing the Triple P- Positive Parenting Program. See Exhibit F. He is desperate to return to caring and providing for his daughter.

C. Extensive Work History in the U.S.

Mr. [REDACTED] is a trained mason. Prior to his detention, he most recently worked installing residential and commercial flooring for [REDACTED], LCC for several years. See Exhibit D. He also worked a second job at [REDACTED] LLC, a rental agency, doing a variety of construction (tile, drywall, painting) and other tasks for over [REDACTED] years. Previously, he worked for various contracting, restoration, and painting companies in northern Wisconsin. See Exhibit G. One of his employers describes him as “trustworthy” and an “outstanding” employee and worker. See Exhibit D. He has an offer of work upon release by his friend and former employer, [REDACTED]

D. Stable Address

Upon release, Mr. [REDACTED] will reside at the home of his friend and part-time employer, [REDACTED]

[REDACTED] at: [REDACTED] See Exhibit C.

E. Relief from Removal

Mr. [REDACTED] is prima facie eligible for non-LPR Cancellation of Removal, as he has resided in the United States for over twenty years and has joint custody of his minor daughter, who has autism and other special needs. He is determined to fight his deportation so that he can continue to raise his daughter, and therefore has every incentive to appear at future hearings.

II. Mr. [REDACTED] is not a danger to persons, property, or national security.

A. Criminal History

Criminal History Chart - Mr. [REDACTED]				
Offense	Offense Date	State/Case #	Disposition	Sentence
OWI 1st	[REDACTED]	IL	Guilty	Forfeiture / Fine
OWI 2nd	[REDACTED]	IL	Guilty	6 months probation
Disorderly Conduct, Wis. Stat. 947.01 (Class B Misdemeanor)	[REDACTED]	WI [REDACTED] [REDACTED]	Guilty Due to No Contest Plea	Forfeiture / Fine
Disorderly Conduct Wis. Stat. 947.01 (Class B Misdemeanor)	[REDACTED]	WI [REDACTED] [REDACTED]	Guilty Due to No Contest Plea	Forfeiture / Fine
Disorderly Conduct Wis. Stat. 947.01(1) (Class B Misdemeanor)	[REDACTED]	WI [REDACTED] [REDACTED]	Guilty Due to No Contest Plea	Forfeiture / Fine
Threat to Law Enforcement Officer Wis. Stat. 940.203(2) (Felony H) Disorderly Conduct Wis. Stat. 947.01(1) (Class B Misdemeanor)	[REDACTED]	WI [REDACTED] [REDACTED]	Found Guilty at Jury Trial on [REDACTED] Notice of intent to pursue post-conviction relief timely filed on [REDACTED]	Time Served ([REDACTED] days prison) [REDACTED] days jail (concurrent with time served)

With regard to the **Illinois OWIs**, neither involved an accident and no injuries resulted. The most recent OWI occurred over 15 years ago.

The **disorderly conduct convictions** from [REDACTED] and [REDACTED] all occurred while Mr. [REDACTED] was intoxicated after drinking at a bar. *See* Exhibit H. The last one occurred nearly a decade ago. Mr. [REDACTED] then lived without incident until 20[REDACTED], when he was arrested for a crime for which he was later acquitted.

With regard to the 20[REDACTED] threat of an law enforcement officer and disorderly conduct charges, those charges arose from conduct that occurred when Mr. [REDACTED] was arrested for sexual assault and burglary. *See* Exhibit I. A jury acquitted Mr. [REDACTED] of both sexual assault and burglary. *See* Exhibit J.

However, the jury convicted him of "threat to a law enforcement officer" and disorderly conduct. *See* Exhibit J. As the criminal complaint indicates, those convictions related to verbal threats that Mr. [REDACTED] made to police officers while under arrest for the sexual assault and burglary charges. *See* Exhibit I. Following is a brief summary of the events related to the threat to an officer and disorderly conduct charge from 20[REDACTED], which remains on appeal.

Mr. [REDACTED] was asleep on a couch in his home when the police knocked on his door. He had been drinking: his BAC at the time of arrest was .201. Police knocked on his door, and eventually Mr. [REDACTED] woke up and answered the door. The police arrested him and began searching his apartment. Mr. [REDACTED] was in handcuffs in the back of a police car when verbal threats occurred that were the basis for the charge of threatening an officer.

As the Criminal Complaint indicates, Mr. [REDACTED] did not know why he was being arrested and his home searched at the time when he made the verbal threats to the police. *See* Exhibit I.

According to the criminal complaint, '█████ asked me about why he was being taken to jail several times and several times I informed him that I could no longer speak to him about the incident because he had invoked his rights and his attorney was not present. *See* Exhibit I. While in handcuffs in the back of the police car, Mr. █████ allegedly made various rude and threatening statements to the arresting officers. *Id.*

The disorderly conduct charge arose out of angry comments Mr. █████ allegedly made to police officers shortly thereafter while he was detained in the secure change area of the police station. Mr. █████ was told to remove all of his clothing while in custody at the jail. *See* Exhibit K. Mr. █████ was particularly uncomfortable with the request to remove his underwear. However, he eventually complied with all of the requests and handed over his clothing. *Id.* Again, at that time, Mr. █████ had still not been informed as to the nature of the arrest, and he was very intoxicated. **At no time did he ever have any physical contact with a police officer, nor did he attempt to have physical contact with any officer.** *See* Exhibit H & K.

The jury found him not guilty of sexual assault and burglary, but found him guilty of disorderly conduct and "threat a law enforcement officer" in violation of Wisconsin statute §940.203(2). *See* Exhibit J. That statute provides: "[w]hoever intentionally causes bodily harm or **threatens** to cause bodily harm to the person or family member of any judge, prosecutor, or law enforcement officer . . . is guilty of a Class H felony." Wis. Stat. sec. 940.203(2). *See* Exhibit L.

The presentence investigation report recommended two years probation with no jail for those convictions. *See* Exhibit M. The judge ordered time served, which was █████ days by the time of sentencing due to the extended period of time Mr. █████ spent in jail awaiting trial. *See* Exhibit N.

Mr. [REDACTED] timely filed a notice to seek postconviction relief for these convictions on [REDACTED]. See Exhibit O. Appellate counsel has been appointed to represent him in his appeal. Appellate counsel has indicated that it will be several months before counsel will receive the trial transcripts and have the opportunity to determine appellate strategy. Because these convictions are currently on appeal, they have not attained a sufficient degree of finality for immigration purposes. See *Matter of J.M. Acosta*, 27 I&N Dec 420 (BIA 2018).

B. Mr. [REDACTED] has been sober for [REDACTED] months and has a plan to maintain sobriety.

All of Mr. [REDACTED]'s contacts with police involved alcohol. He is now sober, and has been for the past 20 months while detained. A condition of his probation is that he abstain from alcohol use. The fact that he now has nearly two years of sobriety under his belt will help ensure that he will pose no harm to the community.

Upon release from ICE custody, Mr. [REDACTED] is committed to maintaining sobriety. He plans to attend AA meetings in [REDACTED] Wisconsin remotely on Sunday mornings, to ensure that he has a support system and supportive community to ensure his sobriety. See Exhibit P. He is also committed to seeking individualized counseling to ensure his progress in sobriety at one of the following two alcohol treatment centers which serves individuals with limited financial means in Green Bay, Wisconsin: (1) [REDACTED]

[REDACTED] or (2) [REDACTED].

C. Due to COVID-19, the community would be better protected if Mr. [REDACTED] were released from ICE custody

According to current ICE guidance, "all enforcement and detention decisions shall be guided by DHS's ability to conduct operations and maintain custody consistent with applicable

COVID-19 protocols.”² Dodge County Jail in Wisconsin, where Mr. [REDACTED] is currently detained, recently confirmed its first COVID-19 cases.³ The most recent COVID-19 Dashboard for Dodge County, Wisconsin indicates that the current weekly COVID-19 positivity rate in the county is 11.4%, well above the goal of <5%. See Exhibit Q. Detained individuals are NOT currently eligible for COVID-19 vaccinations in Dodge County, Wisconsin, nor are they included in the next future eligible populations for vaccination. *Id.*

As has been well documented, jails are petri dishes where social distancing is nearly impossible. By keeping more people in the jails, there is a heightened risk of increased COVID-19 transmission, which in turn can increase the demand for hospital beds and other lifesaving resources for the entire community. The safer approach for the larger community during a pandemic is to release individuals such as Mr. [REDACTED] who pose no threat if released, but do pose a threat to public health while detained.

In sum, Mr. [REDACTED] has been in the United States for over [REDACTED] years, and has joint custody of a pre-teenage daughter with special needs. His contacts with the police all involved alcohol, and his string of 2 DUIs and 3 disorderly conducts ended in 2012. It was not until 20[REDACTED] when he was arrested for a crime which he was later acquitted of did he have another contact with police. None of his criminal issues involved injury to any other person. He has now been sober for over [REDACTED] months, and is committed to maintaining his sobriety upon release. He has a support network of friends and employers who are anxious to have him back at work. He has every incentive to appear at his next court hearing as is fighting to remain in the United States to care for his daughter who has autism.

² Acting DHS Secretary David Pekoske’s Memorandum, “Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities” (Jan. 20, 2021).

³ “First COVID cases confirmed among immigrants detained by ICE in Wisconsin,” The Capital Times (Dec. 12, 2020).

Therefore, Mr. [REDACTED] respectfully requests that he be ordered released on a reasonable bond.

Respectfully Submitted this 9th day of March, 20[REDACTED]

[REDACTED]

[REDACTED]

File No.:

In removal proceedings

INDEX OF EXHIBITS IN SUPPORT OF RESPONDENT'S BOND HEARING

TAB	Document Description	Pages
A	ICE Detainee Locator, indicating that Mr. [REDACTED] is currently detained by ICE.	11
B	Birth Certificate of U.S. Citizen Daughter, [REDACTED] (DOB: [REDACTED], who is currently 12 years old.	12
C	Letter from Friend [REDACTED] and copy of Mr. [REDACTED] Wisconsin drivers' license, attesting that Mr. [REDACTED] "has always been an exemplary, loving and attentive parent," is "an outstanding father, employee, and worker," and is "trustworthy and self-sufficient."	13-14
D	Letter from Employer and Friend [REDACTED], and copy of Mr. [REDACTED]'s Wisconsin drivers' license, attesting that Mr. [REDACTED] is "devoted to his daughter," satisfied all prior bond requirements, and is not a violent person.	15-18
E	Wisconsin CCAP Case Details, [REDACTED], demonstrating that Mr. [REDACTED] successfully completed the parent education class titled, "The Successful Divorce: Through the Eyes of the Child" on [REDACTED]	19-20
F	Certificate of completion of Triple P- Positive Parenting Program, completed [REDACTED]	21
G	W-2 and Paycheck Stubs, as evidence of extensive work history in the United States.	22-24

H	Criminal Complaints and Dispositions for 3 Disorderly Conduct Convictions (█████ County, Wisconsin Cases █████)	25-33
I	Criminal Complaint and Amended Information (█████ County, WI Case █████)	34-43
J	Jury Verdict (█████), as evidence that Mr. █████ was found not guilty of sexual assault and burglary, and was found guilty of “threat to law enforcement officer” and disorderly conduct.	44-47
K	█████ County Sheriff’s Office Statement Form (█████ County, WI Case █████)	48-49
L	Wisconsin Statute § 940.203 (Battery or threat to an officer of the court or law enforcement officer)	50-51
M	Letter from Mr. █████’s Criminal Defense Attorney, █████ , stating that the presentence investigation report “recommends two years of probation with no jail” for his conviction for threatening a law enforcement officer.	52
N	Wisconsin CCAP Record for █████ demonstrating that Mr. █████ was sentenced to time served for the threat to an officer conviction.	53-55
O	Notice of Right to Seek Postconviction Relief in █████ , filed on 1/18/█████	56
P	Alcoholics Anonymous, Green Bay (Wisconsin) Schedule , as part of Mr. █████’s sobriety plan upon release.	57
Q	Weekly COVID-19 Report, Dodge County (Wis.) Public Health (Issued March 2, 2021).	58-60

In the matter of:

File No.:

I, [REDACTED], certify that a copy of Respondent's Supporting Information for Bond Motion was served on the Chicago Office of Chief Counsel, Department of Homeland Security, Immigration and Customs Enforcement, 525 W. Van Buren Suite 701 Chicago, IL, 60607 on this 9th day of March, 2011, by eService at eservice.ice.gov.

File No.: A