

OREGON JUDICIAL DEPARTMENT  
Office of the State Court Administrator

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# Oregon Indian Child Welfare Act Report to the Interim Legislative Committees Relating to Children

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We are pleased to submit the second Oregon Indian Child Welfare Act (ORICWA)<sup>1</sup> Report relating to Indian children in dependency cases to the Senate Interim Committee on Human Services and the House Interim Committee on Early Childhood and Human Services. This report offers a unique opportunity for the Oregon Department of Human Services (ODHS) and the Oregon Judicial Department (OJD) to cooperatively report on their individual and combined efforts to ensure system alignment that meets the requirements of ORICWA and to improve outcomes for Indian children and Tribal families.

The term “Indian” is a legal term of art used in the federal Indian Child Welfare Act (ICWA) and ORICWA as well as other federal and state law relating to treaties, statutes, executive orders, and court decisions. Pursuant to ICWA and ORICWA, whether a child is an “Indian child” is a determination made by the juvenile court. Therefore, we use the term “Indian” in this report when referring to rights, policies, procedures, and practices specifically conferred or relating to “Indian children” as defined by ICWA and ORICWA<sup>2</sup>.

### **ORICWA Reporting Requirements**

Oregon Revised Statute 419B.657 requires that, “No later than September 15 of every even-numbered year, the Department of Human Services and the Judicial Department shall report to the interim committees of the Legislative Assembly relating to children regarding:

- (1) The number of Indian children involved in dependency proceedings during the prior two-year period.
- (2) The average duration Indian children were in protective custody.
- (3) The ratio of Indian children to non-Indian children in protective custody.
- (4) Which tribes the Indian children in protective custody were members of or of which they were eligible for membership.
- (5) The number of Indian children in foster care who are in each of the placement preference categories described in ORS 419B.654 and the number of those placements that have Indian parents in the home.
- (6) The number of Indian children placed in adoptive homes in each of the placement preference categories described in ORS 419B.654 and the number of those placements that have Indian parents in the home.

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<sup>1</sup> ORICWA is codified in ORS 419B.600-ORS 419B.665.

<sup>2</sup> ICWA and ORICWA define an “Indian child” as any unmarried person who has not attained 18 years of age and:  
(a) Is a member or citizen of an Indian tribe; or (b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member of an Indian tribe.

(7) The number of available placements and common barriers to recruitment and retention of appropriate placements.

(8) The number of times the court found that good cause existed to deviate from the statutory placement preferences under ORS 419B.654 when making a finding regarding the placement of a child in a dependency proceeding.

(9) The number of cases that were transferred to tribal court under ORS 419B.633.

(10) The number of times the court found good cause to decline to transfer jurisdiction of a dependency proceeding to tribal court upon request and the most common reasons the court found good cause to decline a transfer petition.

(11) The efforts the Department of Human Services and the Judicial Department have taken to ensure compliance with the provisions of ORS 419B.600 to 419B.654 and the amendments to statutes by sections 24 to 60, chapter 14, Oregon Laws 2020 (first special session), in dependency proceedings.

(12) The number of ICWA compliance reports, as defined in ORS 109.266, in which the department reported the petitioner's documentation was insufficient for the court to make a finding regarding whether the petitioner complied with the inquiry or notice requirements under ORS 419B.636 (2) or 419B.639 (2).

(13) The total number and the ratio of all ICWA compliance reports that indicated there was a reason to know that the child was an Indian child.

In accordance with Section 80, chapter 398, Oregon Laws 2021, the Department of Human Services submitted a report<sup>3</sup> to the interim committees of the Legislative Assembly related to the judiciary describing the department's implementation of tribal customary adoption, as described in [419B.656 \(Tribal customary adoption\)](#), as an alternative permanency option for wards who are Indian children and the department's recommendations for proposed legislation to improve the tribal customary adoption process.

## **Introduction and History**

The federal government passed ICWA in 1978, nearly fifty years ago, to remedy the widespread and unwarranted practice of separating American Indian/Alaska Native children from their families and Tribes. Prior to its passage, as many as 25-35% of American Indian/Alaska Native children nationally were removed from their homes, with 85-90% of those children placed

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<sup>3</sup> [SB ORS Tribal Customary Adoption Report to the Interim Committees of the Legislative Assembly related to the Judiciary](#)

outside of culturally appropriate homes by state courts, child welfare agencies, and private adoption agencies.<sup>4</sup>

Since the 2022 ORICWA legislative report and despite notable improvement and significant effort both in Oregon and nationally, the need for ICWA remains. American Indian/Alaska Native children continue to be overrepresented in Oregon's child welfare system. In FFY 2022, American Indian/Alaska Native children represented just 1.5% of Oregon's child population but represented 4.7% of the total number of children served in foster care.<sup>5</sup> This overrepresentation continues despite the continuous decrease in the total number of all children in foster care since 2019.

ORICWA is an important step toward remedying the disproportionate impact of the child welfare system on American Indian/Alaska Native children.

To fulfill its goals, ORICWA "create[s] additional safeguards for Indian children to address disproportionate rates of removal, to improve the treatment of and services provided to Indian children and Indian families in the child welfare system and to ensure that Indian children who must be removed are placed with Indian families, communities and cultures."<sup>6</sup>

This landmark legislation placed Oregon as the seventh state to adopt a state-based ICWA in alignment with the federal act. ORICWA and the efforts of ODHS and OJD to ensure ORICWA compliance are critical to our common goal of protecting the best interest of Indian children and their families even in the reality of legal challenges to the ICWA.

More information regarding the historical efforts of the Oregon Department of Human Services (ODHS) and the Oregon Department of Justice (OJD) to implement ICWA/ORICWA can be found in the [September 2022 - ORICWA Report to the Interim Committees of the Legislative Assembly](#).

## **Tribal Partnerships and Agreements**

### *Tribal, State, and Federal Court Forum*

In 2015, Oregon Supreme Court Justice Martha Walters and Confederated Tribes of Warm Springs, Tribal Court Judge, Lisa Lomas, convened a planning committee of state and Tribal court judges, representatives of the Tribal Law and Policy Institute, and Casey Family Programs to discuss Tribal court and state court issues directly affecting their jurisdictions. The group identified the need for ongoing Tribal court and state court collaboration to bridge the gaps between these jurisdictions and, in 2016, the Oregon Judicial Department entered into a memorandum of understanding with the Nine Federally Recognized Tribes of Oregon to

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<sup>4</sup> <https://www.nicwa.org/about-icwa/>

<sup>5</sup> 2022 ODHS Child Welfare Data Book, available at <https://www.oregon.gov/dhs/CHILDREN/CHILD-ABUSE/Documents/2021-cw-data-book.pdf>

<sup>6</sup> ORS 419.600

establish the Tribal - State Court Forum. In 2021, a federal court judge was added to the Forum, making it the Tribal, State, and Federal Court (TSFC) Forum.

The purpose of the TSFC Forum is to create and institutionalize a collaborative relationship among judicial systems in Oregon; identify cross-jurisdictional legal issues affecting the people served by those systems and improve the administration of justice for all our peoples. Every year since its inception, nine state court judges and nine Tribal court judges have come together to discuss issues that impact Oregonians and Tribe members alike. In 2021, a federal court judge was added to the TSFC Forum. The current co-chairs of the TSFC Forum are Court of Appeals Judge Darleen Ortega and Chief Judge William Johnson from the Confederated Tribes of Umatilla Indian Reservation (CTUIR).

The TSFC Forum has focused on issues related to ICWA, including drafting a proposed rule change to UTCR 3.170 (*pro hac vice*, relating to out-of-state counsel) to permit greater Tribal participation in ICWA cases and facilitating collaborative discussions to improve transfer of juvenile cases to Tribal courts. The TSFC's annual meeting has included training on ORICWA, and topics related to ICWA.

#### *Title IV-E*

Since 1980, Title IV-E has been an open-ended federal entitlement program, governed by the Social Security Act and monitored by the Administration for Children and Families (ACF). Title IV-E provides federal reimbursement for the costs of eligible children in foster care, adoption assistance and guardianship assistance. It covers food, clothing, shelter, daily supervision, school supplies, reasonable travel for visitation and related administrative costs, but does not cover the costs of treatment services. All Title IV-E eligible children are to receive medical coverage under Title XIX (Medicaid).

In 2018, the Family First Prevention Services Act was signed into law to reform the federal Title IV-E funding streams to provide services to families at risk of entering the child welfare system. ODHS's Title IV-E Prevention Program 5-Year Plan was approved in October 2020. Development of that plan included leadership from several Tribes, Child Welfare, Office of Tribal Affairs (OTA), Self-Sufficiency Program (SSP), service providers, community partners, and individuals with lived experience and expertise. The ODHS Child Welfare, Federal Policy, and Resources (FPR) team is working with the five Tribes who currently have Title IV-E Agreements to develop IV-E Prevention Plans that enhance prevention services for Tribal families.

FPR works closely with the Nine Federally Recognized Tribes of Oregon. FPR's mission is to maximize federal reimbursement for the operations of child welfare programs, including child welfare programs administered by the Nine Federally Recognized Tribes of Oregon. The FPR program manager, and policy analyst dedicated to collaborating with all Nine Federally Recognized Tribes of Oregon, have a long-standing relationship with Tribal leaders. FPR offers Title IV-E policy guidance and consultation to maximize federal reimbursement to each Tribe.

## *Title IV-B, Subpart 2*

The primary goals of Title IV-B, subpart 2 - Promoting Safe and Stable Families (PSSF) - are to prevent the unnecessary separation of children from their families, improve the quality of care and services to children and their families and ensure permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. States are to spend most of the funding for services that address family support, family preservation, time-limited family reunification, and adoption promotion and support. The services are designed to help state child welfare agencies and Tribes establish and operate combined, preventive family preservation services and community-based family support services for families at risk. All of the Nine Federally Recognized Tribes of Oregon receive Title IV-B, subpart 2 funds.

### *ODHS Tribal-State Agreements*

Tribal-State Agreements are developed between ODHS and the Nine Federally Recognized Tribes of Oregon. These agreements are intended to establish a cooperative delivery of child welfare services to Indian children across the state. This includes services provided by ODHS, and to the extent available, services provided by the Tribe or an organization whose mission is to serve the American Indian/Alaska Native population to implement the terms of the Tribal-State Agreement. If Tribal services or those from organizations serving American Indian/Alaska Native population are unavailable, the agreements may allow the department's use of community services and resources with proven experience and capacity to provide culturally relevant and effective services to Indian children and their families.

ODHS has worked to develop agreements with all Nine Federally Recognized Tribes of Oregon. Due to changes in leadership and the significant impacts of the pandemic, several Tribes have been unable to update expired agreements. However, the Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Coquille Indian Tribe, and Confederated Tribes of Umatilla Indian Reservation have all started conversations with the ODHS Office of Tribal Affairs (OTA) regarding updates to expired agreements. The Burns Paiute Tribe has extended its 2022 two-year agreement to support ongoing efforts to develop a Tribal social services department.

### **ODHS and OJD's Ongoing Efforts to Ensure Compliance with ICWA/ORICWA**

Congress passed the ICWA in 1978 in response to the alarmingly high rate of Indian children being separated from their parents, extended families, and Tribal communities and placed in non-Tribal homes. The purpose of (ICWA) is "...to protect the best interest of Indian children and to promote the stability and security of Indian Tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture..." (25 U.S. C. 1902).

ODHS, OJD, and the Nine Federally Recognized Tribes of Oregon have a long, successful history of collaboration and jointly pursuing initiatives and strategies for stronger ICWA compliance

and better outcomes for Tribal children and families. ODHS and OJD also work closely to meet our shared and respective responsibilities conferred by the ICWA. Several of these efforts and initiatives are discussed below.

The previous, initial, ORICWA report to the legislature included historic information about compliance with the ICWA from both ODHS and OJD. That report can be found [here](#). This second ORICWA report includes efforts to comply with the ORICWA as well as general efforts to comply with the ICWA.

## ODHS

### *Advisory Committees*

The ICWA Advisory Committee was formed to advise, consult with, and make recommendations to ODHS leadership regarding policy, programs, practice, and data that impact Indian children who are involved or at risk of involvement in the child welfare system in the State. Participants include leadership from each Tribe, ODHS leadership, Child Welfare leadership and program staff.

The Qualified Expert Witness (QEW) Committee was formed in 2014. The QEW Committee is comprised of representatives from OTA, JCIP, CTUIR, the Cow Creek Band of Umpqua Tribe of Indians, and the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians. Since its development, the QEW Committee has worked diligently on strengthening ICWA compliance specifically through QEW testimony. The Committee developed procedures and protocols for proper utilization of QEWs under the ICWA.

ODHS has established an ORICWA Core Implementation Team (CIT) that includes members from within Child Welfare, OTA, Department of Justice (DOJ)/Child Advocacy and Protection Division, the Nine Federally Recognized Tribes of Oregon, and OJD. The CIT will establish a comprehensive implementation plan that embodies the spirit of ICWA/ORICWA in practice, policy, relationships, and purpose.

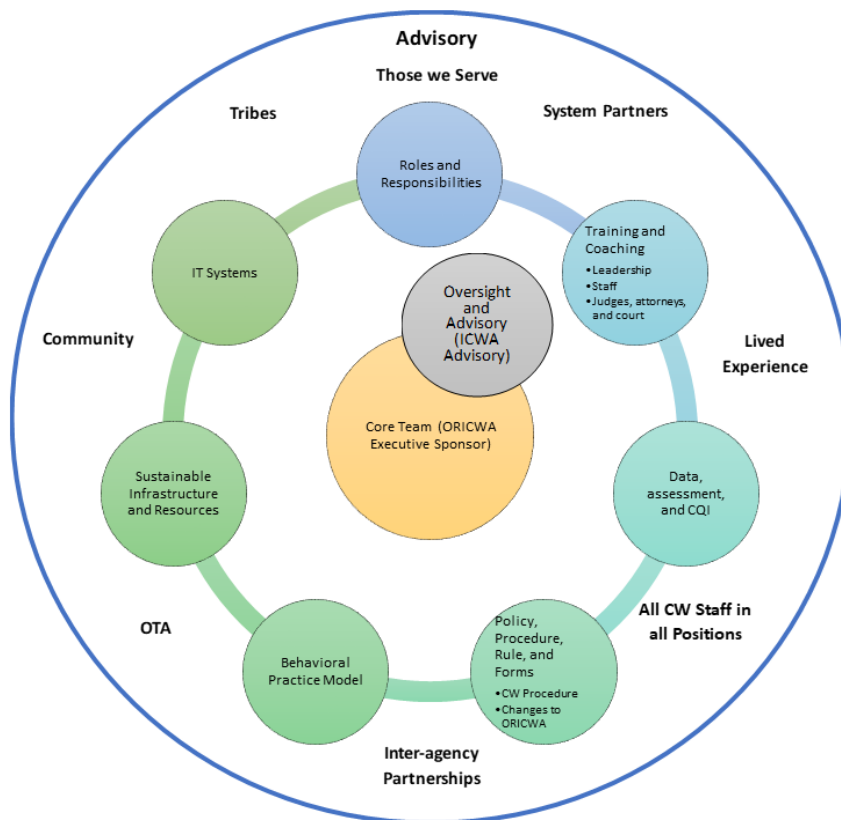
### *What We Are Doing*

The CIT has incorporated the principles of implementation science to develop and achieve established goals that address the treatment of Indian children and families in the child welfare system. To fully assess current system gaps and needs in support of full compliance with ICWA/ORICWA, the CIT began working with a national expert in implementation science to complete a comprehensive assessment of the strengths and challenges impacting the child welfare system's ability to implement ORICWA in the spirit of the law. In partnership with the CIT, the Nine Federally Recognized Tribes of Oregon, and the Office of Tribal Affairs, the ICWA/ORICWA Assessment was completed in early 2024.

Some strengths identified in the ICWA/ORICWA Assessment included:

- Child Welfare staff and leadership show interest and support of ICWA/ORICWA.
- ODHS invests in ICWA/ORICWA through staffing ICWA Regional Specialists, ICWA Consultants and ICWA units in some local offices around the state.
- ODHS staff and Tribal representatives have generally good relationships and partnership in the work.
- Tribal representatives are routinely engaged and present in the day-to-day casework for ICWA cases with Tribal children.

Based on recommendations from the ICWA/ORICWA Assessment and feedback from the Nine Federally Recognized Tribes of Oregon, the CIT is developing a roadmap of changes, improvements, and deliverables to support the achievement of overall implementation goals and ensure all efforts align with the strategic direction set by the assessment. Below is an image to represent the ORICWA CIT and its connections with the various ODHS workgroups being organized to address specific bodies of work, existing system partners, community partners, and individuals with lived experience. All components of this structure are critical to meaningful and sustainable implementation of ORICWA.



Workgroups have been formed to support the implementation of assessment goals related to defining roles and responsibilities across teams, developing continuous quality improvement



(CQI) and data, and enhancing training. These groups have started the process of chartering and establishing clear scope for their projects.

In partnership with Child Welfare and OTA leadership, the Roles and Responsibilities are mapping current roles, identifying gaps, and recommending clear roles to ensure effective and sustainable ORICWA implementation.

The CQI and Data workgroup will assess what ICWA/ORICWA data is currently available, including data required by this report, and partner with the Nine Federally Recognized Tribes of Oregon and to better understand what additional data/metrics they need. There will be focus on developing qualitative data points that measure training effectiveness and impacts on the disproportionate representation of Indian children in the child welfare system.

In response to the ICWA/ORICWA Assessment, Child Welfare is focused on ensuring that all current or new training initiatives provide up-to-date information regarding the requirements of ICWA/ORICWA, including Tribal sovereignty, customs, and culture. There is significant emphasis in the current and future training offerings for resource parents to support partnership with the child, the child's family, community, and Tribe to better celebrate the child's identity and sense of belonging (e.g., cultural, Tribal, sexual orientation, and gender identity and expression).

The Training Collaborative includes members from CW, OTA, DOJ and OJD. They have worked to align training deliverables, share resources, prevent duplication of work, and engage with the Nine Federally Recognized Tribes of Oregon to develop clear expectations on training objectives, clarity, and transparency in all ICWA/ORICWA Training.

Training objectives:

- Establish a workgroup including the organizations responsible for developing and delivering educational materials related to engaging with Tribes, Tribal communities and ICWA/ORICWA.
- Identify training being developed in support of ICWA/ORICWA.
- Develop training content that is developed collaboratively, ensuring alignment with the Oregon State Tribal Partnership grant and maximizing consistency across organizations.
- Create a feedback loop will be established to ensure all Nine Federally Recognized Tribes of Oregon have the opportunity to contribute, review, and approve content.

Current Learning Objectives Identified by Child Welfare and Office of Tribal Affairs:

- Child Welfare workforce will be able to articulate the spirit and purpose of ICWA/ORICWA, the impact on Indian children and Tribes, the requirements for Child Welfare during an ICWA/ORICWA case, and how courts enforce ICWA/ORICWA regulations.

- Child Welfare staff will be able to identify the Nine Federally Recognized Tribes of Oregon, where they are located, key figures, and important events.
- Child Welfare workforce will be able to engage with the Nine Federally Recognized Tribes of Oregon, Tribal communities, and Indian children and families meaningfully and effectively.
- Child Welfare staff will demonstrate, through actions and words, a commitment to understand and uphold the spirit and intent of ICWA/ORICWA and Tribal sovereignty.

Child Welfare Equity, Training, and Workforce Development (ETWD), Office of Tribal Affairs, and ODHS Organizational & Professional Development are partnering to update training and engagement tools that support increased competency, proficiency, and expertise in our work with the Nine Federally Recognized Tribes of Oregon.

ODHS began developing a Tribal consultation policy in partnership with the Nine Federally Recognized Tribes of Oregon in 2022. The new [OHA/ODHS Tribal Consultation and Urban Indian Health Program Confer Policy](#) was adopted by ODHS on January 1, 2024.

The policy:

- Identifies individuals within OHA and ODHS who are responsible for developing and implementing programs that affect Tribes.
- Establishes a process to identify the OHA and ODHS programs that impact Tribes.
- Promotes communication between OHA, ODHS and the Tribes.
- Promotes positive government-to-government relations between OHA, ODHS and Tribes.

## OJD

*Advisory Committees:*

OJD has several advisory committees that focus some or all of their efforts on ICWA/ORICWA.

These include:

- *The Tribal, State, and Federal Court (TSFC) Forum.* The purpose of the TSFC Forum is to create and institutionalize a collaborative relationship among the judicial systems in Oregon; identify cross-jurisdictional legal issues affecting the people served by those systems and improve the administration of justice of all our peoples. Every year since its inception, nine state court judges and nine Tribal court judges have come together to discuss issues that impact Oregonians and Tribe members alike. In 2021, a federal court judge was added to the TSFC Forum. The TSFC Forum regularly focuses on ICWA. The Forum most recently met in June 2024, where the group discussed OJD's new State-Tribal Partnership Grant.

- *OJD's State-Tribal Partnership (OSTP) Grant to Implement Best Practices in Indian Child Welfare* (HHS-2023-ACF-ACYF-CW-0055). In October 2023, OJD was awarded the OSTP Grant, which greatly expanded OJD's work on ICWA. The goal of this five-year grant (2023-2028) from the U.S. Department of Health and Human Services – Administration for Children and Families is to develop a state-tribal partnership to implement best practices in ICWA dependency cases. The grant established a partnership between OJD's Juvenile Court Improvement Program (JCIP), ODHS, and The Klamath Tribes. The OSTP Grant Steering Committee, which includes representation from the partners, additional Tribes in Oregon, attorneys, and others, was formed upon receiving the OSTP Grant, started meeting in January 2024, and continues to meet every six weeks to discuss ways to implement the grant to best serve children and families in ICWA cases.
- *OJD's Juvenile Court Improvement Program*. JCIP has long focused on issues related to juvenile courts' compliance with ICWA through education and system improvement efforts. JCIP's advisory committee continues to discuss ICWA and review ICWA data at every quarterly meeting. JCIP's Tribal Collaboration Subcommittee utilized a continuous quality improvement framework to identify areas in need of improvement and statewide and local projects to address those needs. These efforts have been incorporated into the OSTP grant work.
- *ICWA Court Committees*. ICWA Courts exist nationwide and seek to improve ICWA compliance outcomes for families through best practices in judicial leadership, data collection, ICWA training, tribal stakeholder collaboration, and gold-standard lawyering and social work. The court and court partners involved in the Klamath County Circuit Court's ICWA Court meet to discuss ways to improve practices in the court as needed. The Marion County Circuit Court is currently implementing an ICWA Court, and those involved are meeting regularly to discuss how to best meet the needs of children and families in ICWA cases in Marion County.

*What we are doing:*

Juvenile cases are highly complex, involving a complicated overlay of international law, federal and state law and regulation, and interstate compacts, as well as multifaceted and often involving co-occurring social issues like poverty, substance use disorder, domestic violence, and more. If the ICWA applies that complexity increases significantly. To competently handle these cases, judges, court staff, attorneys, and other system partners require considerable training and education and the dedicated time to meaningfully participate in them, which our system lacks.

While Oregon's judges and court staff make substantial efforts to comply with ICWA/ORICWA, they do not consistently have the necessary time and resources to do so. Additional time, outside of docket time in court, is necessary for judges to participate in training and education, to research ICWA and ORICWA's legal framework, and to prepare for these cases. Likewise,

court staff need additional time to participate in trainings on business processes and proper data entry specific to ICWA and ORICWA. While the lack of time and resources is felt across our juvenile courts, it is especially acute in smaller judicial districts in which judges and court staff must handle most or even all case types.

Using the deliverables set out in the OSTP Grant as a guide, OJD is working with direction from its steering committee on four major areas and with the main goal of improving outcomes for American Indian and Alaska Native children and families:

- *Increase the number of ICWA Courts in Oregon* (there is currently an ICWA Court in Klamath County Circuit Court). Marion County Circuit Court is implementing an ICWA Court in October 2024 and other jurisdictions for future ICWA Courts are being identified through various advisory committees.;
- *Award grant funds to The Klamath Tribes to build capacity for their work in family preservation.* The grant subaward will fund two positions – a half-time (0.5 FTE) housing specialist and a full-time (1.0 FTE) family advocate. These positions will support, among other things, development of a supportive housing program to prevent entry and re-entry into foster care. OJD is exploring additional subawards and will continue to work with the Nine Federally Recognized Tribes of Oregon to identify other funding needs;
- *Assist in data collection improvement and use, including an OJD-created dashboard.* OJD continues to use data to identify ways to improve outcomes for children and families. OJD uses the Odyssey case management system for court data, but has also requested data from ODHS, such as tribal affiliations, to help guide decisions in all areas of practice improvement. OJD will continue to use data to improve court forms and business process around entering ICWA data; and
- *Provide online, on-demand training opportunities for everyone involved with ICWA cases.* By having this training available, judges, court staff, attorneys, and other court partners will have the ability to get training on a schedule that works for them. With guidance from the OSTP steering committee, OJD decided to work with Dependency Model Court Teams around the state to develop the training. In addition, OJD will work with courts and Tribes to expand both basic ICWA and culturally specific training for both professionals and families involved in ICWA cases in the court system.

OJD has expanded its capacity in the last two years with the help of the OSTP Grant, allowing an increased focus on ICWA/ORICWA across the state.

- OJD staff includes a juvenile team lead and a dedicated juvenile law staff counsel who provide support to courts in complying with ICWA/ORICWA.
- In 2024, a new ICWA analyst joined OJD as project director for the OSTP grant and has served as the main point of contact for judicial matters related to ICWA/ORICWA. This is the first time OJD has had a full-time staff member dedicated to ICWA.

- OJD staff includes data analysts who support the work of the OSTP grant by building an ICWA data dashboard for internal use and regularly creating reports for OSTP, JCIP, and other meetings involving ICWA/ORICWA compliance.

OJD has developed, coordinated, and delivered various training opportunities involving ICWA/ORICWA since the last report. These include the following:

- An ICWA training for Citizen Review Board (CRB) staff and volunteers;
- An ICWA training for JCIP's Mini-Child Abuse and Neglect Institute, a training for judges newer to the juvenile bench;
- A Qualified Expert Witness (QEW) Training for new QEW's in collaboration with ODHS Office of Tribal Affairs and the Department of Justice;
- An ICWA training for the Oregon CASA Network to support CASA staff and volunteers statewide; and
- ICWA training components related to topics such as guardianship, in which ICWA applies.

OJD designs and implements business processes to capture essential data elements related to ICWA and ORICWA and continues to monitor for necessary updates to its electronic case management system, Odyssey. OJD has continued to expand its ability to track ICWA cases and has expanded efforts to work alongside court staff to achieve a higher level of compliance with data entry to ensure a strong understanding of trends and needs.

OJD additionally maintains ICWA-specific model court forms for key hearings within dependency, juvenile guardianship, and termination of parental rights cases to support uniform application of ICWA by our juvenile courts. These forms continue to be updated as needed.

### **ORICWA Data Report**

Following the passage of ORICWA, ODHS Child Welfare Tribal Affairs and OJD developed a workgroup to ensure our ability to meet the requirements of this legislative report. The workgroup met and collaborated regularly throughout 2021-2022 to identify available data across systems, as well as gaps where updates or changes to business processes and system functionality needed to be built to meet the data-reporting requirements of ORICWA. The work ODHS and OJD did together to build systems to collect this data will serve as a building block for future collaboration and will be vital in our ongoing efforts to improve Oregon's compliance with ORICWA.

The data used in these reports have evolved over time, to respond to new reporting requirements and align with state fiscal years. In 2022, an initial set of data elements were developed for the reporting period from January 1, 2021, through July 15, 2022, and produced the data to prepare this report. Those elements were supplemented to meet the new ORICWA reporting requirements from SB 562, using data from January 1, 2022, through July 15, 2022.

For this 2024 report, the reporting period for all data elements has been aligned with the state fiscal year (July 1 through June 30 of the following year). This report includes data from, July 1, 2022 through June 30, 2024. It should be noted these date parameters overlap slightly with the prior reporting period between July 1, 2022 – July 15, 2022. This overlapping data issue will resolve with the 2026 ICWA/ORICWA report to the interim committees.

Hereafter, the data in this biennial report will cover July 1 of the prior reporting year to June 30 of the new reporting year.

**1. The number of Indian children involved in dependency proceedings during the prior two-year period: 587**

The data in this field represents children with either a Tribal enrollment number entered on the OR-Kids Person Management page or an ICWA flag on their legal record, who also experienced dependency proceedings at any time during the reporting period.

**2. The average duration Indian children were in protective custody: 1064.93 days**

The average duration was derived by the following steps:

1. Calculating the difference in days between every instance of an initial dependency hearing and either a final disposition (returned to family, guardianship, adoption finalized) or by being bounded by the report end date if the child is still experiencing state care;
2. Summing the total number of days of dependency calculated in step 1;
3. Dividing the calculation from step 2 by the total number of incidences of dependency cases experienced during the reporting period.

In comparison, the average duration non-Indian children were in protective custody: 945.3 days.

**3. The ratio of Indian children to non-Indian children in protective custody: 1:18**

Indian children	Non-Indian children
567	9985

**4. Which tribes the Indian children in protective custody were members of or of which they were eligible for membership.**

- APACHE TRIBE OF OKLAHOMA (Kiowa)
- BLACKFEET TRIBE
- BURNS PAIUTE TRIBE
- CENTRAL COUNCIL TLINGIT & HAIDA INDIAN TRIBES
- CHEESH-NA TRIBE
- CHEROKEE NATION OF OKLAHOMA

CHEYENNE RIVER SIOUX TRIBE  
CHIGNIK LAKE VILLAGE  
CHOCTAW NATION OF OKLAHOMA  
CITIZEN POTAWATOMI NATION  
COLORADO RIVER INDIAN TRIBES  
CONFEDERATED TRIBES AND BANDS OF YAKIMA NATION  
CONFEDERATED SALISH AND KOOTENAI TRIBES  
CONFEDERATED TRIBES OF SILETZ INDIANS  
CONFEDERATED TRIBES OF THE COOS, LOWER UMPQUA, AND SIUSLAW INDIANS  
CONFEDERATED TRIBES OF THE GRAND RONDE  
CONFEDERATED TRIBES OF THE UMATILLA RESERVATION  
CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION  
COQUILLE INDIAN TRIBE  
COW CREEK BAND OF UMPQUA INDIANS  
COWLITZ INDIAN TRIBE  
CROW TRIBE OF MONTANA  
DELAWARE NATION  
DELAWARE TRIBE OF INDIANS  
EASTERN SHAWNEE TRIBE OF OKLAHOMA  
EASTERN BAND OF CHEROKEE INDIANS  
FORT INDEPENDENCE INDIAN RESERVATION  
FORT MCDERMITT PAIUTE AND SHOSHONE TRIBE  
FORT MOJAVE INDIAN TRIBE  
FORT PECK ASSINIBOINE AND SIOUX TRIBES  
GRAND TRAVERSE BAND OF OTTAWA & CHIPPEWA INDIANS  
HOOPA VALLEY TRIBE  
HOPI TRIBE OF ARIZONA  
IOWA TRIBE OF KANSAS AND NEBRASKA  
KARUK TRIBE OF CALIFORNIA  
KAW NATION  
KETCHIKAN INDIAN COMMUNITY  
KICKAPOO TRADITIONAL TRIBE OF TEXAS  
KOOTENAI TRIBE OF IDAHO  
LEECH LAKE BAND OF OJIBWE  
LOWER BRULE SIOUX TRIBE  
LOWER ELWHA TRIBAL COMMUNITY  
LUMMI TRIBE OF THE LUMMI RESERVATION  
MAKAH INDIAN TRIBE  
MENOMINEE INDIAN TRIBE OF WISCONSIN  
MINNESOTA CHIPPEWA MILLE LACS BAND  
MONACAN INDIAN NATION  
MUSCOGEE CREEK NATION  
NATIVE VILLAGE OF DEERING  
NATIVE VILLAGE OF DIOMEDE

NATIVE VILLAGE OF KOTZEBUE  
NATIVE VILLAGE OF NANWALEK  
NATIVE VILLAGE OF ST MICHAEL  
NAVAJO NATION  
NEZ PERCE TRIBE OF IDAHO  
NINILCHIK VILLAGE  
NOME ESKIMO COMMUNITY  
NORTHERN CHEYENNE TRIBE  
OGLALA SIOUX TRIBE  
OTTAWA TRIBE OF OKLAHOMA  
PASCUA YAQUI TRIBE  
PEDRO BAY VILLAGE  
PEORIA TRIBE OF INDIANS OF OKLAHOMA  
PICAYUNE RANCHERIA OF CHUKCHANSI INDIANS  
PIT RIVER TRIBE  
PONCA TRIBE OF NEBRASKA  
PRAIRIE ISLAND INDIAN COMMUNITY  
PUYALLUP TRIBE OF THE PUYALLUP RESERVATION  
PYRAMID LAKE PAIUTE TRIBE  
QUINULT INDIAN NATION BUSINESS COMMITTEE  
ROSEBUD SIOUX TRIBE  
SAMISH INDIAN NATION  
SAN CARLOS APACHE TRIBE  
SAN PASQUAL BAND OF MISSION INDIANS  
SANTO DOMINGO - KEWA  
SAUK-SUIATLE INDIAN TRIBE OF WASHINGTON  
SENECA NATION OF INDIANS  
SENECA-CAYUGA TRIBE OF OKLAHOMA  
SHOSHONE-BANNOCK TRIBES OF THE FORT HALL RESERVATION  
SHOSHONE-PAIUTE TRIBES  
SISSETON-WAHPETON OYATE  
SITKA TRIBE OF ALASKA  
SOBOBA BAND OF LUISENO MISSION INDIANS  
ST PAUL ISLAND  
STANDING ROCK SIOUX TRIBE  
SUSANVILLE RANCHERIA  
THE CHICKSAW NATION  
THE KLAMATH TRIBES  
THREE AFFILIATED TRIBES  
TOHONO O'ODHAM NATION  
TOLOWA DEE-NI' NATION  
TUOLUMNE BAND OF ME-WUK INDIANS  
UNITED KEETOOWAH BAND OF CHEROKEE INDIANS  
UPPER SKAGIT INDIAN TRIBE OF WASHINGTON



WHITE EARTH RESERVATION  
 WYANDOTTE NATION  
 YAVAPAI-APACHE NATION  
 YUROK TRIBE OF THE YUROK RESERVATION

The data in this field was derived by listing all Tribes which were identified in question 1 as the Tribe a child was either a verified member or citizen or was eligible to become a member or citizen as the result of Tribal Contact Search results conducted by Child Welfare staff.

**5. The number of Indian children in foster care who are in each of the placement preference categories described in ORS 419B.654 and the number of those placements that have Indian parents in the home.**

**Part 1 – Placement Preferences:**

<b>Placement Preference Categories</b>	<b>Total</b>
A member of the Indian child’s extended family	579
A foster home licensed, approved or specified by the Indian child’s Tribe	193
A foster home in which one or more parents is an Indian	127
A culturally appropriate institution approved or run by a Tribe	220
Placed outside placement preferences	308
<b>Grand Total</b>	<b>1427</b>

**Part 2 – Placements with Indian parents in the home: 78**

The data in this field is derived in part 1 of the question by taking the universe of children who are in the Question 1 dataset and counting the placement preference categories for each placement they have experienced during the reporting period. Part 2 is derived by analyzing the provider participants who are associated to each provider organization providing in-home foster care services to determine if they have self-reported or verified Tribal affiliations.

It is not fully understood why the count of Placements with Indian Parents in the Home differs greatly from the number of placements indicated in Part 1 above. Further analysis will be done, but the working assumption is although the placement preference information is required by the OR-Kids system when a placement service is opened, it is not required data in a provider record.

**6. The number of Indian children placed in adoptive homes in each of the placement preference categories described in ORS 419B.654 and the number of those placements that have Indian parents in the home:**

**Part 1 – Placement Preferences:**

<b>Placement Preference Categories</b>	<b>Total</b>
With a member of the Indian child’s extended family	17
With other members of the Indian child’s Tribe	5
With other Indian families	0
Placed outside Tribal preferences	8
Null	29
<b>Grand Total</b>	<b>59</b>

Null indicates placements where placement preferences were not entered in the OR-Kids database. System enhancements were implemented in May 2022 to ensure more accurate tracking of placement preferences for future reporting. Child Welfare will partner with Regional ICWA Specialists to identify issues related to continued “null” data.

**Part 2 – Indian parent in the home: 6**

It is not fully understood why the count of Placements with Indian Parents in the Home differs greatly from the number of placements indicated in Part 1 above. Further analysis will be done, but the working assumption is although the placement preference information is required by the OR-Kids system when a placement service is opened, it is not required data in a provider record.

**7. The number of available placements and common barriers to recruitment and retention of appropriate placements: 1119**

It is our understanding the meaning of “appropriate placements” to be the total number of preferred placements as indicated in Element 5 above, excluding the placements made outside of Tribal placement preferences. To improve identification of appropriate placement resources, the ODHS Application for Certification as a Resource Parent, Relative Resource Parent or Approval as a Potential Adoption Resource was revised to include new data fields that capture information regarding Tribal membership and eligibility for Tribal membership for all applicant types.

**8. The number of times the court found that good cause existed to deviate from the statutory placement preferences under ORS 419B.654 when making a finding regarding the placement of a child in a dependency proceeding: 2**

There are processes to allow courts to properly track these data requirements, but these codes are not being utilized as intended. Based upon the numbers reported from ODHS as children placed outside placement preferences (listed above under #5), as well as through several case reviews, OJD recognizes that the data collected through Odyssey processes

does not accurately reflect the total number of times the court determined good cause existed to deviate from the statutory placement preferences.

OJD has begun a case file review of ICWA cases to gather information on the number of good-cause exceptions to deviate from placement and the reason for the deviation over the last two years. This process will review all ICWA cases open during this reporting period. Once the review is complete, OJD staff will work with individual courts to understand the barriers to entering the data accurately. Additionally, the internal work will include an improvement of business processes around this data collection. OJD staff will also work externally with ODHS to streamline efforts for accurate and timely data collection around good cause to deviate from placement preferences.

**9. The number of cases that were transferred to tribal court under ORS 419B.633: 6**

This data is collected through Odyssey, OJD’s statewide electronic case management system.

**10. The number of times the court found good cause to decline to transfer jurisdiction of a dependency proceeding to tribal court upon request and the most common reasons the court found good cause to decline a transfer petition: 0**

OJD reviewed existing transfer codes within Odyssey, to obtain this data. Since the system did not indicate any instances in which the court declined transfer to Tribal court, OJD cannot provide common reasons to find good cause to decline transfer.

**11. The efforts the Department of Human Services and the Judicial Department have taken to ensure compliance with the provisions of ORS 419B.600 to 419B.654 and the amendments to statutes by sections 24 to 60, chapter 14, Oregon Laws 2020 (first special session), in dependency proceedings.**

ODHS and OJD’s collective and individual efforts to ensure compliance with ORICWA are addressed in sections above and throughout this report.

**12. The number of ICWA compliance reports, as defined in ORS 109.266, in which the department reported the petitioner’s documentation was insufficient for the court to make a finding regarding whether the petitioner complied with the inquiry or notice requirements under ORS 419B.636 (2) or 419B.639 (2): 63**

The data provided in this ORICWA requirement was gathered manually because the data does not exist in the Child Welfare database (OR-Kids). Barriers related to workforce availability and competing demands for system changes across child welfare programs impact timely design of new system functionality. These are issues the newly formed Data and CQI workgroup, described above in the “What We Are Doing” section, will address.

**13. The total number and ratio of all ICWA compliance reports that indicated there was a reason to know the child was an Indian child:**

During the reporting period, 27 ODHS ICWA Compliance Reports noted that the documentation submitted by petitioners in an adoption proceeding pursuant to ORS 109 indicated the child involved had potential American Indian/Alaska Native ancestry. The purpose of the ICWA Compliance Report is to provide the court, in adoption proceedings pursuant to ORS 109, with ODHS's assessment as to whether the Petitioner has provided sufficient information for the court to make its required findings. Only the court may make the finding as to whether there is reason to know that a child is an "Indian child" as defined in ORICWA. Therefore, none of OHDS' ICWA Compliance Reports found that there was reason to know the child was an Indian child.

**Conclusion**

ODHS and OJD have invested significant resources and undertaken many collective and individual efforts to implement and ensure compliance with ORICWA. Our commitment to improving compliance remains strong and ongoing, as does our dedication to preserving and strengthening the crucial government-to-government relations we have with the Nine Federally Recognized Tribes of Oregon.