

2023 THROUGH THE EYES OF A CHILD

# ICWA COURTS

Presented by

Hon. Andrea Janney, Presiding Judge, Klamath County Circuit Court

Lisa Ruiz, Children & Family Services Program Manager, The Klamath Tribes



# Presentation Outline

TOPICS FOR TODAY

What is an ICWA Court?

Key Principles of an ICWA Court

ICWA Courts to Address Disproportionality

Oregon ICWA Data

Klamath's ICWA Court

Practices for all Juvenile Courts to Consider

Q&A

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Nothing about us  
without us.

# What is an ICWA Court?



ICWA Courts are specialized court dockets for dependency cases in which ICWA applies. They are intended to promote greater tribal involvement and to improve collaboration to support Indian families in dependency cases. There are common characteristics and key principles, but ICWA Courts look and feel different across the country because they are collaboratively designed with tribes to ensure they meet local needs.

Common characteristics include:

- A dedicated docket of ICWA cases
- Tribal collaboration from the beginning and throughout
- Enhanced training and support on the spirit and law of ICWA for all practitioners
- Environment and hearings informed by tribal practices and customary traditions
- A commitment to capturing the spirit of ICWA, the “gold standard of child welfare.”
- Specific courtroom at a consistent time and day.

# 5 Key Principles of ICWA Courts

## JUDICIAL LEADERSHIP

ICWA Court judges lead off-the-bench in coordination with the ICWA partners (attorneys, agency social workers, and Tribal ICWA representatives) to achieve the spirit of ICWA.

## ICWA DATA COLLECTION

Data Collection informs practice and can measure the impact of ICWA Courts. For instance, identifying the tribal partners who are parties in any particular jurisdiction allows for deeper collaboration and partnership, ultimately better serving children and families.

## ICWA TRAINING

Court partners are trained and knowledgeable about ICWA and Active Efforts. Families can expect engagement that is delivered with cultural humility, is solution-oriented, and most importantly with humanity that takes into consideration their Cultural practices and norms.

## TRIBAL COLLABORATION

Key success to an ICWA Court is authentic Tribal collaboration and partnership. These partnerships foster better outcomes for ICWA families, including decreased time Indian children are in-care. No decision is made without Tribal voice and input

## GOLD STANDARD

ICWA Courts are home to “gold standard” attorneys, judges, social workers and tribal representatives. The community of ICWA participants have more focused education and skill-development of the relevant laws. Tribal partner engagement and focused education allows for a culture that is committed to the spirit of ICWA, and increased capacity for the legal side of ICWA practice.

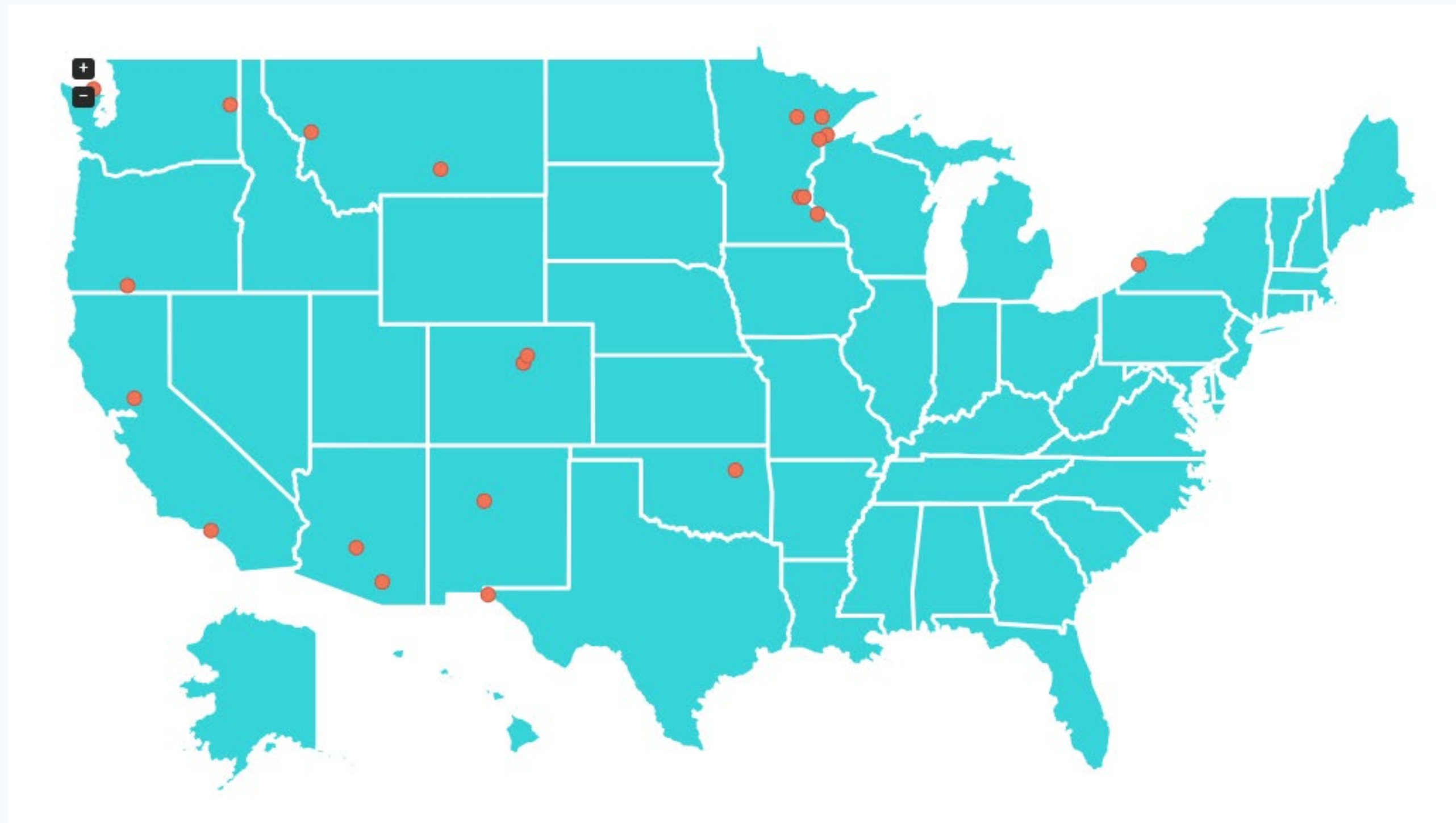
# Tribal Collaboration and Voice is at the Center of an ICWA Court

TRIBAL VOICES AND TRIBAL NATIONS ARE CENTERED IN ICWA COURTS AND HEARINGS. TRIBAL NATIONS ARE PARTNERS IN EVERY CASE.

ISSUES LIKE CULTURAL HUMILITY PLAY A KEY ROLE IN THE AREA OF ENGAGING FAMILIES IN ICWA COURT. FAMILIES FEEL INCLUDED IN THE COURT PROCESS AND A PART OF THE COLLABORATION. A TRIBAL COLLABORATIVE (A GROUP OF TRIBAL, COURT, AND COURT AND COMMUNITY PARTNERS) ALSO ASSISTS IN IMPROVING THE COURT ENVIRONMENT, PRACTICES, AND POLICIES.

TRIBAL REPRESENTATIVES ARE ALSO CRITICAL IN DEVELOPING APPROPRIATE RESOURCES, ENSURING TRIBAL FAMILIES ARE INFORMED ABOUT WHAT IS HAPPENING IN THEIR CASE, AND CONNECTING FAMILIES TO RESOURCES.

# ICWA Courts Across the Country



Source: NCJFCJ, <https://www.ncjfcj.org/child-welfare-and-juvenile-law/icwa-courts/#section-map>

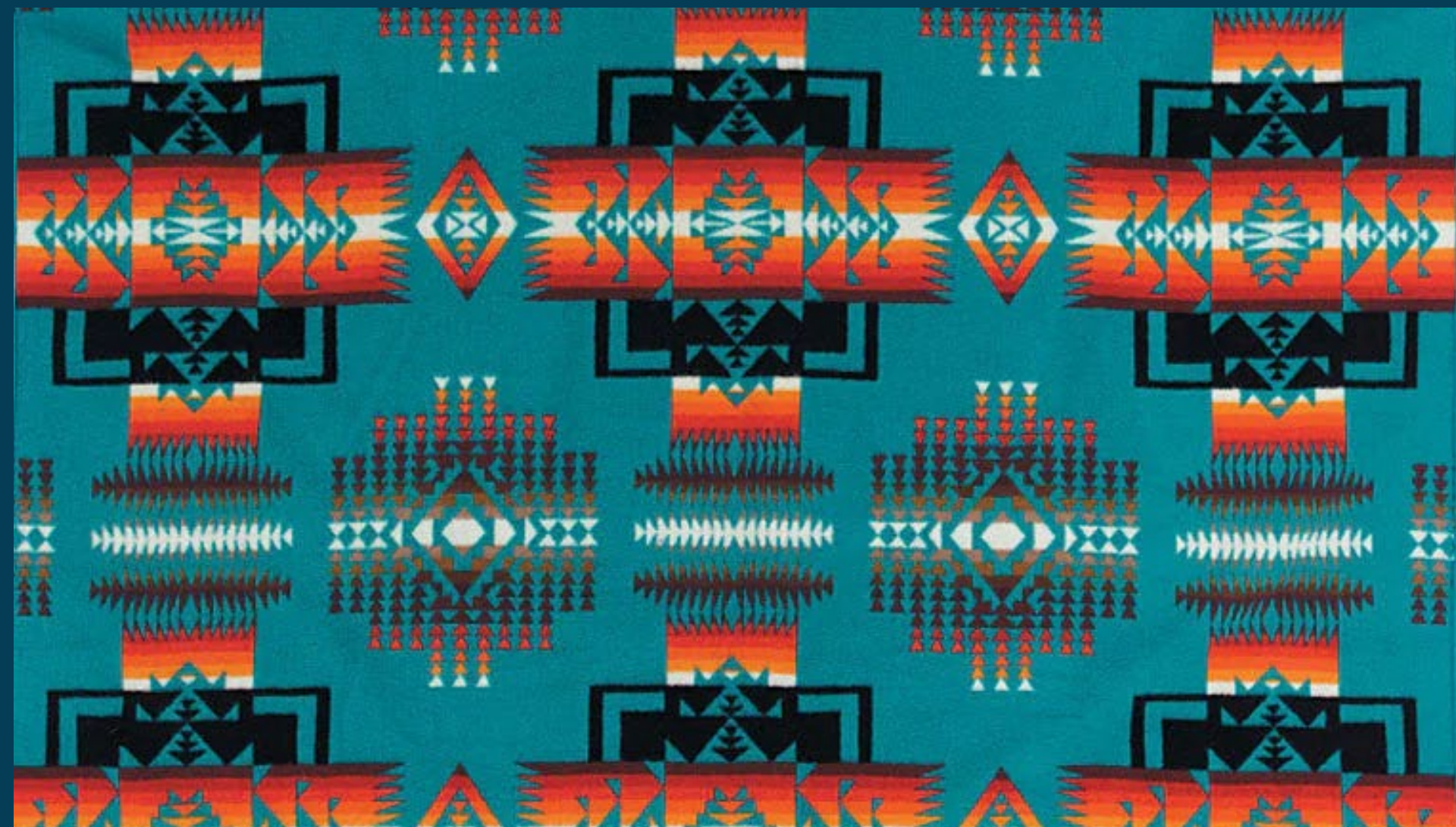
# ICWA Courts-A Tool to Address Child Welfare's Ongoing, Disproportionate Impact on Native Children

It has been 45 years since ICWA was passed and Indian children are still removed from their homes at a disproportionately higher rate than other children.

Oregon has the 6th highest rate of disproportionality for in the country.

In FFY 2021, American Indian/Alaska Native children accounted for just 1.5% of Oregon's child population but made up 4.7% of the children in foster care—a disproportionality index rate of 3.3.

More concerning, this disproportionality index increased from 2.9 to 3.3 between FFY 2019 and FFY 2021.

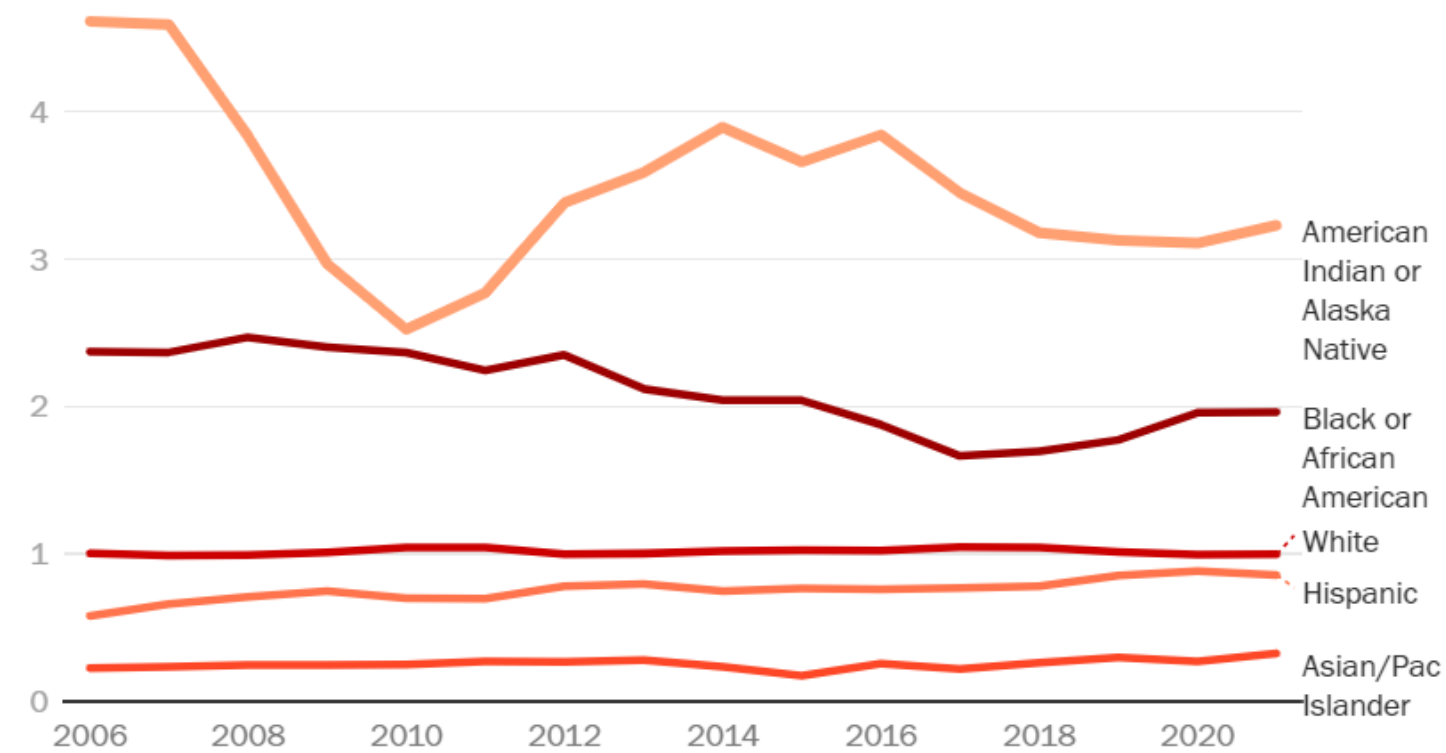




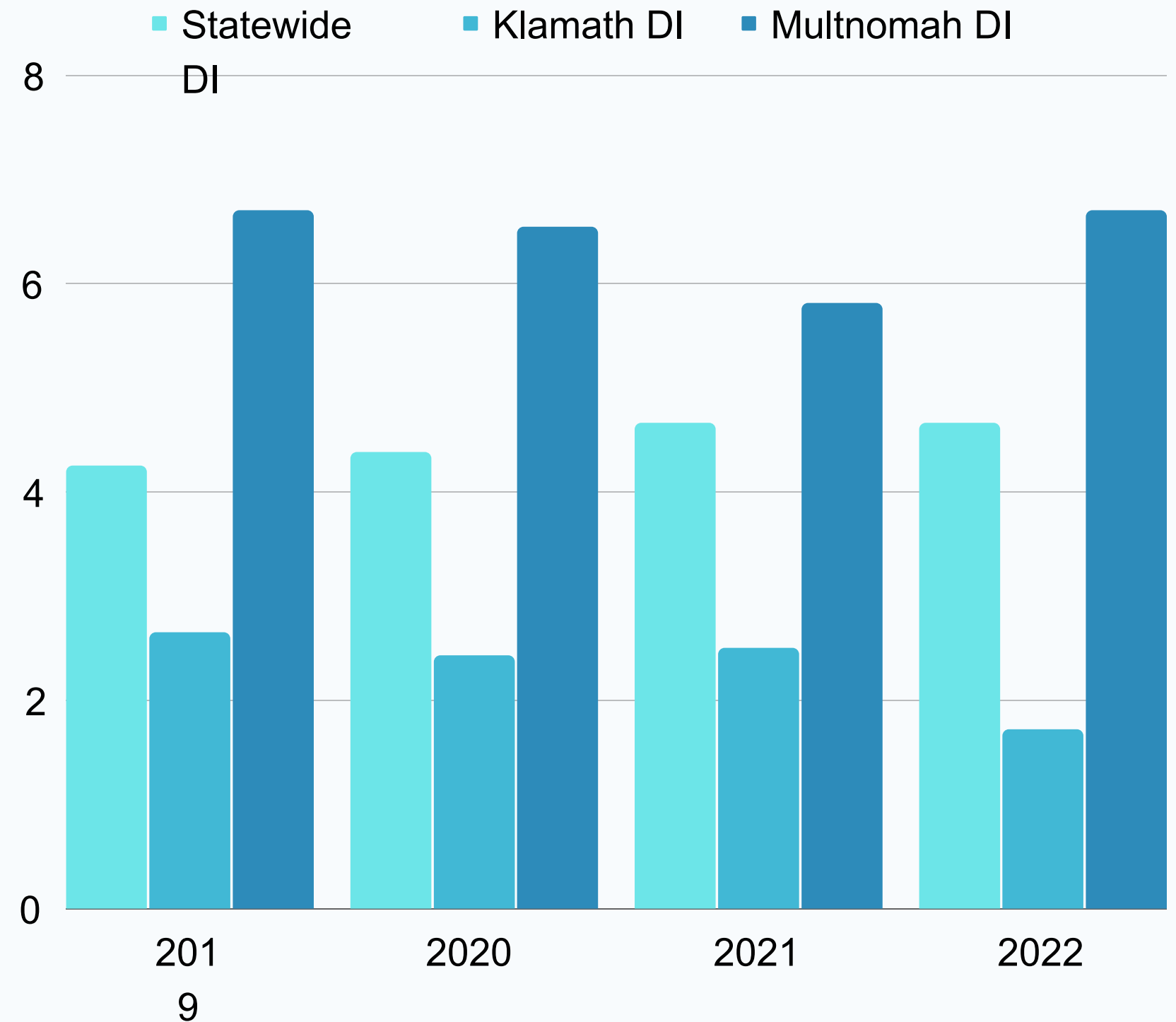
Native American children in Oregon are three times more likely to enter foster care than white children.

## Disproportionality Index in Oregon foster care

Disproportionality Index (DI) is calculated by taking the percent by race for children served in foster care and dividing it by the percent by race in Oregon's child population. Values less than 1 mean underrepresentation.



Each year's score uses September data.



# Klamath County Circuit Court's ICWA Court



# Key Components of Klamath's ICWA Court



## DRUMMING AND CULTURAL CEREMONIES

Before the start of every ICWA Court there is a traditional opening that includes drumming.



## TRIBAL PARTICIPATION

The Klamath Tribes and other Tribal Nations participate in ICWA Court every month. They are able to actively work a case and are an integral part of each case.



## PARENTAL ENGAGEMENT

Klamath's ICWA Court places high priority on engaging families with cultural humility, with a solution-oriented approach, and, most-importantly, with humanity. Families report feeling more engaged and a part of the court process in the ICWA Court.



## SERVICE ARRAY

Culturally specific services providers attend and actively participate in the ICWA Court. These service providers work to keep children in-home and also actively encourage tribal input. They also encourage parties to focus on understanding and using Native parenting practices

# Other Efforts in Klamath County to Improve ICWA Cases



The Klamath Tribes and other Tribal Nations



ODHS-Tribal Family Coaches, Tribal Certifier, Prevention



Prioritizing Increased Family Time to Build Trust & Increase Reunification



Culturally Specific Service Array



Collaboration & Community Building with The Klamath Tribes



Increased Parental Engagement Across the System

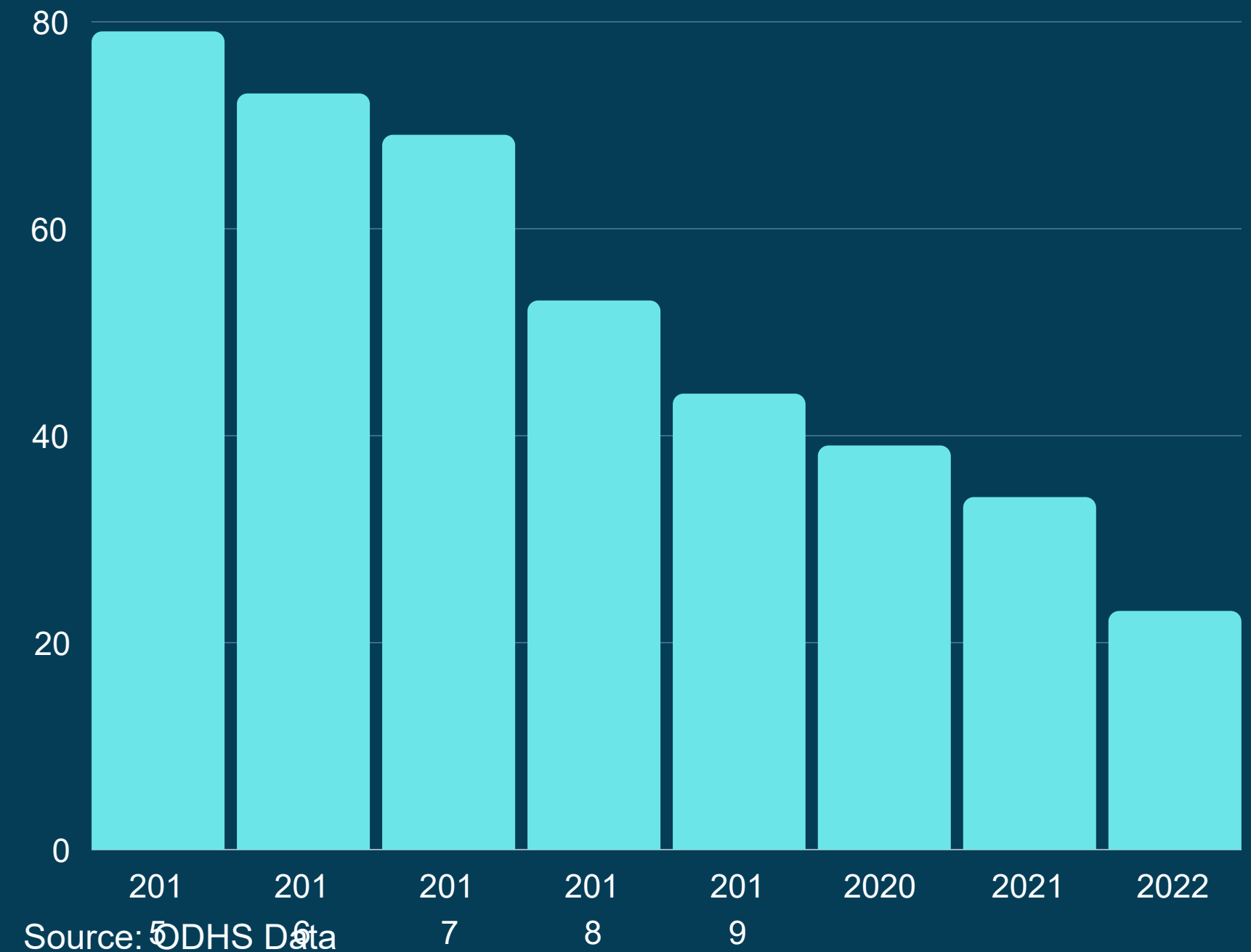
# The Impact of Our Collective Efforts

WHAT THE DATA SHOWS IN KLAMATH

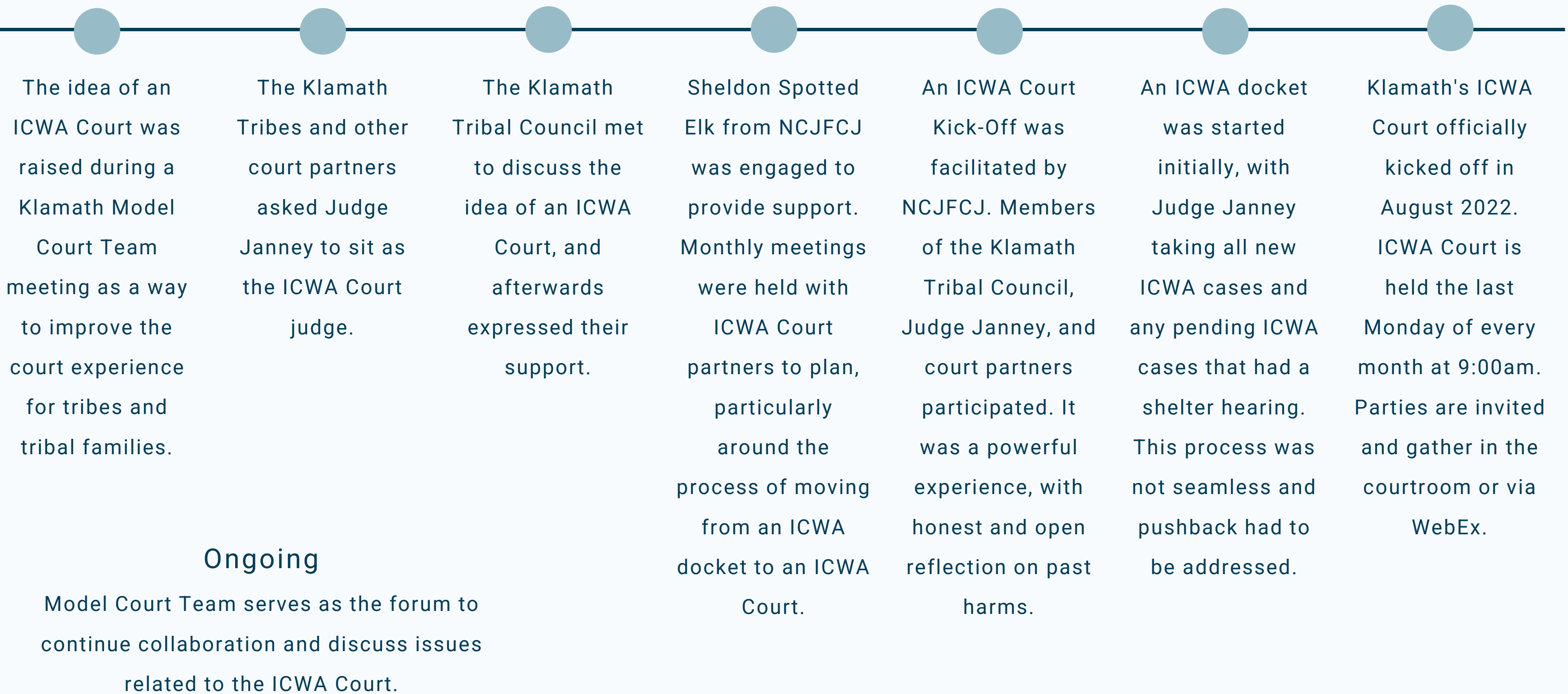


KLAMATH CIRCUIT COURT WENT FROM 4 DEPENDENCY JUDGES TO 2 DEPENDENCY JUDGES.

Average Number of ICWA Eligible Kids in Care in Klamath County



# ICWA Court Implementation Process



# What We've Seen

## KLAMATH ICWA COURT

TRIBAL PARTICIPATION AND  
VOICE IS CENTERED.

TRIBES ARE ACTIVE  
PARTICIPANTS.

INQUIRY AND NOTICE OCCURS  
WITH EASE.

SHARED UNDERSTANDING OF  
ACTIVE EFFORTS STANDARD



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# ICWA COURT SUCCESS

A FAMILY SUPPORTED BY TRIBE AND STATE

To whom it may concern,

I recently regained custody of my six year old son. I completed ICWA court. I had the opportunity to receive help that was much needed. Although it took me awhile to accept it. I was not given up on. I had attempted to be a lost cause, but with the involvement of the courts I was encouraged to find hope and to be the mother that cared for my son. Next to God, Moms are what babies have at first sight, and my son was waiting to see me again.

I want to say thank you for the efforts made by the courts and community partners in saving my life and working with me to return my son home. It took a village in my moments of despair. ICWA court became that village and a much needed GODsend. The whole process not only helped me regain my son, it also helped strengthen my resolve, and find a voice I had not known I had before.

I hope that I am just one of the many successes to come out of this courtroom. ICWA is strengthening families and taking the time to do it. I believe not only my life has been changed but also that of my son. Thank you again.



# What Other Courts Can Do

- ALWAYS INQUIRE ABOUT ICWA STATUS
- ENSURE THE ACTIVE EFFORTS STANDARD IS MET
- APPLY ICWA/ORICWA WHEN THERE IS "REASON TO KNOW"
- EDUCATE YOURSELF ABOUT TRIBAL NATIONS
- BE CULTURALLY HUMBLE
- RECOGNIZE THE ONGOING IMPACT OF HISTORICAL TRAUMA AND TAKE STEPS TO BUILD TRUST
- INCORPORATE TRIBAL PRACTICES IN COURT
- LEARN ABOUT AND USE TRIBAL COURT PRACTICES
- DISPLAY TRIBAL ART THAT RECOGNIZES TRIBAL SOVEREIGNTY
- CONSIDER HAVING ONE JUDGE WHO HANDLES ICWA/ORICWA CASES
- SET ICWA CASES AT A TIME THE TRIBE CAN PARTICIPATE





# QUESTIONS?

## BE IN TOUCH

Lisa Ruiz, Children & Family Services Program Manager,  
The Klamath Tribes

[lisa.ruiz@klamathtribes.com](mailto:lisa.ruiz@klamathtribes.com)

Hon. Andrea Janney, Presiding Judge & ICWA Court  
Judge, Klamath County Circuit Court

[andrea.janney@ojd.state.or.us](mailto:andrea.janney@ojd.state.or.us)

Jayne Cooper, Legal Policy Advisor, ICWA & Juvenile,  
Juvenile & Family Court Programs Division

[jayne.e.cooper@ojd.state.or.us](mailto:jayne.e.cooper@ojd.state.or.us)

