



# Starting an ICWA Court

A Practical Guide from Marion County, Oregon



Created by the  
Oregon Judicial  
Department

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## Context and Background

### Oregon's Tribal State Partnership Work

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Oregon is home to nine federally recognized tribes, each with its own government, culture, and history and with deep ancestral ties to the land. In addition, many other tribal nations have historical and contemporary connections to Oregon due to forced relocation, migration, or intertribal relationships. While some areas of the state see most ICWA cases from one or two local tribes, urban areas especially see cases from many in-state and out-of-state tribes. Understanding the individual sovereignty of these tribes is foundational to building an ICWA Court that is respectful and effective.

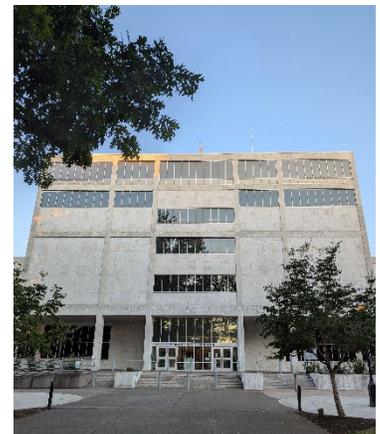
In January 2024, the Oregon Judicial Department (OJD) hired an ICWA Analyst to support implementation of its State Tribal Partnership Grant from the U.S. Health and Human Services. A major grant deliverable is to help sustain and expand ICWA Courts in the state. At the time of application, Klamath County was the only jurisdiction in Oregon with an ICWA Court. The grant's steering committee includes court partners from around the state who are able to identify key locations for project areas, including ICWA Courts.

### Marion County, Oregon

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Oregon is divided into 36 counties with 27 judicial districts. Marion County, located in the Willamette Valley, is the state's fifth most populous county with 346,000 people. It includes both urban and rural communities and both American Indian and Alaska Native families. Salem, the state's capital, is in Marion County along with Willamette University, one of Oregon's three law schools. More information can be found here: [About Marion County](#).

The county's demographics and its central location made it a strategic choice for developing Oregon's second ICWA Court. Marion County Circuit Court also has a history of innovation in treatment courts and other specialized dockets, which laid the groundwork for this initiative. According to [Oregon Department of Human Service's \(ODHS\) public data dashboard](#), in October 2024, at the start of the Marion ICWA Court, there were about 280 children in care in the county with 18 ICWA eligible children or 6.42% .<sup>1</sup>



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<sup>1</sup> The dashboard lists 18 children who are both eligible for ICWA and not enrolled and eligible for ICWA and enrolled.

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## Disproportionality in ICWA Cases

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Disproportionality exists when the number or percentage of a specific group (here, tribal member children in the child welfare system) is greater than the number or percentage of the same group in the general population.<sup>2</sup> Oregon passed the Oregon Indian Child Welfare Act (ORICWA) in 2022 to codify the federal Indian Child Welfare Act into state law. ORICWA builds on ICWA by automatically granting party status to tribes and providing requirements when placement preferences are not followed.

The statute also requires the Oregon Department of Human Services (ODHS) and OJD to submit the [ORICWA Legislative Report](#) every two years. It contains key data reporting requirements and outlines ongoing efforts by ODHS and OJD to implement ORICWA. OJD has improved business processes to gather more accurate data for the report.

The 2024 ORICWA Report, covering the period of July 1, 2022 - June 30, 2024, lists 567 American Indian / Alaska Native children in protective custody or 5.4% of the 10,552 children for this 2-year period. As of the [recent census numbers](#), 2.1% of Oregon's population identified as American Indian or Alaska Native alone (3.3% in Marion County), but this number does not necessarily represent all those who are members of federally recognized tribes. It also does not include the portion of the 4.5% of people who identify as two or more races (4.0% in Marion County). In either case, it is possible the number of individuals who are members of federally recognized tribes (and therefore where ICWA would apply) is lower than the number of individuals who identify racially.

## Building the Court Team

An ICWA Court team is similar to a child welfare dependency court team (caseworkers, attorneys, and community service providers) but also includes the federally recognized tribe involved in the case and tribally or culturally related resource providers. Conversations to begin the Marion ICWA Court started in February 2024 and the ICWA Court heard its first review in October 2024.

Before building the court team, there was a preliminary conversation with the court and the judges, because not all courts have the interest or capacity to pursue development of an ICWA Court. Once the court committed to exploring an ICWA Court with a larger team, court partners were approached to build the team.

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<sup>2</sup> "NICWA, Disproportionality in Child Welfare Fact Sheet (2021)" listed Oregon's disproportionality rate as 2.98% in 2019. ([https://old.nicwa.org/wp-content/uploads/2021/12/NICWA\\_11\\_2021-Disproportionality-Fact-Sheet.pdf](https://old.nicwa.org/wp-content/uploads/2021/12/NICWA_11_2021-Disproportionality-Fact-Sheet.pdf))

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In assessing the need for an ICWA Court, the team considered factors such as the number of ICWA cases. It also looked at both court and partner resources because both would need to dedicate a significant amount of time to the development effort. This process created local champions with an invested interest in ongoing court development.

### Oregon Judicial Department (OJD)

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- **Judges:** Judicial leadership is foundational. Judges set the tone, ensure consistency, and foster collaboration. In Marion County, Judge Manuel Perez (pictured at right) and Judge Tiffany Underwood led the planning with a culturally responsive, team-based approach.
- **Court Staff & Administration:** Manages logistics, coordinated planning, and created a welcoming, culturally affirming courtroom environment. They also facilitate communication with tribes and support families by providing snacks and ensuring space is provided for cultural gifts from local tribes.
- **Statewide ICWA Analyst:** Served as statewide ICWA Court Coordinator. Planned communications and meetings to ensure ongoing feedback and improvement efforts.



### Oregon Department of Human Services (ODHS)

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- **Child Welfare:** Caseworkers and supervisors were central to planning and implementation. Their insights into family progress informed court decisions.
- **Office of Tribal Affairs:** Acted as a liaison between ODHS and tribes. The Regional ICWA Specialist (RIS) attended reviews and supported coordination.
- **Self-Sufficiency Programs:** Provided families with housing, food, and employment support—key to reunification and stability.

### Tribal Nations

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Participated in planning, cultural integration, and monthly court reviews. Local tribes helped design the court's opening and provided cultural items and support for families. Tribal caseworkers and attorneys regularly attended and participated in reviews. Tribal councils granted permission for the ICWA Court to use each tribe's flag.



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## Attorneys

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- **Department Attorneys:** Ensured legal compliance while supporting the court's collaborative model.
- **Parent and Child Attorneys:** Helped streamline representation and improve continuity by forming a consistent team for ICWA Court appearances.

## Continuous Court Development

While development and short-term support of the court is funded through grant dollars, continuous planning is focused on sustainability without funding outside of the court's budget.

## First Year Planning

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The development of the Marion County ICWA Court is a continuous, multi-phase process. While many elements of the development are ongoing, key milestones during the first year (October 2024 – October 2025) include:

- **Initial Discussions:** Sparked by an Oregon Department of Justice attorney, who identified a Marion County judge as a potential leader for the court.
- **Engagement of Court Partners:** Early commitment from judicial leadership, ODHS, tribal representatives, and attorneys was essential. The court continues to offer both video and phone appearance options for tribes to increase engagement.
- **Separate Meetings with Court Partners:** The ICWA Analyst met with individuals and groups of court partners, when possible, which allowed for honest conversations and trust building before bringing everyone together. It also allowed the opportunity for individuals to ask the ICWA Analyst questions about expectations, roles, etc. in a more informal and comfortable setting.
- **Data Gathering:** Understanding which tribes were involved in the cases was important for communication and engagement efforts at the beginning of the ICWA Court. This information was used to ensure tribes were informed of planning and feedback meetings in the first year and given the opportunity to participate either in real time or with written feedback. At the end of the first year, partners noted the role of the court in bringing cases to closure sooner. They also noted more engagement by tribes.

## Ongoing Collaborative Planning

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While some decisions were made in the first year, the ICWA Court continues to adjust as necessary to best serve families, tribes and practitioners.

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- **Identifying ICWA Cases for Court:** The ICWA Court reviews cases following the initial (shelter) hearing. It does not review guardianships and will occasionally waive a review if there is a statutorily required hearing the same month. With few exceptions, all the ICWA dependency cases are in the ICWA Court.
- **Docketing Cases:** The court has been flexible with the order of the cases, using time certain calendaring at 10–20-minute increments depending on the needs of the case. The docket is typically organized by caseworker, who are all part of an ODHS ICWA unit specializing in ICWA cases
- **Virtual and In-Person Meetings:** Regular planning and feedback meetings ensure accessibility and built momentum. Virtual meetings allowed for broader participation, while in-person gatherings deepen relationships.
- **Learning from Peers:** The team meets with counterparts in both ICWA Courts and tribal courts who have experience with tribal engagement and culturally responsive practices.
- **National Connections:** The judges and court partners connect with national resources, including the Casey Family Programs Community of Practice (CoP), to learn from other ICWA-focused courts. Casey Family Programs also provided support during in-person meetings.

### Ongoing Court Preparation

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In the first year of planning the ICWA Analyst worked closely with the ICWA Court to lead the development of materials, connect partners with training opportunities, and ensure court staff had the resources and connections they needed to prepare for each monthly court. The ICWA Analyst continues to assist as needed, especially with changes such as the judicial transition that took place shortly after the first year.

- **Training and Guidance:** As part of the court development, court partners:
  - Observe other ICWA Courts and some met with their counterparts at another court.
  - Attend in-person training events like National Indian Child Welfare Association Annual Conference with support from grant funding.
  - Are provided the opportunity to attend virtual trainings, such as a virtual ICWA certificate program at Mitchell Hamline Law School.
  - Within the first six months of starting, the court sponsored a celebration event for all those involved in making the court happen and invited court partners and tribes to attend. The event featured a traditional drum, songs, and dancing with explanation about the culture and traditions (picture at right).



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- Learn about ICWA Court updates and advancements from Sheldon Spotted Elk from Casey Family Programs at meetings.
- **Materials:** The ICWA Analyst worked with the team to develop introductory brochures and a [video](#). The analyst continues to create other materials to prepare families and professionals for the evolving court structure.
- **Family Notification:** Families are informed in advance about the new court and what to expect, helping to reduce anxiety and confusion. In some cases, families are given the opportunity to observe the court before joining or are shown the video that was made, which features the judge explaining what to expect from process and environment. While virtual appearances (on both video and phone) are options for families and court partners, in-person attendance is encouraged. The efforts to create a welcoming environment are ongoing and the court has seen a steady increase with in-person participation over the first year.
- **Court Environment:** The courtroom is intentionally designed to be welcoming and culturally affirming. Since the building is owned and maintained by the county (and the court is run by the state), the ICWA Analyst, local court administration, and decision-making county staff met in the first year of the ICWA Court to ensure everyone was on board with the design decisions. The courtroom (and just outside of the courtroom) is decorated with the following:
  - A [land acknowledgement](#) plaque with a land acknowledgement written by the state's Legislative Commission on Indian Services.
  - Two pieces of artwork from a local artist who is a member of the Confederated Tribes of Grand Ronde.
  - Flags from each of the Nine Federally Recognized Tribes in Oregon.
  - Two framed historic photographs gifted to the ICWA Court by the Confederated Tribes of Grand Ronde (picture at right).



- **Cultural Integration:** The court looks to the local tribes and the ODHS Office of Tribal Affairs for guidance on bringing culture into the court. The following are some of the continuous efforts:
  - The court opens each month with a song and a welcome from a peer support specialist from a nearby tribe.
  - Local tribes supply gift bags that include traditional medicine like sage and sweetgrass for the families that attend court.
  - The court purchased a canopy tent to use for smudging outside of the courthouse when desired.

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- ODHS and local tribes sponsor “Connect to Culture” days hosted by a local tribe and invite the families involved in ICWA cases to participate along with ODHS caseworkers and others.
- **Specialty Court Elements:** The ICWA Court adopts features from other specialty courts, such as regular review hearings, team-based decision-making, and a focus on family well-being. The court takes a team-based approach. The judge typically hears directly from the parents and children (or through their attorneys when needed) first, followed by the agency, which differs from a typical dependency proceeding.
- **Trauma-Responsive Practices:** The court emphasizes trauma-informed approaches, recognizing the historical and intergenerational trauma experienced by Native families. The practices include:
  - The judge sits at the same level as the families instead of on the bench and does not wear a robe.
  - The reviews are strength based and although they also focus on improvement, any potentially difficult to hear information is, when possible, shared ahead of time in writing instead of verbally in the court review.
  - The court supplies healthy snacks for families who come to the court and the local tribes supply other practical gifts like fans in the summer.

## Continuous Quality Improvement

### Ongoing Evaluation and Feedback

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The Marion County ICWA Court is committed to continuous learning and improvement. Key strategies include:

- **Follow-Up Meetings:** Regular check-ins with court partners help identify challenges and celebrate successes. Invites go to all those involved in the ICWA cases, including out-of-state tribes. When possible, virtual meeting options are offered and when not, partners are encouraged to send in feedback via email.
- **Researcher Involvement:** External researchers assist with data collection and analysis to assess the ICWA Court’s impact. OJD is working with staff and the ICWA Court team to implement a research plan.
- **Participant Feedback:** Input from tribes, state caseworkers, and attorneys is gathered to improve the court experience and outcomes. Court partners are encouraged to get feedback from the families they serve.
- **Development of Tools and Forms:** The ICWA Analyst is working with the court to develop an ICWA Court review form to use at monthly reviews. While the reviews are meant to be informal, this provides a written record so all parties stay on the same page.

## Practical Implementation: Nuts & Bolts

### The Role of the ICWA Court Coordinator

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An ICWA Court Coordinator plays a central role in organizing, communicating, and sustaining the court's operations. This can be a temporary start-up position that comes from the court or a statewide staff position. Responsibilities include:

- Coordinating meetings and materials
- Liaising with tribal partners and state agencies
- Managing logistics and scheduling
- Supporting continuous improvement efforts

### Resources Needed

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One of the most common questions from other jurisdictions is: "What will it take to start an ICWA Court?" While each court is different, key resources include:

- A dedicated judge and engaged court staff
- Dedicated attorneys
- Openness and commitment to building tribal partnerships and relationships
- Support from child welfare leadership
- A coordinator or point person
- Time and space for planning and collaboration

### Docketing and Scheduling

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- **Dedicated Judge:** Judge Manuel Perez started the court and Judge Tiffany Underwood currently leads the court. Judge Underwood served as the backup judge from the beginning and was involved in planning and team meetings.
- **Frequency of Hearings:** The court holds monthly review hearings to ensure timely progress.
- **Virtual vs. In-Person:** The court offers flexibility, with both virtual (phone and video) and in-person appearances depending on family needs and case circumstances.