

**IO:**  
**Subject:**  
**Attachments:**

jviney  
FW: Open records request for Wilfrid Cleveland  
Response Letter.pdf; Wilfrid Cleveland Pardon Documents.pdf

Good Afternoon Attorney Viney,

Attached is our response to you records request.

**Robert P. Berry**  
Assistant Legal Counsel  
Office of Governor Scott Walker  
(608) 266-1212

**From:** Ignatowski, Katie E - GOV  
**Sent:** Tuesday, March 21, 2017 11:40 AM  
**To:** Joe Viney  
**Subject:** RE: Open records request for Wilfrid Cleveland

Understood. We will proceed with your request accordingly.

Thank you,

Katie Ignatowski | Chief Legal Counsel | Office of Governor Scott Walker | 608.2

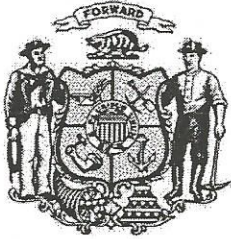
**From:** Joe Viney [mailto:jviney@vineylaw.com]  
**Sent:** Tuesday, March 21, 2017 9:34 AM  
**To:** Ignatowski, Katie E - GOV  
**Subject:** Open records request for Wilfrid Cleveland

Dear Ms. Ignatowski,

Thank you for your response. I am not the attorney for Mr. Cleveland and understand the copies provided were redacted. Please forward the response via email to this address. I appreciate your assistance.

Joseph L. Viney  
Viney & Viney  
P.O. Box 17  
Baraboo, WI 53913  
608-356-2159  
608-356-8510 fax

- DECISION TO RAY. 4/3/17
- ELECTION BOARD (2007/2016)
  - G.C. - PAY BACK MONIES (2014) → SEIZ CHICAGO PROPERTY
  - JACKSON CO. DIST. ATTY: DISCREPANCIES (LETTERS/CLARIFICATIONS)
  - SHEILA CORBIN / AMANDA WISSELE OF TRUSTEES JUSTICE REPT
  - GRANTS SIGNED BY PRESIDENT (2017)
  - CONTRACTORS (CURRENT/PAST) RECOGNITION OF FELONY - FROM "SUPPORT LETTERS"
  - COMPLIANCE DIVISION (FAULTY BACKGROUND)
  - COMPLAINTS TO "ETHICS REVIEW BOARD"
  - PETITION STATE COURT (1ST ACT)
  - LOCATE QUALITY ATTORNEY - RETAINING FEE
  - LEGISLATURE / ACTING MEMBERS - USE OF GOVT ATTY'S TO AID?
  - PRESIDENT APPOINTEES (CURRENT)



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. BOX 7863  
MADISON, WI 53707

March 29, 2017

Joseph L. Viney  
Viney & Viney  
jlviney@vineylaw.com

Via Electronic Mail Only

Dear Mr. Viney,

I am writing in response to your request dated February 17, 2017, asking for the following:

*A copy of the application for pardon filed on behalf of Wilfrid Cleveland (d/o/b 05/20/1049) together with all other paperwork in the file including the recommendation of the Pardon Advisory Board and the Governor's decision. The application would have been filed in June or July 2010 and concerned a conviction of Battery contrary to sec. 940.205, Wis. Stat., in Jackson County Case No. 1972 CF 1798.*

A search of the records of the Office of the Governor has been completed, and 56 pages of responsive records have been found and prepared for release. Copies of these records are included with this letter in PDF format.

When reviewing the records, you will notice that some items are redacted. The Wisconsin Public Records Law requires certain redactions pursuant to particular statutory provisions. Additionally, Wis. Stat. § 19.35(1)(a) incorporates the common-law balancing test, which requires us to weigh the public interest in disclosure against any harm that could result from disclosure. *See, e.g., Wisconsin Newspress, Inc. v. Sch. Dist. of Sheboygan Falls*, 199 Wis. 2d 768, 777-78 (1996). Applying these standards, we redacted the following material:

Social security numbers, driver's license numbers, state identification numbers, and exact dates of birth for private individuals have been redacted pursuant to the public records balancing test. We have determined that the public interest in disclosure is outweighed by a strong public interest in preventing identity theft. The strong public interest in protecting the privacy of social security numbers of employees is recognized in Wis. Stat. § 19.36(10)(a), and we have determined that the same public interest applies to the social security numbers of private individuals *[as well as other similar personally identifiable information.]* Because such personally identifiable information could potentially be used to steal a person's identity, the inclusion of such information in response to a public records request could facilitate such theft if the information was widely disseminated. The balancing test tips against disclosure of this information.



Certain victim information has been redacted pursuant to the open records balancing test. Wis. Stat. § 304.10(3) expresses a public policy of protecting the privacy of victims, and as a result we have redacted the victim's surname from the records to prevent its use for discovering the victim's current address. Overall, in applying the public records balancing test, we have determined that the public's interest in protecting the privacy of victims outweighs the public's interest in disclosure of this information.

Home addresses, home telephone numbers, cell phone numbers, and/or personal email addresses have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the expectation of privacy on the part of individuals in their personal lives. Moreover, certain home addresses and telephone numbers are available in a telephone book at the public library; therefore they are not records in the first place.

FBI numbers or information indicating whether or not FBI numbers exist has been redacted pursuant to 28 C.F.R. §§ 20.21(c)(2) and 20.33, because disclosure of the existence or non-existence of FBI numbers impermissibly would indicate the existence or non-existence of federal criminal history.

I have also redacted the applicant's fingerprint class pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. Providing the fingerprint class without redaction creates the potential for access to a unique bio-marker by others who could use this information in attempts to impersonate the subject of the record. In conducting the balancing test, I concluded that the public interest in protection against the illicit use of fingerprint records outweighs any public interest in disclosure of this information.

Pursuant to Wis. Stat. § 19.35(4)(b), these determinations are subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.

This letter completes our response to your request. Thank you for contacting the office of Governor Scott Walker.

Sincerely,



Robert P. Berry  
Assistant Legal Counsel



**JIM DOYLE**  
GOVERNOR  
STATE OF WISCONSIN

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July 30, 2010

Attorney William Gardner  
PO Box 837  
Black River Falls, Wisconsin 54615

Dear Attorney Gardner:

Re: Mr. Wilfrid Cleveland

Your client's application for executive clemency is now complete. The board hears applications based on the order of which they are received. Your client will be scheduled for one of the upcoming Pardon Advisory Board meetings. The Governor's Pardon Advisory Board will notify you and your client by telephone and by mail when the date for the hearing has been set so we may schedule a time for your client's hearing.

If you have any questions regarding this letter, please contact the Governor's Pardon Advisory Board, at 608.266.1212. Thank you for your patience.

Sincerely,

A handwritten signature in cursive script, reading "Danielle Kamps".

Danielle Kamps  
Assistant to the Governor's Pardon Advisory Board

cc: Mr. Wilfrid Cleveland





Oct. 13. 2010 2:59PM

No. 3430 P. 1

State of Wisconsin  
Department of Justice  
Crime Information Bureau

17 West Main Street  
P.O. Box 2718  
Madison, WI 53701-2718



### FAX TRANSMITTAL

TO: Records Unit

COMPANY OR AGENCY: Governor Office

DATE: October 13, 2010

TIME: 2:34 PM

FAX NUMBER: 608-266-7912

FROM: Mary Sturdevant

NUMBER OF PAGES (INCLUDING COVER SHEET):

DOCUMENT SENT:

MESSAGE:

Here is the documents.

Thanks

*Wilfred Cleveland*

*Will get Info. on  
91cm 183 case if you want  
& ALSO 1/28/1992..*

*Just let me know*

*Thanks*

*Mary*

HOTLINE *216-6924*  
FAX NUMBER (608) ~~266-7912~~

The response is based on a search using the fingerprints and/or identification data supplied. Searches based solely on name and non-unique identifiers are not fully reliable. The CIB cannot guarantee that the information furnished pertains to the individual you are interested in.

THIS RESPONSE MAY NOT SHOW ALL ARRESTS FOR THIS INDIVIDUAL HOWEVER ALL INFORMATION PROVIDED TO THE STATE REPOSITORY IS INCLUDED IN THIS RESPONSE

Report Date: October 13, 2010

Criminal Justice

\*\*\* FELONY OFFENDER \*\*\*

WISCONSIN IDENTIFICATION DATA

Record Last Updated:

August 22, 2007

Name:

WILFRID CLEVELAND

Aliases:

WILFRED CLEVELAND

Sex:

M

Race:

I

Date Of Birth:

1949

Height:

5 FT. 05 IN.

Weight:

130 LBS.

Hair:

BLACK

Eyes:

BROWN

Scars, Marks, Tattoos, Amputations:

SCAR ABDOMEN

SCAR CHEST

SCAR FOREARM, RIGHT

Place Of Birth:

WISCONSIN

Citizenship:

USA

Fingerprint Class:

State Ident No.:

FBI No.:

Social Security No.:

Driver License No.:

AFIS Class: Miscellaneous Numbers:

Palm Print Taken:

NO

Photo At CIB:

YES



Occupation:  
-----Employer:  
-----Residence:  
-----

ELK CIR PO BX 812, BLACK RIVER FALLS, WI, -

Miscellaneous Comments:  
-----Criminal Justice Summary Data  
-----

First Adult Arrest Date:	January 23, 1972
Last Adult Arrest Date:	January 28, 1992
Total Adult Arrests:	4
Total Juvenile Arrests:	0
Total Registrations:	0
Total Custodies:	0

CRIMINAL HISTORY DATA  
=====Cycle No. 1  
=====Arrest/Charge Data  
-----

Name Used:	WILFRED CLEVELAND
Date Of Birth:	██████████ 1949
Date Of Arrest:	January 23, 1972
Arrest Type:	ADULT ONLY
Arrest Tracking No.:	
Arresting Agency:	WI0270000 JACKSON COUNTY SHERIFF
Arrest Case Number:	
Local ID Number:	
Contributing Agency:	WI0270000 JACKSON COUNTY SHERIFF
Booking Case Number:	15-72
Local Photo:	NO
Local Palm Print:	NO

## Arrest Charges:

01 940.205	BATTERY TO PEACE OFFICER FIREMEN
NCIC 1399	Counts: 1 Felony January 23, 1972

Prosecutor Case Data  
-----

Not Reported.

Court Case Data

-----  
Not Reported.

Charges Disposed Of:

01 940.205 BATTERY TO PEACE OFFICER FIREMEN  
NCIC 1399 Counts: 1 Felony  
February 9, 1972 CONVICTED

Sentence: February 9, 1972  
PROBATION

Begin Date: February 9, 1972  
Length: 1 YEAR

Sentence: February 9, 1972  
RESTITUTION

Begin Date: February 9, 1972

Sentence: February 9, 1972  
JAIL

Begin Date: February 9, 1972  
Length: 30 DAYS

Cycle No. 2Arrest/Charge Data

-----  
Name Used: WILFRID CLEVELAND  
Date Of Birth: [REDACTED] 1949  
Date Of Arrest: January 27, 1974  
Arrest Type: ADULT ONLY  
Arrest Tracking No.:  
Arresting Agency: WI0415000 MILWAUKEE POLICE DEPARTMENT  
Arrest Case Number:  
Local ID Number:  
Contributing Agency: WI0415000 MILWAUKEE POLICE DEPARTMENT  
Booking Case Number: 140413  
Local Photo: YES  
Local Palm Print: NO

Arrest Charges:

01 947.01 DISORDERLY CONDUCT  
NCIC 5311 Counts: 1 Unspecified January 27, 1974  
02 940.205 BATTERY TO PEACE OFFICER FIREMEN  
NCIC 1312 Counts: 1 Unspecified January 27, 1974

Prosecutor Case Data

-----  
Not Reported.



Court Case Data

Court: WI041000J MILWAUKEE CO CIRCUIT COURT  
Court Case Number: 2-171209  
Prosecuting Agency:  
DA Case Number:  
Arrest Tracking No.:

Charges Disposed Of:

01 946.41 RESISTING OR OBSTRUCTING AN OFFICER  
NCIC 4899 Counts: 1 Unspecified  
April 11, 1974 CONVICTED

Sentence: April 11, 1974  
PROBATION  
Begin Date: April 11, 1974  
Length: 1 YEAR

02 940.20 BATTERY  
NCIC 1399 Counts: 1 Unspecified  
April 11, 1974 DISMISSED

Cycle No. 3Arrest/Charge Data

Name Used: WILFRID CLEVELAND  
Date Of Birth: [REDACTED] 1949  
Date Of Arrest: September 8, 1991  
Arrest Type: ADULT ONLY  
Arrest Tracking No.:  
Arresting Agency: WI0270000 JACKSON COUNTY SHERIFF  
Arrest Case Number:  
Local ID Number:  
Contributing Agency: WI0270000 JACKSON COUNTY SHERIFF  
Booking Case Number: 91785  
Local Photo: YES  
Local Palm Print: NO

Arrest Charges:

01 940.19 BATTERY  
968. DOMESTIC ABUSE RELATED  
NCIC 1399 Counts: 1 Misdemeanor September 8, 1991

Prosecutor Case Data

Not Reported.

Charles Buswell  
Ruth Buswell  
Larry Winkler



106 South Second Street  
Black River Falls,  
Wisconsin 54615-1790

June 18, 2010

Governor's Pardon Advisory Board  
115 East State Capital  
Madison, WI 53702

Re: Wilfrid "Willy" Cleveland's Request for Pardon by Wisconsin Governor Jim Doyle

Gentlemen,

I wholeheartedly support and endorse Wilfrid "Willy" Cleveland's request to receive a pardon from Governor Jim Doyle for an offense which occurred 38 years ago. The philosophy that "people can and do change" obviously applies to Wilfrid "Willy" Cleveland.

For over 36 years, I have been privileged to serve many Ho-Chunk families. I first met Willy Cleveland in the late 1970's when I assisted the Cleveland family with funeral services for one of his brothers who had an unexpected and tragic death. Since that time, Willy Cleveland and I have developed a close bond because we share many of the same values and morals.

During the 30 plus years that I have known Willy, I have observed that he is a devoted Christian and family man who truly loves God, his family, his church, his many friends, the United States of America, and the Ho-Chunk Nation. Willy Cleveland has become a treasured friend to me. He is my friend who, if I were to be faced with a life or death situation, would come to my rescue without regard for his own safety and life.

Willy Cleveland is also a highly respected elder/religious leader with the Native American Church of North America. Willy and I have often worked closely with each other while serving Ho-Chunk families who request Native American Church funeral rites, with Wilfrid "Willy" Cleveland as the presiding elder and me as the funeral director. Willy and I have thus developed a deep mutual respect of our individual roles in providing a meaningful and comforting funeral service for grieving families.



June 24, 2010

Governor's Pardon Advisory Board  
115 East State Capital  
Madison, WI 53702

To whom it may concern:

This letter is in regards to the recommendation of granting a pardon to Wilfred "Willy" Cleveland.

Wilfred "Willy" Cleveland is a much respected, honorable man. I have known Willy for over 30 years, both socially and professionally. He is a very trustworthy, straightforward, honest person with the highest esteem for his culture. Willy continues to lead the Ho-Chunk Nation by being elected tribal president by his peers. That alone exhibits the respect and loyalty he has earned. Willy aspires to continue his leadership with confidence and great admiration for his tribe.

With the highest respect for Wilfred "Willy" Cleveland, I'm honored to submit to the Governor's Pardon Advisory Board this recommendation for a pardon.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Anderson".

Mike Anderson  
Former Mayor of Black River Falls, Wis.  
Former General Manager/CEO  
Jackson Electric Cooperative

Finally, President Cleveland was elected by a significant majority in his bid for the office. His election demonstrates the confidence of the community in his leadership. I too am confident in his personal and professional integrity and fully support his petition for pardon.

Sincerely,

*Buck Martin*

Buck Martin  
Martin & Associates

June 23, 2010

Governor's Pardon Advisory Board  
115 East State Capital  
Madison, WI 53702

Re: Wilfrid "Willy" Cleveland

I have known Willy for more than forty years. We were classmates during school. We played football and other sports together. We both graduated from the Black River Falls High School together in 1967. We both have lived much of our lives in the small rural community in Jackson County near or in Black River Falls, Wisconsin.

For a number of years before my recent retirement, I was a partner in a local CPA firm. Willy was a client of ours for his personal income tax. I worked directly with Willy.


It was through these and other associations and interactions that I have gotten to know Willie. I think of him as a good friend even though we do not spend much time together. We seem to have a mutual respect for each other.

I respect his character. I know family is very important to him. He is a good community person. His attitude is positive. I think he gives a lot of himself for his family and the HoChunk Nation.

I have never known him to cause injury to anyone. I have seen his character to be the opposite. He has always shown a special caring for the children and elders of his community.

I support the pardon.

Sincerely,



David N. Overlien

Black River Falls WI 54615



June 25, 2010

Governor's Pardon Advisory Board  
115 East State Capitol  
Madison, WI 53702

RE: Wilfrid "Willy" Cleveland Application for Executive Clemency

Dear Board Members,

I write this letter in support of Wilfrid "Willy" Cleveland's application for executive clemency from Wisconsin Governor Jim Doyle. It is my understanding that your Board initially reviews all applications for executive clemency prior to making its recommendation to Governor Doyle.

It is my understanding that Mr. Cleveland committed the offense of battery to a law enforcement officer, a felony, when he was 22 years old. It is my further understanding that Willy does not have a subsequent history of problems or troubles with law enforcement, and that he has not been convicted of any subsequent offense during the following 35 years.

I have known Willy as a Tribal leader for the past three years. He has always impressed me as someone who takes his duties and responsibilities seriously, and as someone who is dedicated to serving his community. Certainly, as President of the Ho-Chunk Nation, Wilfrid has demonstrated his dedication and commitment to his community and to society. I urge you to recommend that Governor Doyle view Wilfrid's application favorably and grant him executive clemency. Miigwetch.

Sincerely,



Rose Soulier

Bayfield, WI 54814

Cc: Wilfrid Cleveland

**Oneida Tribe of Indians of Wisconsin**  
BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



P.O. Box 365 • Oneida, WI 54155  
Telephone: 920-869-4364 • Fax: 920-869-4040



UGWA DEMOLUN YATEHE  
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

June 24, 2010

Governor's Pardon Advisory Board  
115 East State Capitol  
Madison, WI 53702

RE: Letter Supporting Application for Pardon  
from the Governor of the State of Wisconsin

Governor's Pardon Advisory Board:

My name is Rick Hill and I serve as Chairman of the Oneida Tribe of Indians of Wisconsin.

It is my understanding that Ho-Chunk Nation President Wilfrid "Willy" Cleveland is applying to the State of Wisconsin Advisory Board for a pardon from the Governor of the State of Wisconsin. The requested pardon is for an incident President Cleveland was involved in 35 years ago. It is very unfortunate that Mr. Cleveland was involved in such an incident at the age of 22. We all make mistakes because of our youth and innocence.

I believe that Wilfrid Cleveland has earned the respect and confidence from his people to serve in the leadership capacity as their President. The toughest challenge is always getting respect from your peers and community, and he has clearly earned the respect of his people.

Personally, I have known Wilfrid for several years and he has served with me at the Great Lakes Inter-Tribal Council addressing the many political issues and challenges within the State of Wisconsin. Wilfred has my utmost respect as he has made a great contribution to our collective efforts to resolve serious policy matters that affect Indian Nations in the State of Wisconsin.

I would hope and pray that Wilfrid meets your standard to receive a pardon as he has clearly achieved the standard for a pardon from the Governor from the State of Wisconsin. I hope you recognize President Cleveland's commitment to public service and his diligent efforts to improve the quality of life for the members of the Ho-Chunk Nation.

Sincerely,

A handwritten signature in dark ink that reads "Richard G. Hill". The signature is fluid and cursive, written over a horizontal line.

Richard G. Hill, Chairman  
Oneida Tribe of Indians of Wisconsin

6. Describe education received since conviction. List all courses, programs, certificates, or degrees completed, including prison programs. Transcripts, diplomas, etc. may be attached.

In 1974-1975 I attended UW-LaCrosse for a couple of semesters until my GI Bill funding ran out. I never obtained any degree. All courses were introductory.

7. Describe any community service/activities, or volunteer work you have participated in since conviction.

I was active in assisting the effort to convert the old Buck River Falls Area Bingo Hall into a Community Center. I assisted in the development of the Ho-Chunk Nation Children and Family Services Code. Organized and part of Native running group. Developed Ho-Chunk Nation Youth Community Service Program.

8. Enclose any letters of recommendation. *Strongly encouraged, though not required.*

9. Enclose any other relevant documents. *Optional.*

#### IV. NOTICE OF APPLICATION FOR EXECUTIVE CLEMENCY

Complete and mail notice forms to:

1. The judge(s) who presided over my conviction(s). - is unavailable.  
Judge THOMAS E. LISTER has been sent Notice County: Jackson
2. The District Attorney(s) who oversaw my conviction(s).  
District Attorney Gerald W. Laabs - former A.D.A. County: Jackson
3. The Prison Records Office at Dodge Correctional Institution (if applicable)

*If you are seeking clemency for multiple crimes, identify and mail notice forms to the judge, DA and records office for each conviction.*

I certify, under penalty of perjury, that the information in this application is true to the best of my knowledge.

Applicant signature: [Signature] Date: 6-29-10  
*Applicant must sign in the presence of a Notary Public*

#### **FOR NOTARY USE ONLY:**

Subscribed and sworn to before me this 29<sup>th</sup> day of June, 2010.

Notary Public Signature: [Signature]

Notary Public Name (print): Sue Thompson

My Commission expires: 04-07-2013



## Why I Deserve Clemency

After I was convicted of the Battery to a Peace Officer I really wasn't focused on what I wanted to do with my life. I hung out with my friends and later moved to Milwaukee to stay with a family member, my brother Wilbert. In 1974, while I was in Milwaukee, I got into trouble again when police were called to a party I was at. I was arrested and convicted of Resisting an Officer and put on probation. I remember the Judge wanted to find out why I was getting myself into this sort of trouble; that being drinking and having problems with police officers. So he ordered me to see a psychiatrist. After this conviction and while I was still on probation, I moved to La Crosse, Wisconsin to go to school. My probation was transferred and it was there in La Crosse that I saw a psychiatrist. The psychiatrist reported that I had not been happy in the military and when I drank I let repressed feelings out against persons in uniform. I was told by the psychiatrist that the way to deal with the problem was to stay sober, or to let these issues resolve themselves over time.

After my GI Bill funding ran out I moved back to Black River Falls and eventually got married. In 1980 I decided to quit drinking and just stopped. I have been sober for 29 years. I have seven (7) children and 6 grandchildren; and 3 of my children still live with me.

After I settled myself I worked hard to support my family and maintained a strong cultural and religious connection with my tribal identity. I helped people in the community in a number of ways, be it helping them around their homes, praying for or praying with them when they lost family members or needed support, agreeing to help parolees as a community supervisor, and on occasion taking people into my home who were too sick with alcoholism to take care of themselves. In general I just set my mind to trying to be a good person and a helpful Ho-Chunk community member who would be a good example for others.

Over time I became more aware of the needs of my community and I ran for political office. I received enough support from community members in 1992 to be elected as a Wisconsin Winnebago Business Committee Member and served as a representative for the Black River Falls area tribal community. This was the equivalent to being an elected legislator for the now named Ho-Chunk Nation. To be a Business Committee member one could not have a felony record. I passed the background check and represented a constituency of over 800 tribal members. I also served as Vice Chairman of the Business Committee having been selected to hold that position by the other members. I served in both these capacities until I left office in order to spend more time with my children. I remained active in my support of the community for the next 10 years or so.

During those 10 years and while serving as the manager of our local Community Center I found I was comfortable and good at working with kids and I did so until I thought the

believe this generation must pass along our knowledge, maintain our language and culture, and instill in the next generation the importance of our Nation, sovereignty, freedom, and humanity.

As I look back over the past 30 years or so I believe I have come a long way from the young man who ran from police and challenged their authority. I have embraced my community and traditions and those that touch upon it. And I try to give back more than they have given me; if that is possible. I believe my journey from then to now shows I am deserving of executive clemency.

But my life accomplishments and good fortune are not the only reason I seek a pardon from my past conviction.

During my candidacy for President of the Ho-Chunk Nation a question about this crime arose. This conviction, for which I am seeking a pardon, seemed by all accounts to be long done and forgotten. For years I had lived life as if I was not a convicted felon. For example, I had hunting privileges and owned firearms, I was allowed to supervise other felons while they were on parole, I was not disqualified from working with children, and I had made a trip to the White House when I was a Business Committee member/legislator and passed the government background check for access. It never occurred to me that I had been convicted of a felony back in 1972. In fact, my best recollection of the incident was that some plea deal had been reached at the time and I had been sent to jail and placed on probation.

However, during the election, an opposing party alleged my commission of this crime barred me from seeking elective office. The Constitution of the Ho-Chunk Nation states that "No person convicted of a felony shall serve as President unless pardoned." This issue was brought before the Ho-Chunk Nation Courts by my opponents, and following three (3) separate Court hearings in both the Trial Court and the Supreme Court, it was determined that the records provided to the Court were not clear or convincing enough to show I was convicted of a felony. I was allowed to remain on the ballot, and as stated above, I was elected to the Office of President.

But this matter did not end there. My opponents noticed that the CCAP records of 2007 did not reveal that I had a felony conviction for the past offense in 1972. They brought their concern to the attention of local and state officials and as a result, the CCAP records were changed to indicate that I am in fact a convicted felon. Now the changed CCAP record keeps being brought forth each time there is a possibility enough tribal members might be garnered to overturn the electorate vote and used as a basis to argue that the record is now "clear" that I am a convicted felon.

My lawyer has informed me the Jackson County record *does not* contain an Information, which apparently is a required charging document for felonies, and, that the Ho-Chunk Nation has already determined that the Jackson County record was not sufficient to disqualify me for elective office. However, the uncertainty that has been created by this



3. Describe the reason(s) why clemency should be granted, including length of time since conviction, lack of subsequent criminal contacts, personal development and growth since conviction, documented need for clemency, etc. *Attach an extra sheet of paper if necessary.*

See attached

4. List your employment information for the last five (5) years. *Attach an extra sheet of paper if necessary.*

Employer	Position Held	Employer address and phone number	Name of supervisor	Dates of employment
(1) Ho-chunk NATION	Community Center manager/director	W9814 Airport Road Black River Falls, WI 54615	SANDY MARTIN	07/03/2001 to 05/10/2007
(2) Ho-chunk NATION	President	"	TRIBAL Members	07/04/2007 to present
(3)				
(4)				

5. Highest grade completed or degree received: High School Diploma



## Description of Other Criminal Convictions

<u>Crime</u>	<u>Date of Crime</u>	<u>Felony/ Misdemeanor</u>	<u>Sentence</u>	<u>Discharge Date</u>
Resisting or Obstructing an Officer	01/27/1974	M	Probation 1 year	04/10/1975
Disorderly Conduct (Domestic Abuse Related)	09/08/1991	M	Probation 1 year	09/29/1992

## Description of Negative Contacts with Law Enforcement Personnel

On January 28, 1992 I was arrested and charged with Attempted First Degree Homicide as the result of an incident that arose during a stand off between two separate Ho-Chunk Nation factions over control of the Nation's gaming property located in Sauk County. At that time, the faction that I was aligned with had physical control of the property. The other faction that desired control was locked out of the property. A van (occupied by supporters of the faction that was locked out) approached the gaming facility and someone fired a rifle towards the van. A bullet fragment struck one of the occupants. I was accused of having fired the rifle shot(s). This was an untrue allegation, however, I was arrested and held in the Sauk County Jail until February 6, 1992, at which time the Sauk County District Attorney dismissed the charges against me. Any further inquiry regarding my involvement in this matter ended at that time.

On June 18, 2006 I was ticketed for speeding in Jackson County. I entered a plea of No Contest to speeding (11-15 MPH) over the posted limit and paid a fine of \$160.80.

STATE OF WISCONSIN

COUNTY COURT

JACKSON COUNTY

STATE OF WISCONSIN,

Plaintiff,

vs.

WILFRED CLEVELAND

Defendant.

FILED  
JAN 24 1972

CLERK OF CIRCUIT COURT  
JACKSON COUNTY, WIS.  
DOROTHY MEEK

CRIMINAL COMPLAINT

Alfred Young, being first duly sworn, on oath, says (~~upon information and belief~~), that on the 23rd day of January, 1972, at the Town of Kominsky, in said County, the defendant did:

feloniously cause bodily harm to a police officer, to-wit: Alfred Young, Deputy Sheriff of Jackson County, Wisconsin, while acting in his official capacity, and said Wilfred Cleveland did know or had reason to know that the victim was a police officer, and said act was done with the intent to cause bodily harm to the police officer without the consent of the person so injured,

contrary to section 946.205 <sup>946.205</sup> of the Wisconsin Statutes, and prays that the defendant be dealt with according to law; that the basis for complainant's charge of such offense is: the personal knowledge and observations of the complainant in that said Wilfred Cleveland, while said complainant was trying to make a lawful arrest, did strike said officer in the nose, breaking his glasses and causing swelling about the nose and eye; that Alfred Young is a deputy sheriff for Jackson County, Wisconsin, and did not give his consent to Wilfred Cleveland to be so harmed.

PENALTY: Imprisonment up to two years.

CERTIFIED COPY  
DOCUMENT Criminal Complaint  
DATE 5-28-2010  
SIGNATURE Dorothy Meek  
JACKSON COUNTY CLERK OF COURT

Alfred Young  
Alfred Young, Complainant

Subscribed and sworn to before me this 24th day of January, 1972.

Gerald W. Laabs  
Gerald W. Laabs, Asst. District Attorney

Approved for filing Gerald W. Laabs Assistant District Attorney  
Gerald W. Laabs

STATE OF WISCONSIN  
OFFICE OF THE GOVERNOR



APPLICATION FOR EXECUTIVE CLEMENCY

Materials voluntarily submitted by, or on behalf of, the applicant during the executive clemency application process, may be used for purposes other than consideration for executive clemency and are subject to Wisconsin's open records laws. Wis. Stat. § 15.04(1)(m).

TYPE OR PRINT CLEARLY

Type of clemency requested (check one): Pardon ☒ Reprieve \_\_\_\_\_ Commutation \_\_\_\_\_

Have you applied for clemency before? No ☒ Yes \_\_\_\_\_ If yes, year application was decided: \_\_\_\_\_

I. PERSONAL & CONTACT INFORMATION

Name (First, Middle, Last): WILFRID (NMD) CLEVELAND

Other names you have used (Maiden, etc.): none

Sex: Male: ☒ Female: \_\_\_\_\_ Date of Birth (Month, Day, Year):                     1949

Social Security Number:                     -                    -                    

Race: (Optional. For statistical use only):  
African-American \_\_\_\_\_ American Indian ☒ Hispanic \_\_\_\_\_ White \_\_\_\_\_ Asian \_\_\_\_\_ Other \_\_\_\_\_

Home address (Notify the Board of any change of address.)

Street/P.O. Box/Route: 604 EIK CIRCLE P.O. BOX 812

City: BLACK RIVER FALLS State: WI Zip: 54615

Mailing address (All correspondence will be sent here. Notify the Board of any change of address.)

Street/P.O. Box/Route: c/o Atty William GARDNER P.O. BOX 837

City: BLACK RIVER FALLS State: WI Zip: 54615

Telephone number(s) (Include area code) (Notify the Board of any change of phone number.):

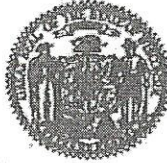
Home: ( ) (715) 284-0998 Work: ( ) (715) 284-7762

Cell: ( ) (715) 299-4948

E-mail address (Optional): \_\_\_\_\_



STATE OF WISCONSIN  
OFFICE OF THE GOVERNOR



NOTICE TO JUDGE  
OF APPLICATION FOR EXECUTIVE CLEMENCY

TYPE OR PRINT CLEARLY

TO THE APPLICANT:

Fill out the information below. Mail this form directly to the judge who presided over your conviction. If you cannot locate the judge, mail the form to the Clerk of Courts in the county of conviction. Do not submit this form with your clemency application. It must be submitted by the judge or the Clerk of Courts.

Applicant Name: Wilfrid Cleveland Date of birth: [REDACTED] 1989

Mailing address: P.O. Box 812  
BLACK RIVER FALLS, WI 54615

The applicant was convicted in the county of Jackson  
(Name of County)

of BATTERY - contrary to 940.205  
(Crime(s))

and sentenced to Six (6) months w/held - 1 yr Probation on \_\_\_\_\_  
Restitution - 30 days County Jail (Sentence) (Date of Sentencing)

Clemency sought (check one): Pardon ☒ Reprieve ☐ Commutation ☐

TO THE JUDGE:

The Governor and the Governor's Pardon Advisory Board invite your opinion on whether the above-named applicant should be granted clemency. Your support of or opposition to clemency will be given significant weight by the Governor and the Board. If you have questions, please call (608) 266-1212. Thank you for your assistance.

Judges Comments: (Support/Deny/No Opinion) I fully support Mr. Cleveland's  
application for a pardon. He currently serves as president  
of the Ho-CHUNK Nation and has done so with distinction.  
(See reverse side)

Judge's Signature: [Signature] Date: 7-15-10

Judge's Name (Print): Thomas E. Listke

Please mail original to Governor's Pardon Advisory Board, 115 East State Capitol, Madison, WI 53702 and a copy to the applicant at the mailing address listed above.



(b) 1. For caregivers who are licensed by the department, for persons under 18 years of age, but not under 12 years of age, who are caregivers of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651, for persons who are nonclient residents of an entity that is licensed by the department, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

2. For caregivers who are licensed or certified by a county department or an agency contracted with under s. 48.651 (2), for persons who are nonclient residents of an entity that is licensed or certified by a county department or an agency contracted with under s. 48.651 (2), and for other persons specified by the department by rule, the entity shall send the background information form to the county department or contracted agency.

3. For caregivers who are licensed by a child welfare agency, for persons who are nonclient residents of an entity that is licensed by a child welfare agency and for other persons specified by the department by rule, the entity shall send the background information form to the child welfare agency.

4. For caregivers who are contracted with by a school board, for persons who are nonclient residents of an entity that is contracted with by a school board and for other persons specified by the department by rule, the entity shall send the background information form to the school board.

(c) A person who provides false information on a background information form required under this subsection may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(7) The department shall do all of the following:

(c) Conduct throughout the state periodic training sessions that cover criminal background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(d) Provide a background information form that requires the person completing the form to include his or her date of birth on the form.

(8) The department, the department of health services, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board may charge a fee for obtaining the information required under sub. (2) (am), (ar), or (3) (a) or (am) or for providing information to an entity to enable the entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost of obtaining the information. No fee may be charged to a nurse aide, as defined in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be inconsistent with federal law.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; s. 13.92 (2) (i).

Cross Reference: See also ch. DHS 12, Wis. adm. code.

**48.69 Probationary licenses.** Except as provided under s. 48.715 (6) and (7), if any child welfare agency, shelter care facility, group home, or child care center that has not been previously issued a license under s. 48.66 (1) (a) applies for a license, meets the minimum requirements for a license established under s. 48.67, and pays the applicable fee referred to in s. 48.68 (1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home, or child care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home, or child care center holding the probationary license and, except as provided under s. 48.715 (6) and (7), if the child welfare agency, shelter care facility, group home, or child care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under

s. 48.66 (1) (a). A probationary license issued under this section may be renewed for one 6-month period.

History: 1975 c. 307; 1977 c. 271; 1985 a. 176; 1993 a. 375; 1997 a. 191, 237; 1999 a. 9; 2009 a. 185.

**48.70 Provisions of licenses. (1) GENERAL.** Each license shall state the name of the person licensed, the premises included under the license, the maximum number of children who can be received and their age and sex and such additional information and special conditions as the department may prescribe.

(2) **SPECIAL PROVISIONS FOR CHILD WELFARE AGENCY LICENSES.** A license to a child welfare agency shall also specify the kind of child welfare work the agency is authorized to undertake, whether the agency may accept guardianship of children, whether the agency may place children in foster homes or treatment foster homes, and if so, the area the agency is equipped to serve.

NOTE: Sub. (2) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

(2) **SPECIAL PROVISIONS FOR CHILD WELFARE AGENCY LICENSES.** A license to a child welfare agency shall also specify the kind of child welfare work the agency is authorized to undertake, whether the agency may accept guardianship of children, whether the agency may place children in foster homes, and if so, the area the agency is equipped to serve.

(4) **SPECIAL PROVISIONS FOR COUNTY DEPARTMENTS.** Licenses to county departments shall specify whether the county department may accept guardianship of children and place children for adoption.

History: 1973 c. 90; 1975 c. 307; 1977 c. 271; 1985 a. 176; 1993 a. 375, 446; 2009 a. 28.

**48.715 Sanctions and penalties. (1)** In this section, "licensee" means a person who holds a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 to operate a child welfare agency, shelter care facility, group home, or child care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a child welfare agency, shelter care facility, group home, or child care center if the child welfare agency, shelter care facility, group home, or child care center is without a license in violation of s. 48.66 (1) (a) or a probationary license in violation of s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.66 (1) (a) or a probationary license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

(c) That a licensee stop violating any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated by the department under s. 48.658 (4) (a) or 48.67 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s.



3. That a unit of government or a state agency, as defined in s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a determination has been made under s. 48.981 (3) (c) 4. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of regulation and licensing, the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(c) If the background information form completed by a person under sub. (6) (am) indicates that the person is not ineligible to be employed or contracted with for a reason specified in par. (b) 1. to 5., an entity may employ or contract with the person for not more than 60 days pending the receipt of the information sought under sub. (2) (am) 1. to 5. or (b) 1. If the background information form completed by a person under sub. (6) (am) indicates that the person is not ineligible to be permitted to reside at an entity for a reason specified in par. (b) 1. to 5. and if an entity otherwise has no reason to believe that the person is ineligible to be permitted to reside at an entity for any of those reasons, the entity may permit the person to reside at the entity for not more than 60 days pending receipt of the information sought under sub. (2) (am). An entity shall provide supervision for a person who is employed, contracted with or permitted to reside as permitted under this paragraph.

(5) (a) Subject to pars. (bm) and (br), the department may license to operate an entity, the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62, and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the county department, the contracted agency, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

NOTE: Par. (a) is shown as affected by 2 acts of the 2009 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (l).

(bm) For purposes of licensing a foster home or treatment foster home for the placement of a child on whose behalf foster care maintenance payments under s. 48.62 (4) will be provided, no person who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated:

NOTE: Par. (bm) (intro.) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

(bm) For purposes of licensing a foster home for the placement of a child on whose behalf foster care maintenance payments under s. 48.62 (4) will be provided, no person who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated:

1. An offense under ch. 948 that is a felony.

2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5) or (6) or 940.20 (1) or (1m), if the victim is the spouse of the person.

3. A violation of s. 943.23 (1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1), (2) or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.10 (2), 943.23 (1g) or 943.32 (2).

4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f), (2j) (d), or

(3m), or an offense under ch. 961 that is a felony, if committed not more than 5 years before the date of the investigation under sub. (2) (am).

(br) For purposes of licensing a person to operate a day [child] care center under s. 48.65, certifying a day [child] care provider under s. 48.651, or contracting with a person under s. 120.13 (14) to operate a day [child] care center or of permitting a person to be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day [child] care center or day [child] care provider, no person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following offenses or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of the following offenses on or after his or her 12th birthday may be permitted to demonstrate that he or she has been rehabilitated:

NOTE: The correct term is shown in brackets. 2009 Wis. Act 76 created par. (br) (intro.) with the references to "day care" and 2009 Wis. Act 185 changed other references from "day care" to "child care" without taking Act 76 into account. Corrective legislation is pending.

1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22 (2) or 948.51 (2).

2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or 940.20 (1) or (1m), if the victim is the spouse of the person.

3. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1), (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.10 (2), or 943.32 (2).

3m. Except for purposes of permitting a person to be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day [child] care center or day [child] care provider, a violation of s. 943.201, 943.203, 943.32 (2), or 943.38 (1) or (2); a violation of s. 943.34 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a felony; or an offense under subch. IV of ch. 943 that is a felony.

NOTE: The correct term is shown in brackets. 2009 Wis. Act 76 created subd. 3m. with the references to "day care" and 2009 Wis. Act 185 changed other references from "day care" to "child care" without taking Act 76 into account. Corrective legislation is pending.

4. A violation of sub. (2), (3), (4m) (b), or (6), if the violation involves the provision of false information to or the intentional withholding of information from the department, a county department, an agency contracting under s. 48.651 (2), a school board, or an entity.

5. An offense involving fraudulent activity as a participant in the Wisconsin Works program under ss. 49.141 to 49.161, including as a recipient of a child care subsidy under s. 49.155, or as a recipient of aid to families with dependent children under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, or health care benefits under the Badger Care health care program under s. 49.665.

6. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, 940.25, or 943.23 (1g), a violation of s. 948.51 (2) that is a felony under s. 948.51 (3) (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2) (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2) (am) or (b) 1.

7. A violation of s. 948.22 (2), if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2) (am) or (b) 1., unless the person has paid all arrearages due and is meeting his or her current support obligations.



(6) (a) or (am) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) or (b) 1. does not indicate such a charge or conviction, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am) or (b) 1., a background information form under sub. (6) (a) or (am), or any other information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding pars. (am) and (b) 1., the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board is not required to obtain the information specified in par. (am) 1. to 5., and an entity is not required to obtain the information specified in par. (b) 1. a. to e., with respect to a person under 18 years of age whose background information form under sub. (6) (am) indicates that the person is not ineligible to be employed, contracted with, or permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with respect to whom the department, county department, contracted agency, child welfare agency, school board, or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with, or permitted to reside at an entity for any of those reasons. This paragraph does not preclude the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board from obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

(bg) If an entity employs or contracts with a caregiver for whom, within the last year, the information required under par. (b) 1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b) 1. a. to c. and e.

(bm) If the person who is the subject of the search under par. (am), (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department, county department, contracted agency, child welfare agency, school board, or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county department, contracted agency, child welfare agency, school board, or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(c) 1. If the person who is the subject of the search under par. (am) is seeking an initial license to operate a foster home or treat-

ment foster home or is seeking relicensure after a break in licensure, the department, county department, or child welfare agency shall request under 42 USC 16962 (b) a fingerprint-based check of the national crime information databases, as defined in 28 USC 534 (f) (3) (A). The department, county department, or child welfare agency may release any information obtained under this subdivision only as permitted under 42 USC 16962 (e).

NOTE: Subd. 1. is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

1. If the person who is the subject of the search under par. (am) is seeking an initial license to operate a foster home or is seeking relicensure after a break in licensure, the department, county department, or child welfare agency shall request under 42 USC 16962 (b) a fingerprint-based check of the national crime information databases, as defined in 28 USC 534 (f) (3) (A). The department, county department, or child welfare agency may release any information obtained under this subdivision only as permitted under 42 USC 16962 (e).

2. If the person who is the subject of the search under par. (am) is seeking a license to operate a foster home or treatment foster home or is an adult nonclient resident of the foster home or treatment foster home and if the person is not, or at any time within the 5 years preceding the date of the search has not been, a resident of this state, the department, county department, or child welfare agency shall check any child abuse or neglect registry maintained by any state or other U.S. jurisdiction in which the person is a resident or was a resident within those 5 years for information that is equivalent to the information specified in par. (am) 4. The department, county department, or child welfare agency may not use any information obtained under this subdivision for any purpose other than a search of the person's background under par. (am).

NOTE: Subd. 2. is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

2. If the person who is the subject of the search under par. (am) is seeking a license to operate a foster home or is an adult nonclient resident of the foster home and if the person is not, or at any time within the 5 years preceding the date of the search has not been, a resident of this state, the department, county department, or child welfare agency shall check any child abuse or neglect registry maintained by any state or other U.S. jurisdiction in which the person is a resident or was a resident within those 5 years for information that is equivalent to the information specified in par. (am) 4. The department, county department, or child welfare agency may not use any information obtained under this subdivision for any purpose other than a search of the person's background under par. (am).

(d) Every entity shall maintain, or shall contract with another person to maintain, the most recent background information obtained on a caregiver under par. (b). The information shall be made available for inspection by authorized persons, as defined by the department by rule.

(3) (a) Subject to par. (am), every 4 years or at any time within that period that the department, a county department, or a child welfare agency considers appropriate, the department, county department, or child welfare agency shall request the information specified in sub. (2) (am) 1. to 5. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified, or contracted to operate an entity and for all persons who are nonclient residents of such a caregiver. [child child]

NOTE: Par. (a) is shown as affected by 2 acts of the 2009 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (f). The language in brackets was inserted by 2009 Wis. Act 185 but made superfluous by the treatment of 2009 Wis. Act 76. Corrective legislation is pending.

(am) 1. Every 3 months or at any time within that period that the department, a county department, an agency contracted with under s. 48.651 (2), or a school board considers appropriate, the department, county department, contracted agency, or school board shall request the information specified in sub. (2) (am) 1. to 5. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under s. 48.65 to operate a day [child] care center, certified as a day [child] care provider under s. 48.651, or contracted under s. 120.13 (14) to operate a day [child] care center. Beginning on January 1, 2011, and annually after that, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) describing the information collected under this subdivision, specifically any information indicating that a caregiver specified in sub. (1) (ag) 1. b. is ineligible



after consideration of relevant factors including level of education, useful or necessary skills, location and other criteria as determined by the department.

NOTE: Sub. (2) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

(2) APPROVAL OF PROGRAMS. The department shall promulgate rules for approval of programs to meet the requirements of this section. Those programs may include in-service training; workshops and seminars developed by the department or by county departments; seminars and courses offered through public or private education agencies; and workshops, seminars, and courses pertaining to behavioral and developmental disabilities and to the development of mutual support services for foster parents. The department may approve programs under this subsection only after consideration of relevant factors including level of education, useful or necessary skills, location, and other criteria as determined by the department.

(3) SUPPORT SERVICES. The department shall provide funds from the appropriation under s. 20.437 (1) (a) to enable foster parents and treatment foster parents to attend education programs approved under sub. (2) and shall promulgate rules concerning disbursement of the funds. Moneys disbursed under this subsection may be used for the following purposes:

NOTE: Sub. (3) (Intro.) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

(3) SUPPORT SERVICES. The department shall provide funds from the appropriation under s. 20.437 (1) (a) to enable foster parents to attend education programs approved under sub. (2) and shall promulgate rules concerning disbursement of the funds. Moneys disbursed under this subsection may be used for the following purposes:

(a) Care of residents of the foster home or treatment foster home during the time of participation in an education program.

NOTE: Par. (a) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:

(a) Care of residents of the foster home during the time of participation in an education program.

(b) Transportation to and from an education program.

(c) Course materials and fees.

(d) Specialized workshops, seminars, and courses pertaining to behavioral and developmental disabilities.

History: 1977 c. 418; 1979 c. 34 s. 2102 (20) (a); 1983 a. 27 s. 2202 (20); 1985 a. 29, 176; 1989 a. 31, 107; 1993 a. 446; 1997 a. 35; 2007 a. 20; 2009 a. 28.

Cross Reference: See also ch. DCF 38, 52, 54, 56, 57, 250, 251, and 252 Wis. adm. code.

#### 48.68 Investigation of applicant; issuing of license.

(1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685, if applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615 (1) (a) or (b), 48.625 (2) (a), 48.65 (3) (a), or 938.22 (7) (b), the department shall issue a license under s. 48.66 (1) (a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66 (5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the monthly foster care rates and supplemental payments specified in s. 48.62 (4), including payment amounts, eligibility requirements for supplemental payments, and the procedures for applying for supplemental payments.

(2) Before continuing the license of any child welfare agency to operate a residential care center for children and youth or of any group home, the department shall consider all formal complaints filed under s. 48.745 (2) and the disposition of each during the previous 2-year period.

(3) Within 10 working days after receipt of an application for initial licensure of a child welfare agency to operate a residential care center for children and youth or of a group home, the department shall notify the city, town, or village planning commission,

or other appropriate city, town, or village agency if there is no planning commission, of receipt of the application. The department shall request that the planning commission or agency send to the department, within 30 days, a description of any specific hazards that may affect the health and safety of the residents of the residential care center for children and youth or group home. No license may be issued to a child welfare agency to operate a residential care center for children and youth or to a group home until the 30-day period has expired or until the department receives the response of the planning commission or agency, whichever is sooner. In issuing a license the department shall give full consideration to such hazards determined by the planning commission or agency.

(4) Prior to initial licensure of a residential care center for children and youth operated by a child welfare agency or of a group home, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the child welfare agency or proposed group home, the neighborhood in which the proposed residential care center for children and youth or group home will be located and a local unit of government. The community advisory committee shall provide a forum for communication for those persons interested in the proposed residential care center for children and youth or group home. Any committee established under this subsection shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the residential care center for children and youth or group home on the neighborhood. The department shall determine compliance with this subsection both prior to and after initial licensure.

History: 1977 c. 205, 418; 1981 c. 72; 1991 a. 39; 1993 a. 375, 395, 491; 1995 a. 27, 77; 1997 a. 27; 1999 a. 9; 2001 a. 59; 2009 a. 28.

Cross Reference: See also ch. DCF 56, Wis. adm. code.

#### 48.685 Criminal history and child abuse record search. (1) In this section:

(ag) 1. "Caregiver" means any of the following:

a. A person who is, or is expected to be, an employee or contractor of an entity, who is or is expected to be under the control of the entity, as defined by the department by rule, and who has, or is expected to have, regular, direct contact with clients of the entity.

b. A person who has, or is seeking, a license, certification or contract to operate an entity.

2. "Caregiver" does not include a person who is certified as an emergency medical technician under s. 256.15 if the person is employed, or seeking employment, as an emergency medical technician and does not include a person who is certified as a first responder under s. 256.15 if the person is employed, or seeking employment, as a first responder.

(am) "Client" means a child who receives direct care or treatment services from an entity.

(ar) "Contractor" means, with respect to an entity, a person, or that person's agent, who provides services to the entity under an express or implied contract or subcontract, including a person who has staff privileges at the entity.

(av) "Direct contact" means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(b) "Entity" means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption, or to license foster homes or treatment foster homes; a foster home or treatment foster home that is licensed under s. 48.62; a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14); a child care provider that is certified under s. 48.651; or a temporary employment agency that provides caregivers to another entity.

NOTE: Par. (b) is repealed and recreated by 2009 Wis. Act 185 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:



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2 years and shall be renewed upon application if the operator continues to comply with the certification standards, except standards for training under s. DCF 202.08 (1) (b).

(6) **CERTIFICATION AGENCY.** (a) The county or tribal agency responsible for certification of a provider shall be determined by the geographic area in which the child care is provided.

(b) Certification issued to a provider by a county or tribal agency shall be accepted as valid by all other agencies authorized to certify providers.

(c) The county or tribal agency shall ensure that each new day care certification worker completes the department-approved certification training during the first 6 months of employment.

(7) **COMPLIANCE.** (a) *Qualifications of certified child care operators.* County and tribal agencies shall maintain records demonstrating child care operator compliance with s. DCF 202.08 (1).

(b) *Compliance with other standards.* 1. 'General.' County and tribal agencies shall help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with this section.

2. 'Required procedures.' A county or tribal agency shall:

a. Require receipt of a signed application from the operator agreeing to follow child care certification standards.

b. Provide a checklist of basic child care certification standards and procedures for filing a complaint to all parents who are using certified family child care or in-home care and who are publicly funded parents.

bm. Require the applicant and any employees, volunteers, and non-client residents 10 years of age or older to submit a background information disclosure form prior to initial certification and every following 2 years.

c. Provide information on child care and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome, shaken baby syndrome and impacted babies, child development, positive discipline, health and safety, and nutrition.

Note: Contact Wisconsin Child Care Information Center at 1-800-362-7353 for information on available materials.

d. Conduct an on-site inspection of the premises where child care will be provided, including areas that will not be used for child care, before initial certification, recertification, or within 30 days following a child care operator's move to a new location.

e. Check the criminal record history of applicants for certification, employees and prospective employees, volunteers, and non-client residents as specified in s. 48.685 (2) (am), Stats.

f. Check files on child abuse and neglect findings or pending investigations related to applicants, employees and prospective employees, volunteers, and individuals living in the applicant's home.

g. Limit certification to one child care operator for each family residence.

h. Request a statement from the appropriate regulating agency indicating that the regulating agency approves a child care business in the applicant's home if the applicant has a separate license or certification to care for children or adults, including foster care or adult care. The request shall include a request for permission for the licensed or certified caregiver to release information necessary for a criminal history record search for residents and clients in the applicant's home.

3. 'Optional procedures.' A county or tribal agency may:

a. Conduct on-site inspections at any time prior to or after certification is approved to monitor compliance with certification standards, in addition to the required inspection under subd. 2. d.

b. Make certification available to all family child care providers, whether or not public funding is involved.

c. Request that all parents whose children are cared for by a certified family child care operator complete the answers to ques-

tions on the checklist and return the checklist provided under subd. 2. b.

d. Require the child care operator to submit references at initial certification and at certification renewal.

e. Require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the county or tribal agency has reason to believe that the person's physical or mental health may endanger children in care. The county or tribal agency shall document what reason it has to believe that the person's physical or mental health may endanger children in care.

(8) **EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS.** A county or tribal agency may grant an exception to any standard in s. DCF 202.08 or 202.09 if the county or tribal agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.685, Stats.

(9) **CERTIFICATION DECISION AFTER BACKGROUND REVIEW.** The county or tribal agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the county or tribal agency shall follow ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (4) (b), Register, November, 1987, No. 383, eff. 12-1-87; renum. (5) to be (6), cr. (5), Register, December, 1991, No. 432, eff. 1-1-92; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97; renum. from HFS 55.58, am. (2) (a) and (b), (3) (e), (d) 1. and 2., (5) (a) and (b), (7) (a) and (b) 1., and (8) and cr. (9), Register, July, 1999, No. 523, eff. 8-1-99; CR 02-007: am. (3) (b), (5) (a), (b), (7) (b) 2. c., d., and (9), r. (3) (f), cr. (6) (e), (7) (b) 2. h., and 3. d. Register May 2002 No. 557, eff. 6-1-02; CR 07-071: am. (1), (2), (5) (title), (a), (b), (7) (a), (b) 1., 2. a. to f., 3. a. to d. and (9), r. (3) (b) and (7) (b) 4., r. and recr. (3) (e) and (7) (b) 2. g., cr. (3) (f), (4) (b), (7) (b) 2. bm. and 3. c., renum. (4) to be (4) (a) and am. Register May 2008 No. 629, eff. 6-1-08; corrections in (2), (3) (d), (e) 2., (5), (7) (a), (b) 1., (8) and (9) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

## DCF 202.05 Criminal history and child abuse record search.

(1) The county or tribal agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities, except the county or tribal agency shall require any prospective or current employee, contractor under the control of the certified child care operator, volunteer, or non-client resident to submit the completed background information form to the county or tribal agency prior to initial certification and recertification. In applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the county or tribal agency.

Note: Detailed information on ch. DHS 12, Wis. Adm. Code, may be obtained by calling the DCF Bureau of Early Childhood Education at (608) 261-6317 (option 2) or by sending a written request to the DCF Bureau of Early Childhood Education at P.O. Box 8916, Madison WI 53708-8916. In addition, the DHS requirements are posted by the Department of Health Services at the following web site address: <http://dhs.wisconsin.gov/caregiver/index.htm>

(2) Each county or tribal agency shall maintain its records concerning each person whose certificate is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m) (a) 1. to 5., Stats. The county or tribal agency shall report this information to the department's bureau of early childhood education. The county or tribal agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health services.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. and recr. eff. 7-1-96; r. and recr. Register, February, 1997, No. 494, eff. 3-1-97; renum. from HFS 55.59 and r. and recr., Register, July, 1999, No. 523, eff. 8-1-99; cr. (4) and (5), Register, November, 1999, No. 527, eff. 12-1-99; CR 02-007: am. (1) and (2), r. and recr. (3), r. (4) and renum. (5) to be s. DWD 55.06 (1) Register May 2002 No. 557, eff. 6-1-02; CR 07-071: am. (1) and (2), r. (3) Register May 2008 No. 629, eff. 6-1-08; corrections made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.



A majority vote of the quorum shall be necessary to exercise the powers of the Legislature, except as otherwise provided by this Constitution. The votes of each member of the Legislature shall be recorded in the minutes of the meeting. Top

### **Section 13. Budget.**

The Legislature shall enact an annual budget. The budget shall include an appropriation of operating funds for each branch of the government. The Legislature shall not appropriate funds which have not been authorized by law. No item shall be included in the budget if it is not authorized by law. Top

## **ARTICLE VI - EXECUTIVE**

### **Section 1. Composition of the Executive Branch.**

- (a) The Executive power of the Ho-Chunk Nation shall be vested in the President of the Ho-Chunk Nation.
- (b) The Executive Branch shall be composed of any administrative Departments created by the Legislature, including a Department of the Treasury, Justice, Administration, Housing, Business, Health and Social Services, Education, Labor, and Personnel, and other Departments deemed necessary by the Legislature. Each Department shall include an Executive Director, a Board of Directors, and necessary employees. The Executive Director of the Department of Justice shall be called the Attorney General of the Ho-Chunk Nation. The Executive Director of the Department of the Treasury shall be called the Treasurer of the Ho-Chunk Nation. Top

### **Section 2. Powers of the President.**

The President shall have the power:

- (a) To execute and administer the laws of the Ho-Chunk Nation;
- (b) To make recommendations to the Legislature on matters of interest or benefit to the Nation;
- (c) To propose legislation and an annual budget to the Legislature;
- (d) To administer all Departments, boards, and committees created by the Legislature;
- (e) To nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed; Top
- (f) To remove an Executive Director of a Department or to reassign an Executive Director to another position;
- (g) To select and hire personnel in accordance with applicable law;
- (h) To preside over meetings of the Legislature;