

Oregon Department of Justice Annual Government to Government Report 2020
Pursuant to ORS 182.166(3)

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I. Introduction

The Oregon Department of Justice (DOJ or Department) is pleased to submit this annual Government-to-Government Report to highlight the many ways in which our work and our attorneys interface and collaborate with Oregon’s nine federally recognized tribes.¹ This government-to-government relationship is one that DOJ takes great pride in building and maintaining. Each year presents opportunities to address new, joint issues affecting numerous parties in Oregon and to learn from and develop tribal partnerships.

DOJ’s commitment to a strong government-to-government relationship is reflected in its advice and legal counsel to Oregon state agencies and through the administration of its own programs. Through its role as general counsel to state agencies, assistant attorneys general (AAGs) advise and confer with client agencies regarding agency programs, policies, and decisions. Although DOJ does not set policy for client agencies, this role provides a unique opportunity to raise with client agencies the importance of respect for tribal sovereignty and potential program impacts to tribal communities. In addition to its role as general counsel, DOJ also administers its own programs that reach broad sectors of the community, including the tribes. These programs include Crime Victim and Survivor Services, Consumer Protection, Child Support Enforcement, and more that are further described in this report. Please find an updated list of DOJ programs that interface with tribes attached as Appendix A.

The Department’s Tribal Relations Policy underpins all of the work DOJ does for client agencies that may impact tribes—specifically promoting the principle in Executive Order No. 96-30 that “[a]s sovereigns, the tribes and the State of Oregon must work together to develop

¹ The Nine Federally Recognized Tribes in Oregon will be referenced by the following:

- Burns Paiute Tribe – Burns Paiute Tribe
- Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians – CTCLUSI
- Confederated Tribes of the Warm Springs Reservation – CTWS or Warm Springs Tribe
- Coquille Indian Tribe – Coquille Tribe
- Klamath Tribes – Klamath Tribes
- Cow Creek Band of Umpqua Tribe of Indians – Cow Creek Tribe
- Confederated Tribes of the Grand Ronde – CTGR or Grand Ronde
- Confederated Tribes of the Siletz Indians in Oregon – Siletz Tribe
- Confederated Tribes of the Umatilla Indian Reservation – CTUIR or Umatilla Tribe

Unless noted otherwise, a reference to “Tribe” or “tribe” refers to one of Oregon’s 9 federally recognized tribes.

mutual respect for the sovereign interests of both parties.” DOJ works diligently to facilitate clear communication and understanding among DOJ, state agencies, and the tribes, and strives to prevent unnecessary conflict by involving tribal representatives in the development and implementation of programs that affect them. In our roles as agency advisors and as program administrators, DOJ values the opportunity to collaborate with the tribes in furtherance of shared goals, as well as the many opportunities to learn and continue to strengthen government-to-government relationships.

II. Tribal Relations Policy

The Attorney General has adopted the Tribal Relations Policy, attached as Appendix B to this report. AAG Karen Clevering serves as Native American Affairs Coordinator as described in the policy, also referred to as the Tribal Key Contact. The policy has been incorporated into the Department’s Policy Manual, which is presented to all new employees. In addition, the Department’s Tribal Key Contact reminds current employees of the policy annually. Discussion of the policy has also been incorporated into DOJ’s New Employee Orientation program.

III. Training

DOJ representatives have participated in a variety of seminars and Continuing Legal Education programs relating to federal Indian Law and Native American culture and heritage.

A. External Trainings (in chronological order unless otherwise noted)

On February 10, 2020 Tribal Key Contact Karen Clevering and General Counsel Chief Counsel Renee Stineman participated in the *Attorney General Alliance Sovereign to Sovereign Summit* at the Thunder Valley Casino Resort in Lincoln, CA. The intergovernmental summit hosted state attorneys general and Native American leaders and their attorneys general. The focus of the summit was educating state attorneys general and staff about Native American history and federal policy, sovereignty, native sovereign law, courts, law enforcement and jurisdictional issues and economic development and building a framework for cooperation between state attorneys general and native sovereign governments.

On March 18, 2020, Tribal Key Contact Karen Clevering and staff from DOJ’s Crime Victims and Survivor Services Division participated in *Civil Rights Training for Tribal Grantees*, sponsored by the U.S. Department of Justice Office of Civil Rights.

On September 3, 2020, Tribal Key Contact Karen Clevering participated in *Power Act*, sponsored by the Native American Program – Oregon Legal Services (NAPOLS) and the U.S. District Court, District of Oregon.

On September 24, 2020, Tribal Key Contact Karen Clevering participated in *A New Path Forward - Guiding Repatriation in Medical Examiner and Coroner Offices*, sponsored by the Association on American Indian Affairs.

On September 25, 2020, Tribal Key Contact Karen Clevering participated in *Voting Rights in Indian Country: Barriers to Democracy*, sponsored by the Oregon State Bar.

On October 9, 2020, Key Contract Karen Clevering participated in *Oregon's ICWA—HB 4214: How It Affects Oregon's Dependency Statute and Why It Was Needed*, sponsored by the Oregon State Bar.

On October 12-14, 2020, Tribal Key Contact Karen Clevering and Natural Resources Section Attorney-in-Charge Paul Garrahan participated in the Conference of Western AG's fall meeting virtually. Trainings included:

- *Tribes and Internet Payday Loans*
- *Public Law 280: Fundamentals and Misconceptions*
- *Tribal Adjudicatory Authority: Exhaustion, Deferral, and the Merits*
- *Cannabis and Indian Country*

On December 10, 2020, Tribal Key Contact Karen Clevering participated in the 18th Annual Northwest Gaming Law Summit, which covered the following topics:

- National Indian Gaming Litigation Update
- National Indian Gaming Legislative Update
- Indian Gaming Economic Outlook: COVID Era
- Section 20 Litigation & Administrative Update
- COVID-Related Business Income Insurance Coverage
- Indian Gaming & The Pandemic: Tribal Leader/Regulator Insights
- Indian Gaming Diversification: The Long Play
- Emerging State-Tribal Gaming Disputes
- Sports Betting – A Panel Discussion

After the landmark decision by the U.S. Supreme Court in *McGirt v. Oklahoma*, Tribal Key Contact Karen Clevering and many other AAGs participated in several continuing legal education sessions discussing the impact of the decision. These included:

- *McGirt v. Oklahoma: Understanding the Decision and its Implications for Indian Country*, sponsored by the Oregon Historical Society on July 16, 2020.
- *The Most Significant Indian Law Case in 100 Years: McGirt v. Oklahoma*, sponsored by Arizona State University College of Law on July 28, 2020.
- *The McGirt case: What It Means, and What Might Happen Next*, sponsored by the University of Oregon School of Law on August 6, 2020.
- *Tribal Sovereignty and McGirt v. Oklahoma*, sponsored by the Oregon State Bar on November 13, 2020.

B. Internal Trainings and Information Sharing

On July 16, 2020, Tribal Key Contact Karen Clevering presented to DOJ staff *Tribal Gaming in Oregon - How It Works and Why We Have It*. AAG Clevering also administers the informal DOJ email listserv providing links and other resources related to federal Indian law and tribal relations. She regularly shares with the AG, her office, and DOJ Division leadership recent developments in Indian law, news from tribal partners, and upcoming opportunities to collaborate with tribes.

IV. Efforts to Promote Good Government to Government Relations

A. Annual Tribal/State Government-to-Government Summit and Outreach to Tribal Leadership

Attorney General Ellen Rosenblum, General Counsel Chief Counsel Renee Stineman, Tribal Key Contact Karen Clevering, AAG Patrick Flanagan, and Crime Victim and Survivor Services Division (CVSSD) staff attended the virtual 2020 Summit.

In June, the Attorney General contacted tribal leadership of Oregon's nine federally recognized tribes in the wake of the COVID-19 hardships felt throughout the state to offer support and welcome opportunities to partner.

B. Cluster Participation

1. Public Safety Cluster

Tribal Key Contact Karen Clevering and CVSSD Fund Coordinator Diana Fleming participated in the March 2020 cluster meeting.

2. Cultural Resources Cluster

Tribal Key Contact Karen Clevering and AAG Patrick Flanagan of DOJ's Environmental and Cultural Resources Enforcement Unit participated in cluster meetings.

C. Special Activities

1. Official Guidance for Enforcement of Tribal Court Protection Orders

In January 2020, U.S. Attorney for the District of Oregon Billy J. Williams and Oregon Attorney General Ellen Rosenblum jointly issued [Official Guidance for Enforcement of Tribal Protection Orders/ "Foreign Restraining Orders"](#). Tribal protection orders, referred to as foreign restraining orders under Oregon law, are civil orders of protection issued by tribal courts to prevent future domestic violence. State law and federal law under the Violence Against Women Act (VAWA) each require full faith and credit for these orders, meaning all states must uphold protective orders from any other state and from any tribal nation.

Domestic Violence Resource Prosecutor AAG Sarah Sabri and AUSA Tim Simmons provided presentations on this topic at DOJ’s RISE trainings in March to law enforcement and public safety staff. In person trainings occurred in Salem, Central Point, Klamath Falls, Redmond, Madras in early March. Due to the COVID-19 statewide stay-at-home order, DOJ was unable to complete its scheduled trainings in Warrenton, Clackamas Grand Ronde, Coos Bay, Roseburg, The Dalles, Pendleton and Baker City. DOJ plans to provide virtual trainings in the future.

2. Tribal Court-State Court Forum

On November 13, 2020, Tribal Court-State Court Judicial Forum was held virtually. The forum consists of judges from tribal courts, county judges from counties adjoining tribal nations, and Oregon Supreme Court Chief Justice Walters. Topics this year included court operations and challenges in light of COVID-19, Full Faith and Credit Tribal Court Protection Orders Grant Project (supported by CVSSD VAWA Competitive grant funds), and Oregon ICWA.

Tribal Key Contact Karen Clevering, Domestic Violence Resource Prosecutor AAG Sarah Sabri, and CVSSD Fund Coordinator Diana Fleming participated as guests at the forum. They have also participated in ongoing discussions and planning sessions regarding the Full Faith and Credit of Tribal Protection Orders Grant Project.

D. Missing and Murdered Native American Women Workgroup

House Bill 2625 (2019) directed the Oregon State Police (OSP) to conduct a study involving Missing and Murdered Native American Women in Oregon. OSP worked with partners to conduct a study and report the findings to the legislature. Chief Counsel of the Criminal Justice Division, Michael Slauson, was a workgroup member. The workgroup met with several tribes during a “Listening and Understanding Tour,” but the tour was suspended in the spring due to COVID-19.

OSP released a report to the legislature in September 2020 and made the following recommendations:

- Establish a partnership between Oregon Law Enforcement and the new federal task force, Operation Lady Justice, toward solving open and cold case missing persons investigations.
- Develop collaborative efforts, partnerships, and protocols to work across local, tribal and state borders to identify patterns and links between missing persons from tribal and non-tribal lands.
- Strengthen and create partnerships between law enforcement and Native American communities and continue outreach to all Native American communities in Oregon on the issue of Missing and Murdered Native American Women.
- Develop and provide education for Oregon’s law enforcement officers covering cultural awareness, the history of Native Americans in Oregon and the complexities between tribal and state law.

DOJ looks forward to opportunities to partner with OSP and other agencies to implement these recommendations.

E. ICWA

Throughout 2020, DOJ's Child Advocacy Section (ChAS) continued its involvement in the development of legislation for a state Indian Child Welfare Act and redesigning DHS/Child Welfare's ICWA processes and training.

1. ORICWA Workgroup Addressing Legislative Fixes

AIC Shannon Dennison has participated in meetings with attorneys for Oregon tribes, legislative counsel, Juvenile Court Improvement Program (JCIP), and DHS Child Welfare to discuss proposed ORICWA technical fixes and more substantive language regarding private adoptions. Workgroup meetings with Representative Tawna Sanchez, DHS/Child Welfare Tribal Affairs Unit, attorneys for Oregon tribes, Oregon Public Defense Services (OPDS), and JCIP are scheduled to take place in December 2020.

2. House Bill 4214 - Oregon Indian Child Welfare Act Legislation

HB 4214, Oregon's Indian Child Welfare statute (ORICWA) passed in the 2020 Special Session. ORICWA codifies the federal ICWA into state law, but it also builds upon – and goes beyond – the ICWA in several respects. ChAS AIC Shannon Dennison reviewed the draft legislation and provided written testimony in support of its passage.

3. ORICWA Benchbook Workgroup

Following the passage of ORICWA, the Oregon Judicial Department (OJD)'s Juvenile Court Improvement Program (JCIP) convened a workgroup to develop a specific ORICWA chapter for the JCIP's Benchbook, which provides legal and educational resources on topics including dependency hearings, ICWA, and appellate updates for Oregon juvenile court judges.

AIC Shannon Dennison and Appellate Division AAG Inge Wells have participated on this workgroup along with representatives and attorneys from Oregon tribes, DHS Child Welfare, Oregon Public Defense Services, David Simmons from the National Indian Child Welfare Association (NICWA), and Jack Thorpe from Casey Family Programs.

4. ORICWA Trainings to DHS and Multnomah County Child Welfare Council

On November 24, 2020, AIC Shannon Dennison presented an ORICWA training to the Multnomah County Child Welfare Council which included Multnomah County juvenile judges, Juvenile Department representatives, defense attorneys, AAGs, DHS Child Welfare, Multnomah County CASA, Citizen's Review Board (CRB) representatives, and local treatment providers.

5. DHS Child Welfare's 2020 Tribal-State ICWA Conference

AIC Shannon Dennison presented two ICWA trainings at DHS's 2020 Tribal-State ICWA Conference. On October 21, 2020, AIC Dennison presented *ORICWA Rollout – new adoption, guardianship requirements & notice*. On October 22, 2020, AIC Dennison co-presented with Tribal Affairs Unit staff Ashley Harding and Chris Espinoza titled *ORICWA for Permanency Workers* to DHS and tribe's permanency workers and supervisors. Conference attendees included DHS Child Welfare ICWA unit supervisors and workers, Tribal Affairs Unit staff including Active Efforts Specialists, national ICWA experts, attorneys for Oregon tribes, and child welfare workers and staff from Oregon's tribes.

6. DHS ICWA Quarterly & Native American Heritage Celebration

On November 20, 2020, AIC Shannon Dennison co-presented an ORICWA training on ORICWA implementation with DHS Active Efforts Specialist Chris Espinoza at DHS's Metro ICWA Quarterly meeting. In attendance were DHS Child Welfare ICWA caseworkers.

7. ICWA Training Subcommittee

AIC Shannon Dennison participated on the training subcommittee of the ICWA Compliance Committee throughout 2020. The focus of the committee is training of new caseworkers, refresh trainings for more experienced workers, and monitoring of ICWA understanding and compliance. Representatives of Oregon's nine tribes, OJD, DHS/Child Welfare, NICWA, and several national ICWA experts also participate on this subcommittee. This committee has met monthly throughout the year.

8. 2020 Statewide Juvenile Court Improvement Program (JCIP) Model Court Summit – ICWA Focus

In early 2020, JCIP convened a group, including DHS/Child Welfare, DOJ, Oregon tribes, and OPDS, to develop an ICWA Model Court Summit focused on ICWA and ORICWA and to begin discussions regarding a state ICWA court devoted to hearing ICWA cases. AIC Shannon Dennison participated in the planning group, arranged for speakers to present at the Summit, and co-presented a Qualified Expert Witness training along with Shary Mason from JCIP. Attendees included juvenile court judges, attorneys, CASA representative, CRB representatives, and service providers throughout Oregon.

9. AAG and Law Clerk ICWA Trainings

AIC Shannon Dennison provided ICWA trainings to incoming DOJ/ChAS law clerks to ensure that incoming AAGs and clerks understand tribal perspectives in ICWA dependency cases and interact with tribes in a spirit of mutual respect. AIC Dennison will also present a series of ORICWA Brown Bag Trainings for ChAS AAGs through the month of December.

F. Representation of State Agencies

The Oregon Department of Justice is the state's law firm for all Oregon state agencies, and this includes legal representation and advice involving policies and laws that impact tribal relations. Such work often invites DOJ interaction with Oregon tribes on behalf of client agencies. In doing so, the DOJ strives to develop and maintain respectful and productive relationships with tribes and tribal attorneys, even when taking differing positions in litigation.

It is not possible to detail all the efforts, some of which are confidential or sensitive. Some examples of legal work conducted in the course of representing the State or other state agencies follow.

1. Department of Administrative Services (DAS)

AAG Sam Zeigler advised DAS regarding grant agreements for the Coronavirus Relief Fund, which included grants to Tribes. These agreements were negotiated on a short timeline due to the nature of the funding, and DOJ and attorneys for tribes identified issues and creatively worked towards solutions.

AAG Steve Marlowe assisted DAS regarding a grant to the Confederated Tribes of the Grand Ronde for its CASA program.

2. Department of Environmental Quality (DEQ)

AAG Gary Vrooman assists DEQ on hazardous substance cleanup matters and its engagement with tribes regarding areas of cultural and historical significance.

3. Department of Human Services (DHS)

In February 2020, at the request of the Burns Paiute Tribe, AIC Shannon Dennison began meeting with the Burns Paiute Tribe, DHS/Child Welfare, and Health and Human Services Section AIC Jeff Wahl to develop an inter-governmental agreement between DHS and the Burns Paiute Tribe to allow DHS to conduct child welfare assessments and file juvenile dependency petitions in state court following reports of child abuse or neglect on the Tribe's land. To assist the Tribe during an emergency period in which the Tribe lacked social services staff, AIC Dennison and AIC Jeff Wahl assisted in the development of a Letter of Intent to ensure the safety of Burns Paiute children until the agreement was fully implemented. The Letter of Intent was executed by Burns Paiute and DHS on February 27, 2020. The final inter-governmental agreement was implemented on April 9, 2020.

4. Department of Land Conservation and Development (DLCD)

AAGs Steve Shipsey and Jesse Ratcliffe represented DLCD and coordinated with CTCLUSI regarding the tribe and State's response to the Consistency of Appeal of Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, L.P.

The Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, L.P. (JP Project Parties) had filed a certification that its project was consistent with the Oregon Coastal Management Program. DLCDC conducted an analysis of the effects on the coastal uses and resources in accordance with federal regulation. It found there were adverse coastal and cultural resources effects and filed an objection to the JP Project Parties' certification of consistency. The JP Project Parties have appealed, and a decision from the U.S. Secretary of Commerce is forthcoming.

5. Department of Revenue (DOR)

Tax and Finance Section AIC Melisse Cunningham crafted and negotiated marijuana tax rebate agreement with Cow Creek Band of Umpqua Tribe of Indians after assisting AAG Karen Clevering with negotiations on marijuana regulatory agreement with Cow Creek. AIC Cunningham also worked on crafting and negotiating both cigarette and other tobacco products tax refund agreements with Cow Creek Band of Umpqua Tribe of Indians, which, once finalized, will result in Oregon having cigarette tax refund agreements with all nine federally recognized tribes in Oregon.

6. Department of State Lands (DSL)

AAG Matt DeVore advised DSL regarding consultation and communication with tribes on decisions related to land management.

7. Oregon Department of Transportation (ODOT)

AAG Karen Clevering assisted ODOT in negotiating a Memorandum of Understanding (MOU) with the Confederated Tribes of the Grand Ronde regarding consistent and ongoing consultation for the safety and capacity improvement project on OR18/22 from Valley Junction to Fort Hill.

AAG Clevering also assisted ODOT in negotiating an intergovernmental agreement with the Confederated Tribes of Siletz Indian Reservation concerning the tribe collecting camas plants and removing camas bulbs on ODOT right-of-way. Camas plants are culturally significant to the tribe and are cultural resources used for cultural restoration projects. This agreement presented a valuable opportunity to learn from the tribe about this resource and why it is important.

8. Oregon Business Development Department (OBDD)

AAG Wendy Johnson assisted OBDD in administering grants to tribes related to Coronavirus Relief Funds. She also assisted OBDD in its grant award to Confederated Tribes of the Warm Springs to address its water crisis.

AAG Johnson also assisted OBDD in revising template grant agreements for various public works projects with the Confederated Tribes of the Warm Springs. She worked with the tribe's attorney to identify and revise terms to meet both OBDD's and the tribe's needs. This

provided an opportunity to learn more about the tribal code and engage in dialog with tribal leadership. AAGs Karen Clevering and Jeff Wheeler also assisted in these efforts.

9. Oregon Health Authority (OHA)

AAG Ted Falk advised the OHA in assisting tribes to form Indian Managed Care Entities (IMCE) for tribal members in urban areas who are on Medicaid.

AAG Steven Marlowe assisted OHA in amending Mental Health Financial Assistance Agreements with tribes to award Coronavirus Relief Fund grants.

AAG Shannon O'Fallon assisted OHA regarding House Bill 4212 (2020) rule implementation and appropriate data collection related to tribal members and tribal communities. She also provided presentations and materials to the Confederated Tribes of the Umatilla Indian Reservation and their attorneys on Oregon's public health laws relevant to issues developing from COVID-19.

10. Oregon Housing and Community Services Department

AAG Hannah Fenley assisted in review of \$1,000,000 grant to the Confederated Tribes of the Umatilla Indian Reservation for housing and infrastructure replacement associated with damage and losses sustained in the February 2020 flooding in Umatilla County.

11. Oregon Liquor Control Commission (OLCC)

AAG Karen Clevering assisted in negotiating a Marijuana Regulatory compact with the Cow Creek Band of Umpqua Indians. Through this compact, the Tribe and the State agree to cooperate and collaborate regarding production and processing of marijuana. The Tribe may sell marijuana products to state-licensed entities and state-licensed entities may purchase and sell marijuana products produced or processed by the Tribe.

12. Oregon Military Department (OMD)

AAG Matt Shoop assisted OMD in its amendment to an agreement with Confederated Tribes of the Umatilla Indian Reservation, which expanded its previous agreement to propagate and support land management projects. CTUIR will continue to propagate and install native plants on OMD properties in Eastern Oregon.

13. Oregon Water Resources Division (OWRD)

AAG Renee Moulun represented and advised the OWRD in negotiations with the Confederated Tribes of the Umatilla Indian Reservation. Negotiations began in 2012. The OWRD is working with a federally-appointed negotiation team, the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Oregon Department of Fish and Wildlife, and irrigation districts to establish a mechanism for the CTUIR to obtain more water from McKay reservoir for

on-reservation use by the CTUIR and to obtain more in-stream flow in the Umatilla River for salmon.

14. Portland Harbor Natural Resources Damages

AAGs in the Natural Resources Section represent state agencies ODOT and DSL related to natural resources damages (NRD) in the Portland Harbor Superfund Site. AAGs also represent trustee Oregon Fish and Wildlife and work with NRD trustees, CTGR, CTWS, CTUIR, Siletz Tribe, and Nez Perce Tribe.

AAG Lynne Perry assisted DSL and ODOT in negotiation of and compliance with EPA consent orders in Portland Harbor. Two of these consent orders require payment of DEQ and Tribal oversight costs. The parties entered a “5 Tribes” tribal oversight cost agreements with five tribal governments: CTGR, CTWS, CTUIR, Siletz Tribe, and Nez Perce Tribe. Negotiation continues with the Yakama Nation.

15. State Historic Preservation Office (SHPO)

AAG Jesse Ratcliffe advised SHPO and assisted in consultations and discussions with Oregon tribes concerning the Jordan Cove Project.

G. Gaming

AAG Karen Clevering serves on the Governor’s negotiating team for tribal gaming compacts. In addition to gaming compacts, AAG Clevering advises Oregon State Police Tribal Gaming Section (TGS) in its regulatory role in tribal gaming activities in the State. The following is summary of gaming-related representation by tribe.

- *Confederated Tribes of the Grand Ronde.* AAG Clevering assisted OSP in entering into agreements with the Tribal Gaming Commission regarding the implementation of Amendment III to the State-Tribal Gaming Compact that permitted sports betting.
- *The Confederated Tribes of the Umatilla Indian Reservation.* AAG Clevering assisted the Governor’s Office in a limited amendment to the gaming compact to permit the tribe to adjust payments to its community benefits fund to accommodate for losses related to COVID-19 closures.

H. Amicus Curiae Brief Decision-Making

DOJ continues to notify tribal attorneys via email about cases in which the Attorney General is called upon by other states or associations to participate in appellate court briefing in an *amicus curiae* role by joining briefs that have been drafted by other states. This process has resulted in meaningful input from tribal representatives in the State’s decision-making process. In addition, tribes on occasion contact DOJ asking that the Attorney General join an *amicus* brief. There were no amicus briefs considered in 2020 relevant to tribal affairs.

I. Law Enforcement Coordination

1. Oregon TITAN Fusion Center

The Oregon TITAN Fusion Center (OTFC) processes information related to threats in order to detect, prevent and respond to criminal and terrorist activity. The Center is staffed by the Criminal Justice Division and works in conjunction with federal, state and local law enforcement agencies. The Center produces threat assessments and bulletins about officer safety, general crime, terrorism and analytical case support. The Center also provides important training to law enforcement agencies, businesses and first responders.

The OTFC continues to work with tribes to increase information sharing with tribal law enforcement. Cow Creek Tribe and Confederated Tribes of the Umatilla Indian Reservation serve as partners to the OTFC.

2. Regional Automated Information Network (RAIN)

RAIN is an ORS 190 intergovernmental agency tasked with facilitating law enforcement data-sharing by connecting separate, locally administered criminal justice records management systems, allowing users to query departmental reports and other documents across database platforms and jurisdictions throughout the State. Confederated Tribes of Grand Ronde is a member of RAIN.

J. Cultural Resources

AAG Patrick Flanagan has continued his role as DOJ representative on the Governor's Tribal Cultural Items Taskforce regarding Executive Order 17-12 and Tribal Cultural Items inventory.

Tribal Key Contact Karen Clevering provided DOJ's update to the Tribal Cultural Items Inventory on October 7, 2020.

K. Crime Victim and Survivor Services Division (CVSSD)

In 2020, the Crime Victim and Survivor Services Division (CVSSD) continued to build stronger collaboration between tribes and statewide technical assistance agencies, grant-funded programs and community partners. Tribal representatives sit on community program boards, are included in local trainings and partner meetings, and provide culturally specific training by tribal partners to non-tribal program staff.

In 2020, two of the nine federally recognized tribes in Oregon had a member representing tribal interests on the CVSSD advisory committee. All nine tribes are invited to each of the CVSSD and VAWA Implementation Planning Subcommittee meetings that set statewide strategy for domestic and sexual violence service provision. The inclusion of tribal representatives assures that the voices and concerns of tribal victims are represented during CVSSD work on planning, allocation, grant application review, and implementation. Tribal

board representation continues to provide expertise in CVSSD's funding processes and to improve collaboration with state partners and stakeholders as well as domestic violence and sexual assault service providers.

CVSSD Fund Coordinators and leadership provide information to tribes on grant funding streams, competitive grant opportunities, and, when requested, technical assistance to tribal victim service programs. CVSSD Fund Coordinator Diana Fleming, who is also an Advisory Board member, has participated in a statewide planning, subcommittee planning, and a regional showing of the documentary [*Sisters Rising*](#) with accompanying breakout discussions with experts in 2021. The film tells the story of six Native American women fighting to restore personal and tribal sovereignty in the face of ongoing sexual violence against women.

CVSSD also provides annual grant management training; however, due to the statewide COVID-19 stay-at-home order, this year's training was cancelled. Heather Moss, Attorney Advisor, from the US Department of Justice, Office for Civil Rights, provided an online training session on March 18, 2020.

AAG Steven Marlowe assisted CVSSD in amending existing agreements with tribes to award Coronavirus Relief Funds.

CVSSD updates the list of key tribal contacts annually and ensures state and local programs honor the ongoing communication with the tribes on all matters. Tribal victim service program staff is included on key state listservs. The list is updated annually, posted internally at CVSSD, and provided upon request.

CVSSD implements and supports various programs and services. The following summary describes specific involvement with tribes.

1. STOP Violence Against Women Act Grant (federal and state grants)

The federal STOP Violence Against Women Act (VAWA) Formula Grant pass through funds and Oregon Domestic and Sexual Violence Services grant funds are allocated to counties and more recently tribes (first time in FY 2013 – 2015) utilizing a formula which is based on population and enrolled tribal membership. CVSSD also administers a STOP VAWA Competitive subgrant to Oregon Judicial Department for its Full Faith and Credit Tribal Court Protection Orders Grant Project, for award period January 1, 2020 – December 31, 2022.

2. Victims of Crime Act (VOCA) Grant and Program (federal)

CVSSD awarded non-competitive domestic and sexual violence funding in a FY 2019 - 2021 joint application to tribes. As of October 2019, seven of the nine federally recognized tribes have used the non-competitive grant funding (\$165,000 - \$215,000) to provide emergency support services for victims, which includes transitional housing, mental health and legal services, and travel and training for tribal advocates. Funding also provides for additional part-time advocates to increase service delivery for victims in a large tribal county service area (up to eleven counties for tribes). The funding to tribes helps to ensure equal access to services for all

victims across the State. As grantees, communication and collaboration with the Tribes on a state and local level has increased. Ongoing joint grant funding available to all nine tribes for the two-year noncompetitive funding increased to a total of \$240,000. Tribes, along with other CVSSD grant funded programs, received additional COVID relief and emergency housing grant funds.

3. Federal Grant Monitoring

In 2020, 8 of 9 federally recognized tribes participated in the federal grant monitoring process which included a virtual desk review of administrative and financial policies and procedures and a virtual monitoring visit. CVSSD views these opportunities to better understand the program needs and learn what technical assistance CVSSD can provide.

4. Tribal Nations Listening Tour Update

CVSSD regularly works in partnership with Oregon's nine federally recognized tribes to continue government to government collaboration between the State and tribes to ensure that all crime victims have meaningful access to services. CVSSD Fund Coordinator and Advisory Board member met with tribal leaders, elders, staff and members to share the tribes' victim service gaps and needs as an update to the original Listening Tour conducted in 2012. Since 2019, CVSSD staff met with the following four tribes:

- Confederated Tribes of Siletz Indians
- Confederated Tribes of Umatilla Indian Reservation
- Confederated Tribes of Grand Ronde
- Klamath Tribes

These meetings included a collaboration meeting between tribal and community partners which addressed challenges in service delivery and how to integrate services in their communities. COVID-19 and the statewide stay at home order in March 2020 delayed the remaining visits which will continue virtually in 2021.

5. Community Conversations

In the summer of 2020, DOJ hosted a series of Community Conversations to engage with specific communities impacted by inequity and to explore what barriers systemic discrimination and implicit bias pose for these communities when engaging in services with mainstream government and non-profit systems. A dedicated session was held for our American Indian/Alaska Native communities; however, indigenous voices were present during other sessions, including for LGBTQIA2S+.

These open community forums were held virtually and were promoted by direct communication to tribal victim advocacy programs, as well as notice to culturally specific non-profits and social media affinity groups that represent our American Indian/Alaska Native community members. A summary report on these Community Conversations is expected to be released in late 2020 or early 2021.

L. Division of Child Support (DCS)

1. Statewide Child Support Collection Activities

The Oregon Child Support Program maintains tribal liaisons in DCS offices throughout the State who work in cooperation with the tribes to collect child support on behalf of Native American families. Funds collected by the Oregon Child Support Program, the Confederated Tribes of the Umatilla Indian Reservation Office of Child Support Enforcement, and The Klamath Tribes Judiciary Child Support Enforcement Office are distributed to Tribal families, Tribal child support programs, Tribal TANF programs, and the State of Oregon.

In federal fiscal year 2020, the Oregon Child Support Program collected more than **\$1,075,000** on cases with Oregon tribal members.

In November, DCS Deputy Director and statewide DCS tribal contact Dawn Marquardt, Civil Enforcement AIC Claudia Groberg, and four tribal liaisons presented to the State of Washington's Division of Child Support's Tribal Relations team on Oregon's Tribes and how DCS interacts with each Tribe. The presentation focused on DCS's working relationship with each Oregon Tribe and how to partner with Oregon's program if the State of Washington needs to interact with an Oregon Tribe about a child support case.

2. Activities per Tribe

Burns Paiute Tribe. The tribal liaisons at the DOJ Office in Bend are available to assist with child support issues for tribal members.

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. The Tribe continues to honor wage and medical withholdings. The tribal liaisons provide direct assistance to tribal members with questions regarding enforcement, modification, DNA testing, and paternity establishment.

Confederated Tribes of the Grand Ronde. Albany tribal liaisons work with the Grand Ronde Tribal Court Administrator and Tribal Court staff.

The Confederated Tribes of the Siletz Indians. The Albany DCS office works with the Siletz Tribe and Tribal Court. Local tribal liaisons meet with the Tribal TANF staff regularly to provide training as well as case staffing for general case questions and paternity testing services.

AIC Claudia Garcia Groberg represents the Oregon Child Support Program at the Confederated Tribes of Siletz Indians Tribal Court. AIC Groberg appeared monthly in the Siletz Tribal Court on hearings regarding income withholding orders issued to the tribe by the Oregon Child Support Program. Due to the pandemic, starting in March, all hearings were held telephonically. Due to unemployment and hardship to tribal members this year, the Siletz Tribe passed a resolution to not garnish per capita distribution for child support, which resulted in per capita hearings not being held. The program notified the participants receiving support that the Tribe would not be garnishing per capita distribution in 2020.

The Confederated Tribes of the Umatilla Indian Reservation. The Pendleton DCS office works cooperatively with the CTUIR Office of Child Support Enforcement. The tribal liaisons assist with training of new CTUIR staff and help with registering orders with CTUIR for enforcement/wage withholding. Staff from both offices interact regularly to discuss cases.

Confederated Tribes of the Warm Springs Reservation. The tribal liaisons in the Bend DCS office are available to assist with child support issues for Tribal members. The Bend office provides services on cases where the Tribal Court has authorized the Oregon Child Support Program to assist the custodial parent with enforcement tools that are not available to the Tribe.

Coquille Indian Tribe. The Coquille Indian Tribe has an established process for registering orders for the enforcement of cash and medical child support. The tribal liaisons provide direct assistance to tribal members with questions regarding enforcement, modification, DNA testing, and paternity establishment, and facilitate contact with out-of-state tribes and child support programs as necessary.

The Cow Creek Band of Umpqua Tribe of Indians. The Roseburg DCS office processes registration of orders with the Tribal Court. The tribal liaisons process all requests for registration and work closely with the Tribal Court Clerk to ensure that orders are registered timely to expedite the receipt of child support.

The Klamath Tribes. The Bend DCS office tracks cases transferred to the Klamath Tribes to establish or register orders and reciprocal requests from the Tribe for unemployment compensation attachment on tribal orders. Requests are sent from the Tribe for assignment of support when a caretaker is receiving Tribal TANF. DCS staff and staff from both Klamath Tribes child support and TANF meet regularly to discuss each other's business needs and improve processes. Requests for income withholding of Tribal employees' wages for child support are sent to Klamath Tribes Child Support Enforcement (KTCSE) for processing. Prior to the pandemic, a tribal liaison traveled to Chiloquin and Klamath Falls monthly to meet with KTCSE and Tribal members to answer questions about cases, audit cases, and assist with complex cases. This will resume once public health guidance indicates it is safe to do so.

3. Tribal Liaisons for the Division of Child Support

DCS has established tribal liaisons as follows:

Statewide Tribal Contact: Dawn Marquardt

Assigned Tribal Contacts by Tribe:

- *Burns Paiute:* Mondae Roberson (primary), Lyssa Warren Wyatt (secondary), Liza Lima (secondary), and Brandee Stroud.
- *Confederated Tribes of Coos, Lower Umpqua, and Siuslaw:* Debbie Petetit and Brittney Moreno.
- *Coquille Indian Tribe:* Debbie Petetit and Brittney Moreno.

- *Cow Creek Bank of Umpqua Tribe of Indians:* Debbie Petetit and Brittney Moreno.
- *Confederated Tribes of Grand Ronde Indian Reservation:* Brandy Maldonado (primary) and Colleen Hartford.
- *The Klamath Tribes:* Mondae Roberson (primary), Lyssa Warren Wyatt (secondary), Liza Lima (secondary), and Brandee Stroud.
- *Confederated Tribes of the Siletz Indians:* Colleen Hartford (primary) and Brandy Maldonado.
- *Confederated Tribes of Warm Springs:* Mondae Roberson (primary), Lyssa Warren Wyatt (secondary), Liza Lima (secondary), and Brandee Stroud.
- *Confederated Tribes of the Umatilla Indian Reservation:* Holly Arguello, Kari Monroy, and Penny O'Connell.

Appendix A

Updated List of Department of Justice Programs that Affect Tribes

The following is an updated list of DOJ programs compiled pursuant to the Tribal Relations policy. It is noted where the programs are known to affect tribes. Pursuant to the policy, DOJ will continue to confer internally and with tribal representatives to identify additional DOJ programs that may have further potential impacts on tribes.

I. Advice and Representation of State Agencies (General Counsel Renee Stineman (2020), Division Administrator)

As previously noted, much of DOJ's work is to advise state agencies about their legal options in the course of pursuing the programs they administer and to represent state agencies in litigation, including appeals. Many of the Department's efforts involve working to build good relationships with tribal attorneys, including in situations in which the State may be adverse to tribes in litigation.

DOJ pursues additional programs described below:

A. Client Legal Training/Public Law Conference

On occasion the Department holds seminars for state agencies about various areas of public law, and Indian law has often been included in the program. The AG's Public Law Conference is held biennially and is tentatively scheduled for Fall 2021.

B. Legal Sufficiency Review

Pursuant to ORS 291.045 through 291.049, the Department is required to review certain kinds of contracts for "legal sufficiency." This responsibility affects tribal-state agreements.

II. Ballot Titles (Appellate Division, Ben Gutman, Solicitor General)

DOJ drafts ballot titles for initiatives and litigates challenges to ballot titles. On more than one occasion in the past, the subject matter of the initiative (e.g., lottery authority, private casino, fishing regulations) potentially affected tribes.

III. Criminal Appeals (Appellate Division, Ben Gutman, Solicitor General)

DOJ handles appeals of criminal cases involving tribes or questions of criminal jurisdiction relating to tribes.

IV. Law Enforcement Programs of the Criminal Justice Division (Michael Slauson, Division Administrator)

The Criminal Justice Division engages in a variety of law enforcement programs:

A. District Attorney Assistance Program

DOJ provides occasional assistance to district attorneys in criminal prosecutions of interest to tribes or cases in which questions of tribal criminal jurisdiction arise.

B. Internet Crimes Against Children (ICAC)

The Criminal Justice Division has a number of memoranda of understanding (MOUs) with Oregon Tribes.

C. Oregon High Intensity Drug Trafficking Area Program (HIDTA)

HIDTA supports tribal police to the extent that tribal police participate with local law enforcement in HIDTA-designated counties.

D. Elder Abuse Prosecution

DOJ's Elder Abuse unit works with Oregon's district attorneys, and other prosecutors, law enforcement and community partners throughout the State. In addition to the investigation and prosecution, the unit develops training materials and best-practice policies to improve the identification, investigation and prosecution of elder abuse.

Elder Abuse Resource Prosecutor AAG Victoria Roe attends multi-disciplinary team (MDT) meetings on elder abuse throughout the State to learn how to train or partner in the area of Elder Abuse.

E. TITAN Fusion Center (Richard Austria, Assistant Special Agent-In-Charge)

The Fusion Center engages tribes through its Fusion Liaison Officer Program. The Fusion Center provides briefing and training for tribal police chiefs on several occasions on Fusion Center operations. The Fusion Center has added a tribal police chief to the Fusion Center Executive Advisory Board to assist in guiding Fusion Center operations, with a goal of helping tribal police agencies to know what the fusion center is concentrating on. This also allows them to have information on current terrorism and criminal trends in Oregon that may affect their tribal operations. The Fusion Center now has a "subportal" for tribal chiefs of police.

F. Other law enforcement programs

The following Criminal Justice Division programs also coordinate with tribes.

- Investigation and Prosecution of Election Law, Official Corruption and Organized Crime

- Criminal Intelligence Unit (investigation and information collection and dissemination)
- The Terrorism Intelligence and Threat Assessment Network (TITAN)
- The Annual Institute for Prosecutors (training program)

V. The Crime Victim and Survivor Services Division (CVSSD) (Shannon Sivell, Director)

CVSSD administers certain programs that are available to tribes or tribal members:

A. Federal and State Grant Funding

CVSSD has administered the federal Violence Against Women Act (VAWA) Federal Grant Program since 2006 and the Oregon Domestic and Sexual Violence Services State Grant Program since 2001.

B. Address Confidentiality Program

The Address Confidentiality Program is a free mail forwarding service to help survivors of domestic violence, sexual assault, trafficking or stalking protect their physical address information.

C. Victim Compensation Program.

The Crime Victim's Compensation Program provides financial assistance related to the expenses incurred by victims of personal crimes.

D. Domestic Violence Prosecution

Domestic Violence Resource Prosecutor Sarah Sabri routinely provides training, technical assistance and legal expertise to law enforcement and service providers throughout the state on a coordinated response to family violence. Tribal law enforcement officers have participated in these efforts.

E. Human Trafficking Intervention

Trafficking and Intervention Coordinator Amanda Swanson provides training and education on Human Trafficking Intervention.

VI. Financial Fraud/Consumer Protection (Kelly Harpster, Attorney-in-Charge)

DOJ engages in a variety of consumer protection programs, including responding to consumer complaints, Unlawful Trade Practices Act enforcement, enforcement of Oregon antitrust law, and consumer education. The consumer education program has included work with tribes.

A. Scam Alert Network

This network coordinates the Department’s regular scam alerts with the media, elected leaders, consumer watchdogs, and advocates for the elderly and disabled in partnership with the Department of Consumer and Business Services, Oregon District Attorneys’ Association, Oregon State Sheriffs’ Association, Oregon Association of Police Chiefs, AARP and Elders in Action.

B. Medicaid Fraud (Rodney Hopkinson, Attorney-in-Charge)

The Medicaid Fraud Unit deters, investigates, and prosecutes fraud by Medicaid providers and physical or financial abuse/neglect of residents of Medicaid-funded facilities.

C. Charitable Activities (Elizabeth Grant, Attorney-in-Charge)

A number of tribally affiliated charities register with DOJ as Oregon charitable corporations.

D. Public Records Laws

The Attorney General issues orders on petitions under the Public Records Law.

E. Appropriate Dispute Resolution

DOJ promotes and provides training with respect to appropriate dispute resolution, which may include disputes involving tribes.

VII. Division of Child Support (Kate Richardson, Administrator; Dawn Marquardt, Deputy and DCS Tribal Liaison)

The Division of Child Support (DCS) interacts and collaborates with tribes on the establishment and enforcement of child support orders.

VIII. Environmental and Cultural Resources Enforcement Unit (Patrick Flanagan)

Established in 2013, the Environmental and Cultural Resources Enforcement Unit combines the functions of the Environmental Crimes Unit (focused on prosecuting violations of Oregon environmental laws) with a civil enforcement function. The unit also provides resources with respect to violations of Oregon archeological resource protection laws.

Appendix B

Policy 2-95 Tribal Relations Policy

Applicability: All full and part time employees, temporary employees and volunteers

References:

(1) Purpose

This tribal relations policy is adopted pursuant to ORS 182.162 – 182.168, which requires state agencies to develop and implement tribal relations policies.

(2) General Policies and Principles

It is DOJ's policy to promote the principle stated in Executive Order No.96-30 that "[a]s sovereigns the tribes and the State of Oregon must work together to develop mutual respect for the sovereign interests of both parties." DOJ interacts with tribes in differing roles: in its role as legal advisor to and representative of other state agencies; and in its role as independent administrator of certain DOJ programs. In all of its roles, it is DOJ's policy to promote positive government to government relations with the federally recognized tribes in Oregon ("tribes") by

- (a) Facilitating communication and understanding and appropriate dispute resolution among DOJ, other state agencies and those tribes;
- (b) Striving to prevent unnecessary conflict with tribes;
- (c) Interacting with tribes in a spirit of mutual respect;
- (d) Involving tribal representatives in the development and implementation of programs that affect them; and
- (e) Seeking to understand the varying tribal perspectives.

(3) Native American Affairs Coordinator

- (a) The state is best served through a coordinated approach to tribal issues. The Attorney General has designated a Native American Affairs Coordinator, who serves as the Department's key contact with tribal representatives.
- (b) Individuals in the Department who are working on a significant matter involving or affecting a tribe shall notify the Native American Affairs Coordinator.
- (c) The Native American Affairs Coordinator will develop with each Division Administrator an appropriate means for that Division to keep the Native American

Affairs Coordinator regularly informed of the status of significant matters involving or affecting tribes.

(4) Dissemination of tribal relations policy

- (a) Upon adoption, this policy shall be disseminated to members of the Department, and shall be incorporated into the DOJ Policy Manual. In addition, this policy and information regarding ORS 182.162 – 168 shall be included in new employee orientation, and on the Department’s intranet.
- (b) The Native American Affairs Coordinator will distribute an annual reminder regarding the policy.

(5) Training

- (a) The DOJ CLE Committee and Diversity Committees shall strive to incorporate topics regarding Indian law and culture in their agency training and CLE programs.
- (b) The Native American Affairs Coordinator will assist Divisions and sections in arranging training on specific topics relevant to the work of that particular division or section.
- (c) Appropriate DOJ representatives will attend annual training provided by the Department of Administrative Services pursuant to ORS 182.166(1).
- (d) DOJ attorneys who come into significant contact with tribes are encouraged to consider taking advantage of outside CLE opportunities on Indian law and culture.

(6) Guidelines for Advising and Representing other State Agencies

The Department of Justice is uniquely situated to aid implementation of ORS 182.162 – 182.168 through its contact with and advice to various state agencies. DOJ attorneys should promote other agencies’ compliance with ORS 182.162 to 182.168 by means including:

- (a) Considering the represented agency’s obligations under the statute in the course of advice and representation and
- (b) Striving to ensure involvement of the agency’s tribal key contact in significant matters affecting or involving tribes.

(7) Identification of DOJ Programs Affecting Tribes

The Native American Affairs Coordinator will compile a list of DOJ programs that affect tribes, as well as the DOJ individuals responsible for implementing them, through the following process:

- (a) Division Administrators will provide to the Native American Affairs Coordinator a list of Division programs, noting those they believe affect tribes. The entire list will be shared with tribal representatives identified through Government to Government cluster groups, tribal attorneys known to the Department, the Indian Law Section of the Bar, the Native American Program of Oregon Legal Services, and tribal chairs.
- (b) Annually, the Native American Affairs Coordinator will update the list of DOJ programs that affect tribes, in consultation with Executive staff and tribal representatives

(8) Guidelines for Independent DOJ Programs

- (a) Managers of programs identified as potentially affecting tribes shall adopt guidelines for cooperating with tribes in the development and implementation of those programs in consultation with the Native American Affairs Coordinator.
- (b) DOJ will invite tribal participation on Task Forces of interest to tribes.