



Implementing ICWA and ORICWA; Supporting Tribal Children and Families

**Hon. Manuel Perez, Marion County
Circuit Court Judge**

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Indian Child Welfare Act (ICWA)

- The Federal law was passed in 1978
- Purpose was to remedy the widespread and unwarranted practice of separating American Indian and Alaska Native children from their families and Tribes

Oregon Indian Child Welfare Act (ORICWA)

Policy Statement

“It is the policy of the State of Oregon to protect the health and safety of Indian children and the stability and security of Indian tribes and families by promoting practices designed to prevent the removal of Indian children from their families and, if removal is necessary and lawful, to prioritize the placement of an Indian child with the Indian child’s extended family and tribal community.” ORS 419B.600



Why We Need ICWA and ORICWA

Disproportionate Foster Care of AI/AN Children: 15 States with the Highest Rates ³			
State	Disproportionality Rate (2019)	% of children who are AI/AN	% of children in foster care who are AI/AN
Minnesota	14.99	1.7%	25.8%
Wisconsin	5.87	1.3%	7.7%
North Dakota	5.16	8.5%	43.7%
South Dakota	4.52	13.7%	62.1%
Nebraska	4.16	1.3%	5.3%
Iowa	4.14	0.4%	1.8%
Montana	3.45	10.6%	36.7%
Washington	3.16	1.8%	5.6%
Hawaii	3.02	0.2%	0.6%
Oregon	2.98	1.6%	4.7%
Alaska	2.65	21.6%	57.3%
Utah	2.26	1.1%	2.4%
North Carolina	1.74	1.3%	2.3%
California	1.52	0.5%	0.8%
Maine	1.41	1.1%	1.5%

Source: [NICWA, Disproportionality in Child Welfare Fact Sheet \(2021\)](#)

How Courts Participate in ORICWA

Inquiry

Notice

Active
Efforts

Placement
Preferences





Challenges in ICWA Practice

- Varying frequency of ICWA cases between courts
- Complex area of the law with overlay between federal and state
- Government-to-Government relationships
- Varying levels of resources for tribes
- Unique provisions of the law like placement preferences and active efforts
- Challenges with early identification of ICWA status

Strengthening Families: The Oregon ICWA Initiative

Data

ICWA
Courts

On-
Demand
Training

Family
Preservation





Oregon Judicial Department's (OJD's) ORICWA Education



Who We Train

- State court judges
- Tribal court judges
- Citizen Review Board (CRB)
- Attorneys (DOJ, Tribal, Parent and Child Attorneys)
- State and Tribal caseworkers and supervisors
- Court Appointed Special Advocates (CASA)
- Qualified expert witnesses

Focus

- ORICWA generally
- Specific provisions of ORICWA
- Roles & responsibilities under ICWA
- Business processes for data collection
- State-Tribal partnership & relationship building
- Tribal sovereignty

When We Train

- Annual OJD events and trainings
- Court partner's events and trainings
- Upon request for partners like CASA, CRB, or attorneys
- Upon request for local court teams
- With tribes and our partners at DOJ and ODHS

ICWA Courts and Court Teams

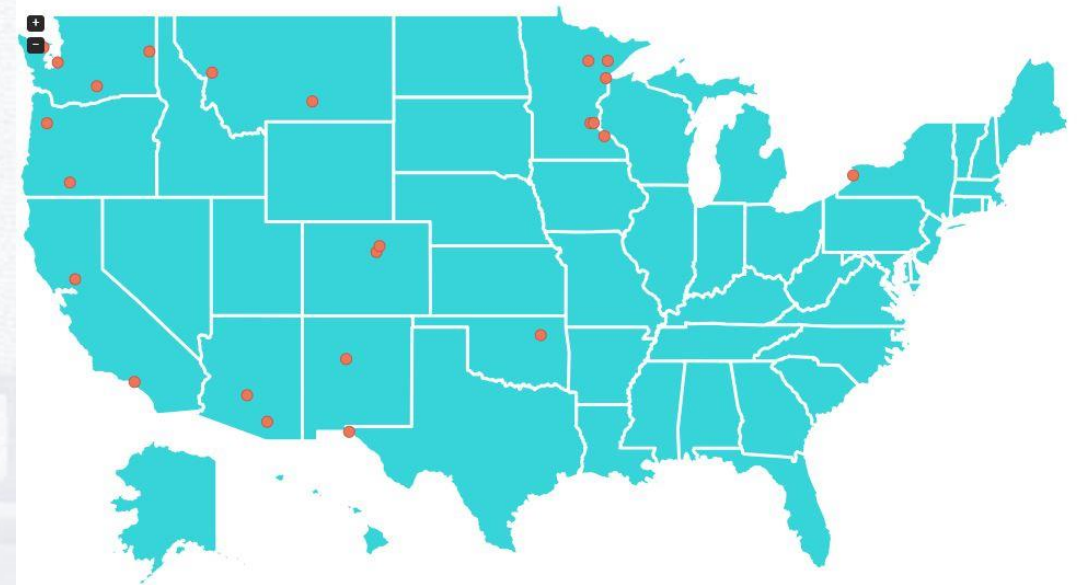
The five principles of ICWA Courts that frame the “gold standard of child welfare” are:

- Judicial leadership;
- ICWA data collection;
- ICWA training (spirit and letter of law);
- Tribal collaboration; and
- Gold Standard lawyering and social work.

Oregon has 2 of the 24 ICWA Courts – in Klamath and Marion Circuit Courts.
Multnomah is planning an ICWA Court.

ICWA Court Map

Below is a map of the current ICWA Courts. For more information about these courts or to be added to the map, please see the contact information below.



How ICWA Courts Promote ICWA Implementation

- Collaborative, authentic partnership
- Increased participation by tribes, families, and others allows families to connect to resources more easily
- Dedicated team of practitioners allows for specialized knowledge, skills, and ability to tailor services to families' needs
- Relationship between judges, tribes, and court partners





What's Next

- Working with the National Center for State Courts to create a research plan for Oregon's ICWA Courts
- Working with Portland State University to develop the on-demand training
- Multnomah ICWA Court
- Cross-site visits between tribal courts and state courts

