

Oregon Department of Justice Annual Government to Government Report 2022
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 ways our attorneys interface and collaborate with Oregon’s nine federally recognized tribes.¹ This government-to-government relationship is one that DOJ is honored to take part in building and sustaining. Each year presents opportunities for DOJ to address new, joint issues affecting numerous parties in Oregon and to continue to learn from the tribes and build resilient 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 mutual respect for the sovereign interests of both parties.” DOJ works diligently to facilitate

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. “Oregon Tribes” also refers to these nine tribes.

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. The policy is grounded in promoting positive government-to-government relations with Oregon's federally recognized tribes by actively facilitating communication and understanding; striving to prevent unnecessary conflict; interacting with tribes in a spirit of mutual respect; involving tribal representatives in the development and implementation of programs that affect them; and seeking to understand tribal perspectives.

The policy is part of the Department's Policy Manual New Employee Orientation program. In addition, the Department's Tribal Key Contact reminds employees of the importance of this policy. 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

1. Attended by DOJ

In February, Division of Child Support (DCS) Deputy Director Dawn Marquardt, Director Kate Cooper Richardson, and Policy Team manager Lenny Kistler attended the National Child Support Enforcement Association (NCSEA) Policy Forum in Washington, D.C., which included attendees from Tribal child support programs and had a focus on diversity, equity, and inclusion. Other DCS staff were able to attend virtually.

On May 22-26, DCS Deputy Director Marquardt and Business and Technical Services Deputy Chief Gene Gustin attended the Eastern Regional Interstate Child Support Association (ERICSA) Annual Conference in Louisiana, which included attendees from Tribal child support programs and sessions on Tribal-related issues.

On June 9, 2022, Civil Rights Unit (CRU) staff attended the American Bar Association's (ABA) training, "Grounded in Intersectional Justice: How We Fight State Bans on Anti-racism and LGBTQ+ Rights."

On June 12, 2022, DCS Deputy Director Marquardt, Civil Enforcement Assistant Attorney-in-Charge (AAIC) Shannon Richard, Bend manager Brandee Stroud, and Pendleton

child support specialist Juan Esparza attended the National Tribal Child Support Association (NTCSA) Annual Training Conference in Oklahoma.

On July 7, 2022, Deputy Solicitor General Paul Smith, AIC Denise Fjordbeck, and AAG Karen Clevering attended “*Oklahoma v. Castro-Huerta: Rebalancing Federal-State Tribal Power*” presented by the ASU College of Law.

On August 7-10, DCS Deputy Director Marquardt, and members of the DCS management team attended the NCSEA Leadership Symposium in North Carolina, which included attendees from Tribal child support programs.

On August 26 and 27, 2022 DCS Exec team member Tammy Kramer, AAIC Shannon Richard, and Bend Tribal Liaison team members Lyssa Warren Wyatt, Jennifer Nelson, and Brandee Stroud, attended the Klamath Tribes 36th Annual Restoration Celebration in Chiloquin. The Klamath Tribes Child Support Enforcement Program and DCS staff participated in the Health Row event that took place during the Restoration Celebration. DCS staff held a drawing for six backpacks filled with school supplies for students, handed out child support information to parents, and met members of the community. DCS representatives also attended the Pow Wow and parade over the weekend. AAIC Richard met with the Tribes’ child support staff and toured their facilities while also meeting community members and attending the Pow-Wow.

On August 31, 2022 DCS Deputy Director Marquardt attended the continuing legal education (CLE) program “Tribal Sovereignty and Tribal Courts: A Brief Overview,” sponsored by Davis Wright Tremaine LLP.

On September 29, 2022, DCS Deputy Director Marquardt attended the CLE program “*Brackeen v Haaland: The Supreme Court Takes on the Indian Child Welfare Act*,” sponsored by University of Oregon Law School.

On October 18, 2022, AIC Paul Garrahan AIC Denise Fjordbeck, and AAG Karen Clevering attended a CLE presented by the Conference of Western Attorneys General (CWAG) at the WAGLAC meeting, entitled, “The Future of Indian Law in the Supreme Court,” presented by Josh Patashnik, Deputy Solicitor General, California Department of Justice, and Mithun Mansinghani, an attorney at Lehotsky Keller and former Oklahoma Solicitor General.

On November 6-10, DCS Deputy Director Marquardt and several DCS representatives attended the Western Intergovernmental Child Support Engagement Council (WICSEC) Annual Conference in New Mexico. Director Marquardt moderated a session on Tribal and State Partnerships.

On November 14, 2022, AAG Audrey Hirsch attended the training “Remnant Traditional Landscapes of Salem,” which included a history of the Kalapuya and other regional tribes in Chemeketa (Salem).

On November 18, 2022, CRU staff attended the ABA’s “Sliver of a Full Moon 2022: Live Performance and Panel Discussion.”

On November 29, 2022, CRU staff attended ABA presentation “Decoding *Brackeen*: The Latest in the ICWA Saga.”

On December 2, 2022, CRU staff attended presentation California’s War of Extermination Against American Indians, from the U.S. District Court of California Historical Society.

On December 14-15, 2022, AAG Karen Clevering attended the Northwest Gaming Law Summit, by the Seminar Group. Topics included:

- National Indian Gaming Litigation Update
- Federal Indian Gaming Legislative Update
- What Happens in Oregon: State Legislative Update
- Section 20 Litigation & Administrative Update
- Northwest Tribal Leaders Update
- Northwest Gaming Law – The Past, Present, and Future
- Event/Sports Wagering – National Litigation Update
- Responsible Gambling
- Event/Sports Wagering – A Panel Discussion

B. Internal Trainings and Information Sharing

On March 10, 2022, OHA’s Tribal Affairs Director Julie Johnson presented “Tribal Relations 101” to DOJ staff.

On December 6, 2022, AAGs Karen Clevering and Jennifer Biesack presented the CLE “Agreements with Tribes.”

Throughout 2022, ChAS AIC Shannon Dennison provided ICWA/ORICWA trainings on multiple topics to ChAS AAGs, law clerks, and support staff to ensure that ChAS staff understand tribal perspectives in ICWA/ORICWA dependency and termination of parental rights cases and interact with tribes in a spirit of mutual respect. AIC Dennison has also hosted monthly ORICWA Brown Bag Meetings for ChAS AAGs. The Brown Bag meetings provide opportunities for ongoing training and staffing of specific ICWA/ORICWA questions and concerns.

IV. Efforts to Promote Good Government to Government Relations

A. Annual Tribal/State Government-to-Government Summit

DOJ Key Contact Karen Clevering attended the Government to 2022 Government Summit, hosted by CTCLUSI and Three Rivers Resort in Florence, Oregon. Crime Victims Survivor Services Division (CVSSD) staff attended virtually.

B. Cluster Participation

1. Public Safety Cluster

DOJ Tribal Key Contact Karen Clevering and CVSSD staff participated in cluster meetings.

2. Cultural Resources Cluster

DOJ Tribal Key Contact Karen Clevering and AAGs Patrick Flanagan and Patrick Aitchison of DOJ's Environmental and Cultural Resources Enforcement Unit (ECREU) participated in cluster meetings.

3. Natural Resources Work Group

DOJ Tribal Key Contact Karen Clevering participated in work group meetings.

C. Special Activities

1. Hope Card Program

In furtherance of HB 2741 (2021), the Attorney General initiated government to government consultation with Oregon's nine federally recognized tribes to learn how the development of a new Hope Card Program could best serve state interests and tribal interests. The Hope Card Program was passed by the Oregon Legislature in 2021 to improve the enforcement of protection orders from State and Tribal Courts by providing quick and accessible information about an order of protection on a durable, wallet-sized card. The card is intended to serve as an optional safety tool to help victims and to remind law enforcement that the law requires full faith and credit for eligible protection orders, regardless of the protection order's origin. The Attorney General and DOJ staff have greatly valued the thoughtful feedback, questions, and suggestions offered by the tribes that participated in virtual consultations.

2. SB 183: Enforcement of Tribal Court Protection Orders

AAG Sarah Sabri serves as DOJ's Domestic Violence Resource Prosecutor, a part of the Criminal Justice Division, and through this work she has been working closely with representatives from Tribal Nations on issues most specifically related to domestic violence, sexual assault, stalking and protection order enforcement. AAG Sabri has been engaged in ongoing work with the State/ Tribal Court Forum to first coordinate the legislative changes that ultimately cumulated in SB 183, making necessary changes to the Oregon statutes to assure that state law enforcement, prosecutors and courts properly recognized and enforced tribal protection orders under State and Federal Law. This work was done in careful collaboration with tribal members, advocates, attorneys, prosecutors, and judges as well as in collaboration with the Indian Law Section of the Oregon State Bar. AAG Sabri has presented a multitude of trainings to provide for an ongoing flow of information and feedback as to the existence, effectiveness and implementation of the legislative changes. Presentations were made to:

- Oregon Sheriffs' Association
- the State/Tribal Court Forum
- the Oregon District Attorneys' Association

AAG Sabri also participated in the Federal Power Act Training in September, with a specific focus on the enforcement requirements of both state and tribal-issued protection orders and the Tribal Leaders, Supervisors and Program Staff Meeting in October to discuss issues and concerns that the Tribes are facing related to law enforcement, prosecution, and advocacy response in regards to domestic violence, sexual assault and stalking.

In October 2022 AAG Sabri also met with the Klamath Tribe's DV team to provide direct education on SB 183, the necessary standards under State and Federal Law to qualify as full-faith-and-credit protection orders and to discuss ways in which the State agencies can be of better service to Tribal victims and survivors. This meeting led to additional relationship-building and means of communication regarding issues and concerns that the Klamath community is experiencing as related to domestic violence, sexual assault and protection order enforcement.

D. ICWA

Throughout 2022, 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. Tribe/State Agreement between the Burns Paiute Tribe and the Oregon Department of Human Services (ODHS) Child Welfare

In March 2022 AIC Shannon Dennison initiated discussions on behalf of ODHS with the Burns Paiute Tribe and their attorney to update the intergovernmental agreement (IGA) between ODHS and the Tribe that allow ODHS to conduct child welfare assessments and file juvenile dependency petitions in state court following reports of child abuse and/or neglect on the Burns Paiute tribal lands. The parties and their counsel met on April 4, 2022 and June 24, 2022. The IGA was amended to extend the term.

2. ODHS Child Welfare ICWA/Oregon Indian Child Welfare Act Statute (ORICWA) Administrative Rulemaking Meetings

In January 2022, AIC Shannon Dennison participated in ICWA/ORICWA Oregon Administrative Rules drafting meetings with attorneys from Oregon Tribes, the Oregon Judicial Department's (OJD) Juvenile Court Improvement Program (JCIP), and ODHS to incorporate required SB 562 Tribal Customary Adoption changes into ODHS' administrative rules.

In May 2022, AIC Shannon Dennison participated in ICWA/ORICWA OAR drafting meetings with private adoptions attorneys, attorneys for Oregon Tribes, JCIP, and ODHS to incorporate required SB 562 Independent Adoptions changes into ODHS' administrative rules.

3. Tribe/State Agreements Regarding Columbia River In-Lieu/Treaty Fishing Site Tribes

On September 16, 2022, AIC Shannon Dennison met with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation to discuss possible IGAs with Oregon addressing juvenile dependency cases involving families residing on in-lieu/treaty fishing sites along the Columbia River.

4. Legislative Planning Meetings with Tribes and Representative Sanchez

In July and November of 2022, AIC Shannon Dennison met with Oregon State Representative Tawna Sanchez, attorneys and lobbyists for Oregon Tribes, and ODHS Child Welfare to develop ideas and plans for possible improvements to ORICWA in the 2023 and 2024 legislative sessions.

5. ChAS ORICWA Resource Group

In 2022, to improve compliance with ICWA and ORICWA across Oregon, and to build stronger relationships between ChAS AAGs and tribes, AIC Shannon Dennison developed an ORICWA Resource Group comprised of AICs, AAICs, and AAGs from across the state. Members of the Resource Group meet monthly to discuss issues related to Oregon tribes (e.g. questions and concerns from Oregon Tribes, cultural events, and structural changes within Tribes, etc.), ICWA/ORICWA legal developments, statewide fidelity to ICWA/ORICWA requirements, and to legal issues in specific ChAS ICWA/ORICWA cases. Group members are available to ChAS AAGs across the state to assist with pending ICWA/ORICWA cases. The ORICWA Resource Group began meeting with ODHS' Tribal Affairs Unit quarterly starting in July 2022 to address issues of concern involving Oregon Tribes. (Please refer to the calendar of events below for specific ORICWA Resource Group and Tribal Affairs Unit/ORICWA Resource Group meeting dates.)

6. Oregon Judicial Department, Juvenile Court Improvement Program (JCIP) State Court-Tribal Court Relationship Subcommittee & Multnomah ICWA/ORICWA Court

JCIP has convened a subcommittee to improve adherence to ICWA/ORICWA requirements and to improve the quality of Oregon's juvenile court hearings for Tribes and Tribal communities. AIC Shannon Dennison has participated in these monthly subcommittee meetings along with representatives from Oregon Tribes, juvenile court judges, Oregon Public Defense Services, and ODHS Child Welfare. The subcommittee is developing plans to implement ICWA/ORICWA Courts in Multnomah County and possibly other counties. The subcommittee is also developing an informational guide to be provided to parents and older children involved in ICWA/ORICWA juvenile dependency cases in Oregon. Please refer to the calendar of events at the end of this report for subcommittee meeting dates.

7. Multi-State Qualified Expert Witness Training

In May 2022, AIC Shannon Dennison worked with OJD/JCIP, Washington State's Department of Children, Youth, and Families (DCYF), juvenile attorneys from the Washington Department of Justice, and ODHS Child Welfare to develop and present a Qualified Expert Witness training for tribes from multiple states (including Alaska, Oregon, Washington, North Dakota, Nevada, and others). AIC Dennison presented the two-day training on May 25 and 26. On the second day of training, ChAS AIC John Anderson, AAIC Caitlynn Knopp, AAG Mary Margaret Montgomery, and additional AAGs from Washington state also assisted with the training during trainee Mock Trial sessions.

8. Development and Presentation of Joint Tribe/State Training on Serving Tribal Families Along the Columbia River Gorge

Throughout August and September of 2022, AIC Shannon Dennison met with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation, as well as representatives from the Columbia River Inter-Tribal Fish Commission, NICWA, and ODHS Child Welfare to develop and present a training on legal issues and service provision for families residing on in-lieu/treaty fishing sites along the Columbia River. The training was presented on September 27, and AIC Dennison presented training sessions on ORICWA requirements and also on tribe/state collaboration in juvenile dependency matters arising on in-lieu/treaty fishing sites along the Columbia River. Please refer to the calendar of events below for meeting and training dates.

9. ORICWA Report to the Legislative Assembly

Throughout September 2022, AIC Shannon Dennison participated in multiple meetings with representative from Oregon tribes, the Oregon Judicial Department/JCIP, and ODHS Child Welfare to review the ODHS/DOJ ORICWA Report to the Legislative Assembly and receive feedback from Oregon Tribes regarding the content and structure of the report. Please refer to the calendar of events below for meeting dates.

10. ORICWA Miniseries Trainings for ODHS

In January and February of 2022, ODHS Child Welfare recorded a series of ORICWA trainings on multiple topics presented by AIC Shannon Dennison. In October of 2022, AIC Dennison presented an additional training regarding Tribal Customary Adoption. These trainings targeted more complicated ICWA/ORICWA topics and recordings of the trainings will be used in the initial training of new ODHS caseworkers and for refresher trainings for more experienced Child Welfare caseworkers. Following each recording, AIC Dennison conducted topic specific Q&A meetings with ODHS Child Welfare caseworkers and supervisors. The list of training topics is provided below in the calendar of events below.

11. ORICWA CASA Training Development with Oregon Judicial Department, JCIP Division

In July 2022, AIC Shannon Dennison met with JCIP ICWA and Juvenile Law Analyst Jayne Cooper to discuss the content of ICWA/ORICWA trainings statewide for Court Appointed Special Advocate (CASA) offices.

12. AAG and Law Clerk ICWA Trainings & Brown Bags

Throughout 2022, AIC Shannon Dennison continued to provide trainings on multiple ICWA/ORICWA topics for ChAS AAGs, law clerks, and support staff. The trainings were intended to provide both nuts and bolts information on ICWA/ORICWA legal requirements, and to ensure that ChAS AAGs and staff understand tribal perspectives in ICWA/ORICWA dependency and termination of parental rights cases and engage with tribes in a spirit of mutual respect. AIC Dennison has also began hosting monthly ORICWA Brown Bag Meetings for ChAS AAGs in January and February. Those meetings were increased to twice per month in March. Brown Bag meetings provide opportunities for ongoing training and staffing on a variety of ICWA/ORICWA topics. Specific brown bag meeting dates and topics are listed in the calendar of events below.

13. Calendar of Events

January

- 1/3: ODHS ICWA/ORICWA Administrative Rulemaking Meeting – Tribal Customary Adoption
- 1/12: ODHS ORICWA Miniseries Q&A: Tribal Customary Adoption
- 1/14: ODHS ORICWA Training: Emergency Removals & Child Custody Proceedings
- 1/20: Meeting with OJD/JCIP regarding ORICWA processes in private adoptions
- 1/25: ODHS ORICWA Miniseries Q&A: Who is an Indian Child/Reason to Know
- 1/26: Metro ICWA Bi-Annual Meeting Presentation – Tribal Customary Adoption
- 1/27: ODHS ORICWA Miniseries Q&A: ICWA Inquiry
- 1/28: ODHS ORICWA Training: Protective Action Plans

February

- 2/1: ODHS ORICWA Miniseries Q&A: Protective Action Plans & Family Plans
- 2/1: OJD JCIP Tribal Collaboration Subcommittee Meeting
- 2/8: ODHS ORICWA Miniseries Q&A: Emergency Removals & Initiation of Child Custody Proceedings
- 2/8: ODHS ORICWA Miniseries Q&A: Tribal Customary Adoption

- 2/10: ChAS AAG ICWA/ORICWA Training
- 2/16: ChAS ORICWA Brown Bag Training: Emergency Removals & Child Custody Proceedings, Part 1
- 2/17: ODHS ORICWA Miniseries Q&A: Qualified Expert Witness Testimony
- 2/18: ChAS ORICWA Resource Group Meeting
- 2/22: Multnomah Child Welfare Council Training: Emergency Removals in ICWA Cases
- 2/24: ODHS ORICWA Miniseries Q&A: Protective Action Plans & Family Plans

March

- 3/2: ChAS ORICWA Brown Bag Training: Emergency Removals & Child Custody Proceedings, Part 2
- 3/17: ChAS ORICWA Brown Bag Training: Tribal Customary Adoptions
- 3/18: ChAS ORICWA Resource Group Meeting

April

- 4/4: Burns Paiute Tribe Intergovernmental Agreement Review Meeting
- 4/5: OJD JCIP Tribal Collaboration Subcommittee Meeting
- 4/8: Burns Paiute Tribe Intergovernmental Agreement Review Meeting
- 4/14: ChAS ORICWA Brown Bag Training: Who is an “Indian Child” & Reason to Know
- 4/14: New AAG ICWA/ORICWA Training
- 4/22: ChAS ORICWA Brown Bag Training: Parentage

May

- 5/2: Qualified Expert Witness Tribal Training Preparation Meeting with OJD JCIP, Washington State DOJ, ODHS, and Washington DCYF
- 5/3: OJD JCIP Tribal Collaboration Subcommittee Meeting
- 5/12: ODHS Rules Advisory Committee Meeting: ORICWA & Independent Adoptions
- 5/17: Qualified Expert Witness Tribal Training Preparation Meeting with OJD JCIP, Washington State DOJ, ODHS, and Washington DCYF
- 5/20: ChAS ORICWA Resource Group Meeting
- 5/23: Qualified Expert Witness Tribal Training Preparation Meeting with OJD JCIP & Washington State DOJ
- 5/25: Multi-State Tribal Qualified Expert Witness Training
- 5/26: Multi-State Tribal Qualified Expert Witness Training

5/27: ChAS ORICWA Brown Bag Training: Cultural Continuity Agreements and Mediation

June

- 6/3: Meeting with Washington DOJ regarding ICWA jurisdiction on Columbia River in-lieu/treaty fishing sites
- 6/9: ChAS ORICWA Brown Bag Training: ICWA Inquiry
- 6/17: ChAS ORICWA Resource Group Meeting
- 6/24: Burns Paiute Tribe/ODHS Tribal State Agreement Meeting with AIC Carmen Brady-Wright, AIC John Anderson, Burns Paiute Tribe representatives and attorney, and ODHS

July

- 7/6: ChAS ORICWA Resource Group Meeting
Burns Paiute Tribe/ODHS Tribal State Agreement Meeting
ODHS Tribal Affairs Unit and ChAS ORICWA Resource Group Meeting
- 7/7: ICWA/ORICWA legislative planning meeting with Oregon State Representative Tawna Sanchez, ODHS Child Welfare, and Oregon tribes
- 7/12: ORICWA CASA Training Development Meeting with Oregon Judicial Department, JCIP Division Analyst Jayne Cooper
- 7/14: ChAS ORICWA Brown Bag Training: ICWA Inquiry & Tribal Customary Adoption
- 7/15: ChAS ORICWA Resource Group Meeting
- 7/22: ChAS ORICWA Brown Bag Training: Notice & Initiation of Child Custody Proceedings without an Emergency Proceeding

August

- 8/2: OJD JCIP Tribal Collaboration Subcommittee Meeting
- 8/11: ChAS ORICWA Brown Bag Training: General Discussion
- 8/19: ChAS ORICWA Resource Group Meeting
- 8/26: ChAS ORICWA Brown Bag Training: Definition of “Indian child,” Reason to Know, Inquiry, and the Brakeen v. Haaland SCOTUS case
- 8/31: Meeting with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation, as well as representatives from the Columbia River Inter-Tribal Fish Commission, NICWA, and ODHS Child Welfare in preparation for joint tribe/state training on serving tribal families along the Columbia River gorge.

September

- 9/1: OJD/ODHS Tribal Feedback Meeting Regarding ORICWA Report to the Legislative Assembly.
- 9/2: OJD/ODHS Tribal Feedback Meeting Regarding ORICWA Report to the Legislative Assembly.
- 9/6: OJD JCIP Tribal Collaboration Subcommittee Meeting
- 9/7: Meeting with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation, as well as representatives from the Columbia River Inter-Tribal Fish Commission, NICWA, and ODHS Child Welfare in preparation for joint tribe/state training on serving tribal families along the Columbia River Gorge.
- 9/7: OJD/ODHS Tribal Feedback Meeting Regarding ORICWA Report to the Legislative Assembly.
- 9/8: Meeting with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation, as well as representatives from the Columbia River Inter-Tribal Fish Commission, NICWA, and ODHS Child Welfare in preparation for joint tribe/state training on serving tribal families along the Columbia River Gorge.
- 9/15: OJD/ODHS Tribal Feedback Meeting Regarding ORICWA Report to the Legislative Assembly.
- 9/16: Meeting with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation to discuss possible tribe/state agreements addressing juvenile dependency cases involving families residing on in-lieu/treaty fishing sites on the Columbia River.
- 9/16: ChAS ORICWA Resource Group Meeting
- 9/22: Meeting with attorneys for the Nez Perce Tribe, Yakama Nation, Confederated Tribes of Warm Springs Reservation, and the Confederated Tribes of the Umatilla Indian Reservation, as well as representatives from the Columbia River Inter-Tribal Fish Commission, NICWA, and ODHS Child Welfare in preparation for joint tribe/state training on serving tribal families along the Columbia River gorge.
- 9/22: ChAS ORICWA Brown Bag Training: Emergency Removals and Initial Child Custody Proceedings
- 9/23: ChAS ORICWA Brown Bag Training: Emergency Removals and Initial Child Custody Proceedings
- 9/27: Attended and Presented Training, "Servicing Tribal Families Along the Columbia River Gorge"

October

- 10/4: OJD JCIP Tribal Collaboration Subcommittee Meeting

10/10: Recorded Tribal Customary Adoption Training for ODHS

10/13: ChAS ORICWA Brown Bag Training: Protective Action Plans and Safety Plans

November

11/17: ChAS ORICWA Brown Bag Training: Placement Preferences

11/18: ChAS ORICWA Resource Group Meeting

11/21: Meeting between Oregon State Representative Tawna Sanchez, the Confederated Tribes of the Umatilla Indian Reservation, ODHS Child Welfare regarding legislative updates following *Haaland v. Brakeen* SCOTUS opinion.

December

12/1: QEW Training for ODHS/Tribal Affairs Unit

TBD: Quarterly ODHS Tribal Affairs Unit and ChAS ORICWA Resource Group meeting

12/16 ORICWA Resource Group Meeting

12/30: ChAS ORICWA Brown Bag Training: Topic TBD

E. Representation of State Agencies

The Department of Justice is the 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 and their attorneys 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 of these 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. Criminal Justice Commission (CJC)

AAG Sam Zeigler assisted CJC in a grant award to Cow Creek Tribe under the Restorative Justice Program.

2. Department of Energy (ODOE)

AAG Patrick Rowe advised ODOE, which represents the State of Oregon on the Hanford Natural Resource Trustee Council (HNRTC). The HNRTC, which was formed in 1993, is a collaborative working group chartered to address natural resources impacted by releases of hazardous substances at the Hanford Nuclear Site. The Nez Perce Tribe, Confederated Tribes of the Umatilla Indian Reservation and the Yakama Nation are the tribal members on the HNRTC. AAG Rowe participated in meetings with representatives of

these tribes and other trustees. The near-term goal of the HNRTC (within the next few years) is to complete the injury assessment phase and prepare a Restoration Plan. The ultimate goal is to reach an agreement for restoring injured resources and services and compensation for the loss of resources and services resulting from the releases.

AAG Rowe also regularly advises ODOE's Siting Division and the Energy Facility Siting Council regarding the siting of energy facilities in Oregon. The work of staff in the Siting Division often involves tribes, including coordination regarding the potential impact of a proposed energy facility on historic and cultural resources. AAG Rowe also assisted in ODOE's implementation of HB 2021 and tribal grant applicants for the Community Renewable Energy Grant program.

3. Department of Environmental Quality (DEQ)

AAG Gary Vrooman facilitated interaction with tribes' counsel regarding DEQ's cleanup program, in particular cleanup activity related to contaminated fisheries. AAG Vrooman assisted DEQ in its collaborative work with Tribes to recover natural resource damages, particular the Portland Harbor Superfund site and the Bradford Island Superfund site.

AAG Vrooman also advised DEQ related work with Yakama Nation relating to the Bradford Island Superfund site where DEQ, EPA and WA Ecology are working with the tribe to ensure they are included in portions of the remedy implementation agreement through which the US Army Corp is going to select and implement the remedy.

4. Oregon Department of Fish and Wildlife (ODFW)

AAG Anika Marriott represented ODFW in its ongoing participation in the *U.S. v Oregon* policy committee and Management Agreement Implementation with the Confederated Tribes of the Umatilla Indian Reservation, Nez Perce, Warm Springs, and Yakama that facilitate tribal and state sovereign co-managers of the Columbia River fishery resources, which also includes coordination on fishing citations to tribal members, Oregon and Washington Compact-related consultation with the four tribes, and other associated issues.

AAG Erin Donald assisted the Fish and Wildlife Commission and ODFW on several issues including rulemaking and agreements with tribes:

- CTGR Special Gathering Permit for tribal members to harvest shellfish in a specified area.
- Rule permitting the Burns Paiute tribe access to an expanded area for harvest of mule deer and for ceremonial hunting.
- Rule implementing a memorandum of agreement with the Coquille Indian Tribe to define exercise of hunting, fishing, trapping and gathering by the tribe and its members and for cooperative management of natural resources.
- Agreement with Burns Paiute Tribe to work collaboratively on fish and wildlife management issues of collective interest.

AAG Vrooman represents ODFW on the NRD Trustee Council concerning the Portland Harbor Superfund Site and regularly interacts with the 5 Tribes that are members.

5. Oregon Department of Human Services (ODHS)

AAG Ellen Taussig Conaty assisted ODHS Emergency Management regarding grant awards to tribes to fund and support emergency response efforts, in conjunction with Senate Bill 762 (2021).

6. Department of Land Conservation and Development (DLCD)

AAG Steve Shipsey participated in extensive consultation and coordination with DLCD and the four coastal tribes on proposed amendments to the “Territorial Sea Plan Part 3: Rocky Shores” to develop a draft policy that accounts for traditional tribal gathering and cultural use of the rocky intertidal zone.

AAG Karen Clevering assisted DLCD staff regarding tribal consultation on the Oregon Coastal Management Program.

7. Department of State Lands (DSL)

AAG Matt DeVore advised DSL regarding consultation and communication with tribes on decisions related to land management. In 2018, DSL issued a waterway registration to the Grand Ronde Tribe to conduct traditional fishing from a fishing platform on state-owned lands at Willamette Falls. Four other tribes appealed DSL’s decision. For the last few years, DSL has been working with the five tribes and PGE to try to find a resolution. However, in June 2022, the parties agreed to withdraw the referral for a contested case hearing while PGE pursued a condemnation action against the state for ownership of Willamette Falls. The waterway registration issued by DSL remains active during the condemnation litigation.

8. Oregon Department of Agriculture (ODA)

AAGs Rachel Weisshaar and Erika Hamilton assisted ODA regarding an internal agency process for addressing tribal licensing applications. That also involved developing a template contract advising on government to government consultation.

9. Office of Emergency Management (OEM)

AAG Sam Zeigler assisted OEM in grant award to CTUIR under the Hazard Mitigation Grant Program.

10. Oregon Health Authority (OHA)

AAGs Eric Seepe and Shannon O’Fallon assisted OHA in its work with Tribes to conduct contact and disease reporting related to infectious diseases brought about by COVID and

Monkeypox. OHA and the Cow Creek tribe sought to take on infectious disease investigation and reporting of tribal members and employees involved in outbreaks on tribal land.

AAG Ellen D. Taussig Conaty assisted OHA's Tribal Affairs program to help them finalize two contracts: (i) one with NARA NW for 100% FMAP compensation from Centers for Medicare and Medicaid Services (CMS), and (ii) one with the Confederated Tribes of the Warm Springs Reservation to operate an Indian Managed Care Entity (IMCE) for Medicaid services. AAG Taussig Conaty also assists in conversations with CMS to get certain 1115 Medicaid waiver approvals relating to asks specific to the federally recognized Tribes that are located within (in full and in part) Oregon.

11. Oregon Racing Commission (ORC)

AAG Catriona McCracken advised the Oregon Racing Commission (ORC) in developing and drafting a new Tribal Relations Policy. The drafting process provided an education about government to government relationships and requirements for consultation. AAG McCracken assisted in consultation with Tribes regarding the hiring of a new ORC Executive Director.

12. Oregon State Police (OSP)

AAG Karen Clevering co-presented with Assistant U.S. Attorney Simmons on Jurisdiction in Indian Country at OSP In Service Trainings for all sworn staff. The trainings occurred from March 2022 through August 2022 on nine separate dates.

13. Oregon Water Resources Division (OWRD)

AAG Renee Moulun continued negotiations with federal negotiating team and the Confederated Tribes of the Umatilla Indian Reservation to recognize and quantify federal reserved water rights in surface and groundwater. AAG Moulun also convened and led cooperative discussions between the Klamath Tribe, the US Bureau of Reclamation and the Oregon Water Resources Department regarding the Klamath Tribes call for elevation lake level water rights in Upper Klamath Lake.

14. Portland Harbor Natural Resources Damages Negotiations

On behalf of ODOT and DSL, the NRS Portland Harbor defense AAGs continued negotiations with the Portland Harbor Natural Resource Trustee Council (Trustee Council) to resolve potential natural resource damages liability. The following tribes are members of the Trustee Council: Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, Nez Perce Tribe. This effort has been ongoing since approximately 2010 but steady progress was made this year.

15. Portland Harbor Remedial Design Work

On behalf of ODOT and DSL, the NRS Portland Harbor defense AAGs continued to support work under EPA consent orders, including compliance with four tribal oversight cost agreements; two with the Yakama Nation and two with five tribal governments working collaboratively on their oversight work: the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe.

F. 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.

G. *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. This year, the Attorney General joined two *amicus* briefs with supporting the Indian Child Welfare Act in regards to the *Haaland v. Brackeen*. Through these briefs Oregon and fellow *amici* states confirmed their support of ICWA, noting that the law is a critical and constitutional framework for managing state-tribal relations and for protecting the rights and stability of Indian children, families, and tribes.

H. Law Enforcement Coordination

1. Oregon TITAN Fusion Center

The Oregon TITAN Fusion Center (OTFC) works directly with our tribal security partners to share information on criminal activity and potential threats to Oregon tribal lands and surrounding areas. The OTFC has conducted several risk vulnerability assessments with our tribal partners for assets on tribal land.

2. Oregon DOJ Watch Center

The Oregon DOJ Watch Center (WC) works directly with local, state, federal, and tribal law enforcement partners to aid in criminal investigations, the location of criminal subjects, and the location of victims of crimes.

3. 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.

I. Cultural Resources

AAG Patrick Aitchison will continue ECREU's role as DOJ representative on the Governor's Tribal Cultural Items Taskforce regarding Executive Order 17-12 and Tribal Cultural Items.

J. Crime Victim and Survivor Services Division (CVSSD)

In 2022, the Crime Victim and Survivor Services Division continued to build stronger collaboration between tribes and statewide technical assistance agencies, grant-funded programs and community partners. CVSSD also sought additional opportunities to learn about challenges confronting tribal nations and how better to deliver services to tribal populations.

1. Grant Funding

Tribes, along with all CVSSD subgrantees, received grant funding increases under both non-competitive grant awards. The Oregon Legislature made available one-time increases for programs that experienced the Victims of Crime Act (VOCA) award (4.5% budget cut under the Joint award and 10% under the VOCA CFA award) in 2021 as well as an additional \$10 million to ODSVS. Increases for both grants averaged over \$100,000 each. A total of 7 of 9 tribes accepted the \$229,400 joint award for FY 2021 – 2023 and \$225,000 for the FY 2021 – 2023 VOCA CFA noncompetitive awards. The grant funds provide:

- Emergency support services for victims, which includes transitional housing, mental health and legal services
- Travel and training for tribal advocates
- Staffing for advocates to increase service delivery for victims in larger tribal county service areas (up to eleven counties for some tribes)

In addition, CVSSD continued ongoing technical assistance and facilitated conversations with tribal communities and non-profit victim service programs to improve long standing issues and concerns regarding service delivery to tribal victims. These efforts addressed a shift to accountability within the community to ensure meaningful access to services for all victims.

2. Community Collaboration and Needs Assessment

CVSSD began planning for the Community Collaboration and Needs Assessment Project, which will be conducted in 2023. Planning included tribal supervisors and program staff. The Community Collaboration and Needs Assessment Project will include a listening

session and presentation to tribal leadership, supervisors, program staff, and/or community members; along with a series of community meetings to include community partners in one or more counties; and may include technical assistance and grant monitoring visits. A final report will be released at the conclusion of the project.

3. Violence Against Women Act (VAWA) Implementation Plan

In May 2022, the draft FY 2022 – 2025 VAWA Implementation Plan was released statewide for a 30-day public commenting period. Specific outreach includes all 9 federally recognized tribes and its leadership, statewide grantee listservs, law enforcement, prosecution, and courts. The VAWA IP is a 4-year strategic plan that proposes how federal VAWA Formula Grant funds are allocated with statewide funding priorities, goals and activities. The Tribal Nation Listening Tour and report was part of the activities under this state plan.

4. CVSSD Advisory Committee Work

Two of the nine federally recognized tribes in Oregon have a member representing tribal interests on the CVSSD advisory committee. All nine tribes are invited to each of the CVSSD and IP 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 planning, allocation and application review. 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.

One of the tribal state Advisory Committee members resigned from the CVSSD Advisory Committee to join as Co-Chair of the DEI Subcommittee of the CVSSD AC. The subcommittee is made up of victim advocates and program managers who represent Tribal Nations, communities of color, LGBTQIA2S+, and people with disabilities. The DEI Subcommittee guides and advises CVSSD in developing and implementing DEI strategy to improve service equity. This includes re-examining standards, practices, and policies to eliminate discrimination and disparities in services, access and outcomes. Currently, CVSSD is examining how quantitative and qualitative data is collected to monitor performance measures and the quality of services to populations impacted by inequity; consider whether grant funded services are responsive and providers are making appropriate survivor centered connections. The VAWA plan includes state goal to implement the recommendations from the DEI Subcommittee.

5. Training

Diana Fleming and Christine Heyen of CVSSD presented “Lessons Learned and New Approaches” on August 3, 2022, at the Tribal, State, and Federal Summit: Setting the Path for Accountability, hosted by the CTUIR Family Services.

K. Division of Child Support (DCS)

The Covid-19 pandemic continued to impact in-person options for gatherings with our Tribal partners in 2022. The Oregon Child Support Program partnered with Tribal IV-D child support programs to review outreach materials for Tribal partners and families. Program staff continue to update the case management system, Origin, with demographic information for the participants and families we serve. Origin allows us to indicate Tribal membership for each case participant. Identifying this information helps us to determine if we have jurisdiction over the Tribal family, enable Tribal families to obtain Tribal services if more appropriate, and accurately report collections for Tribal families. DCS welcomes Tribal members or their families to report Tribal affiliation to our staff so that records can be up to date.

The DOJ Division of Child Support is developing a Request for Proposal (RFP) for parentage testing to determine the likelihood or probability that the alleged father is the biological father of a child. DCS contacted Tribal entities using the current statewide purchasing agreement for input on the RFP. Representatives from CTUIR will be participating in the RFP process.

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 and Tribal members 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 2022, the Oregon Child Support Program collected more than \$1,382,000 on cases with Oregon Tribal members.

2. Activities per Tribe

Burns Paiute Tribe. The Tribal liaisons in the Bend office are available to assist with child support issues for Tribal members.

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 child support enforcement, modification, DNA testing, and paternity establishment. AAIC Shannon Richard represents DCS in relevant matters.

Confederated Tribes of the Grand Ronde. Albany Tribal liaisons work with the Grand Ronde Tribal Court Administrator and Tribal Court staff and are available to assist Tribal members with child support issues. AAIC Shannon Richard represents DCS in relevant matters.

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.

Civil Enforcement Chief Counsel Claudia Groberg continued to represent the Child Support Program on both the Division of Child Support and District Attorney cases at the Confederated Tribes of Siletz Indians. Groberg appeared monthly in telephonic hearings with the Siletz Tribal Court to handle income withholding orders issued to the tribe by the Child Support Program. In July Groberg appeared in person for the annual per capita wage garnishment hearings. The Child Support Program submitted a wage withholding on 122 cases and collected \$86,811.77 towards child support. A portion of those funds are disbursed to the Siletz Tribe to reimburse the Tribe for Tribal TANF.

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 and wage withholding. Staff from both offices interact regularly to discuss cases. Based on a request from CTUIR, intergovernmental cases open for services in both child support programs were reassigned to the Pendleton DCS office to enable CTUIR staff to work directly with the assigned Tribal liaisons.

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 not available to the Tribe. The liaisons also aid Tribal members who have child support matters in other states, serving as a liaison between Tribal members and child support programs in other jurisdictions. AAIC Shannon Richard represents DCS in relevant matters.

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 child support enforcement, modification, DNA testing, and paternity establishment, and facilitate contact with out-of-state Tribes and child support programs as necessary. AAIC Shannon Richard represents DCS in relevant matters and is also a member of the Coquille Indian Tribal Bar.

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 The 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 The Klamath Tribes Child Support Enforcement office for processing. During the pandemic, a Tribal liaison has met virtually with the Tribe's child support staff and Tribal members to answer questions about cases, audit cases, and assist with complex cases.

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: Lyssa Warren Wyatt (Primary Contact) and Jennifer Nelson (Secondary Contact).

Confederated Tribes of Coos, Lower Umpqua, and Siuslaw: Debbie Petetit.

Coquille Indian Tribe: Debbie Petetit.

Cow Creek Bank of Umpqua Tribe of Indians: Debbie Petetit.

Confederated Tribes of Grand Ronde Indian Reservation: Brandy Maldonado (Primary Contact) and Colleen Hartford (Secondary Contact).

The Klamath Tribes: Lyssa Warren Wyatt (Primary Contact) and Jennifer Nelson (Secondary Contact).

Confederated Tribes of the Siletz Indians: Colleen Hartford (Primary Contact) and Brandy Maldonado (Secondary Contact).

Confederated Tribes of Warm Springs: Jennifer Nelson (Primary Contact) and Lyssa Warren Wyatt (Secondary Contact).

Confederated Tribes of the Umatilla Indian Reservation Tribal Contact: Kari Monroy (Primary Contact) and Ashley Armstrong (Secondary Contact).

L. Civil Rights Unit

The Civil Rights Unit (CRU) is part of the Office of the Attorney General in the Oregon Department of Justice. The CRU advises the Oregon Attorney General on civil rights issues. Upon passage of SB 577 in 2019, the CRU has founded, structured, and staffed the nation's first statewide Hate Crimes and Bias Incidents Response Hotline dedicated to supporting victims and witnesses targeted with hate or bias based on their protected class.

The CRU additionally provides supervision on civil rights litigation in Oregon, coordinates multi-state litigation on civil rights, education, and labor rights issues, and engages in community, government, and law enforcement training and outreach regarding civil rights issues affecting marginalized and vulnerable Oregonians.

1. Bias Response Hotline

DOJ's statewide Hate Crimes and Bias Incidents Response Hotline (or Bias Response Hotline, BRH) is part of the Civil Rights Unit in the Crime Victim and Survivor Services Division. The BRH opened in January 2020, and provides confidential support, resources, affinity and community referrals, emergency funds, connection to law enforcement, criminal

justice advocacy, and additional options for civil investigations for those targeted or who witness targeting based on protected class in both bias crimes and non-criminal bias incidents.

To date of this report in 2022, the BRH has received 2,529 reports to the hotline. Of those, there have been 70 reports of race-based anti-American Indian/Alaska Native bias, and there have been 31 reports of national origin-based AI/AN nation bias, accounting for 4% of all hotline reports. Of the 101 reports to the hotline, 29 were determined to be [hate crimes](#) and 72 were [bias incidents](#). Conduct reported included harassment, assault, doxxing (sharing private contact information online for the purpose of inciting others to harass an individual), institutional bias, refusing service or accommodations, swatting (calling 911 on a person in an attempt to bring about unnecessary or dangerous law enforcement response or consequence to another person), murder, and vandalism. All of the BRH's data is available publicly and updated monthly on our [data dashboard](#) by the Oregon Criminal Justice Commission. It is searchable by month (or multiple months), location, determination, conduct, and protected class.

2. MMIP Working Group

The CRU Hotline Coordinator was asked to serve on the District of Oregon Missing and Murdered Indigenous Persons (MMIP) Working Group, and attended five workgroup meetings, two prep meetings with the coordinators, as well as one meeting of the MMIP Tribal Community Outreach Sub-Group.

3. Right to Be

This fall, the CRU began working with The Klamath Tribes and a national bias intervention organization called Right to Be to develop bias intervention and de-escalation training.

4. BRH Info for Tribal Leadership

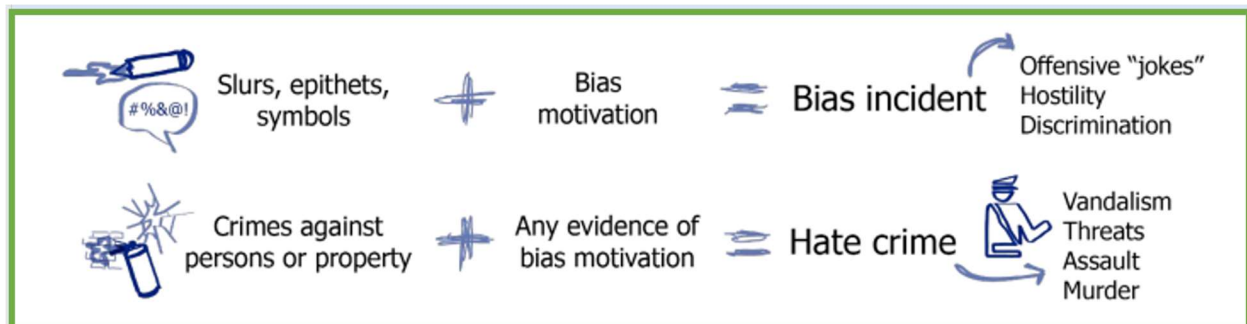
CRU developed a Bias Response Hotline Informational one-pager for Tribal Leadership for the Tribal Nation Collaboration and Leadership Annual Meeting, included below.



DEPARTMENT OF JUSTICE
CRIME VICTIM AND SURVIVOR SERVICES DIVISION

Bias Response Hotline Information for Tribal Leadership
October 2022

- Oregon Department of Justice’s **Bias Response Hotline** is a confidential, statewide support hotline for individuals who are targeted or who witness hate crimes or bias incidents.
- A **hate crime** is a crime (assaults, property damage, threats to a person or their family or property, murder) with *any* motivation of bias/hatred towards a person’s actual or perceived protected class.
- Oregon’s **protected classes** for this law are:
 - Race
 - Color
 - National origin
 - Sexual orientation
 - Gender identity
 - Religion
 - Disability
- A **bias incident** is any non-criminal hostile expression—controlled or not—motivated by bias against a person’s actual or perceived protected class. Examples are hate speech, slurs, mimicking, mocking, “jokes,” hateful symbols and flags, or discrimination.



- Call **1-844-924-BIAS (2427)** or report online at [StandAgainstHate.Oregon.gov](https://standagainsthate.oregon.gov). We accept all Relay calls.

- We are not the police. We are here to provide support and options, and let callers make decisions about what happens next.
- Hotline advocates are bi- or multi-lingual. We have access to interpretation in 240+ languages.
- We have access to **free counseling** for victims of bias incidents or hate crimes. Call the Hotline or [apply online](#).
- Our **Bias Response Emergency Fund** is \$1000 per victim or \$2000 per family, available to any victim of a hate crime or bias incident to help with:
 - **Safety** (security cameras, changing locks)
 - **Relocation** (rent, security deposits, emergency hotel stays)
 - **Costs incurred due to the bias rendering the victim unable to work** (rent, food, bills)
 - **Property repair** (clean up, replacement, insurance deductibles)
 - No proof or report to law enforcement is required.
- Data/statistics: Our [data dashboard](#) is updated monthly with anonymous, de-identified data about bias/hate reported in Oregon. Since the Hotline opened in January 2020, we have received:
 - **170 anti-American Indian/Alaska Native reports**. Of these reports,
 - 130 were bias incidents
 - 40 were hate crimes
 - **68 additional reports targeted an individual's actual or perceived AI/AN national origin**. Of these reports:
 - 58 were bias incidents
 - 10 were hate crimes
- We are available to table at events or pow wows, or provide in-person or virtual **trainings** or for your social services agencies, law enforcement agencies, and tribal members. Please call our Civil Rights Unit at 503-378-6324 or email CivilRightsUnit@doj.state.or.us.

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, 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 collegial relationships with tribal attorneys, including in situations in which the State may be adverse to tribes in litigation. In addition, 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. Public Records Laws

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

IV. Appropriate Dispute Resolution

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

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

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

VI. 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 Internet Crimes Against Children investigates internet exploitation of children and has several memoranda of understanding (MOUs) with Oregon Tribes.

C. Financial Crimes Prosecution

Financial Crimes special agents and a resource prosecutor works with Oregon's district attorneys, and other prosecutors, law enforcement and community partners throughout the state. In addition to investigating and prosecuting financial crimes, this unit develops training materials and best-practice policies to the investigation and prosecution of financial crimes.

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 Chris Stringer 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. Environment & Cultural Resources Enforcement Unit

The Environmental Crimes Unit investigates and prosecutes cases regarding the theft and desecration of tribal artifacts and environmental crimes that affect tribal lands. As well as investigating cases where tribal rights are misused or impinged upon.

F. Bias Crimes Prosecution and Investigations

A DOJ Bias Crimes Prosecutor and Special Agent work with our state, local, tribal, and federal law enforcement to identify and investigate crimes of bias against our community members. Additionally, they work to network with and train community members to report and communicate with their local law enforcement agencies.

G. 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 will work to add 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.

H. 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).

VII. 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

Amanda Swanson provides training and education on Human Trafficking Intervention.

VIII. Civil Enforcement Division

The Civil Enforcement Division is generally DOJ's plaintiff's civil litigation arm assisting state agencies in seeking affirmative action or recovery of money. The Division also provides legal representation to the Division of Child Support and the Division of Human Resources Child Welfare Program, along with operating programs overseeing consumer protection laws, charitable activities, and operating the Medicaid Fraud Control Unit. Much of this work includes coordination and consultation with tribes and tribal communities.

A. Consumer Protection (Kelly Harpster, Attorney in Charge)

The Consumer Protection Section investigates and prosecutes violations of the Unlawful Trade Practices Act. Investigations span a wide range of consumer activity, including consumer finance, privacy, health care, and telecommunications. Staff also work directly with consumers and businesses to informally resolve consumer complaints and to assist a team of community volunteers who staff DOJ's consumer hotline. The consumer education program has included work with tribes.

B. Antitrust and False Claims (Tim Nord, Special Counsel to the Civil Enforcement Division)

This unit investigates anticompetitive business practices and false claims made to government entities.

C. Scam Alert Network (Ellen Klem, Director of Consumer Education and Outreach)

This network of more than 12,000 Oregonians shares scam alerts with members of the public, media, elected leaders, consumer watchdogs, and advocates. The consumer education program has included work with tribes.

D. Medicaid Fraud (Sheen Wu, 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.

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

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

IX. Division of Child Support (Kate Richardson, Director; 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.

X. Environmental and Cultural Resources Enforcement Unit (Patrick Aitchison)

The Environmental and Cultural Resources Enforcement Unit (ECREU) prosecutes, or assists with the prosecution of, environmental and cultural resource offenses statewide. Environmental cases include not only the “traditional” pollution-type offenses (e.g. air, water, hazardous waste) but also fish and wildlife offenses which include cases involving treaty rights. Cultural resources offenses include, but are not limited to, cases in which archaeological objects, other objects of cultural significance, and archaeological sites are damaged, looted, or destroyed.

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.