



Laying the Foundation:

Strengthening Court Practices

Under The Violence Against Women Act

March 4-5, 2026

Seven Feather Casino & Resort,
Canyonville, Oregon



Coming Up | UNIT 3

How to Advocate for Tribal Children in the State
Juvenile Justice System and/or Start Doing it Yourself

Addie Smith

Senior Consultant, The Whitener Group



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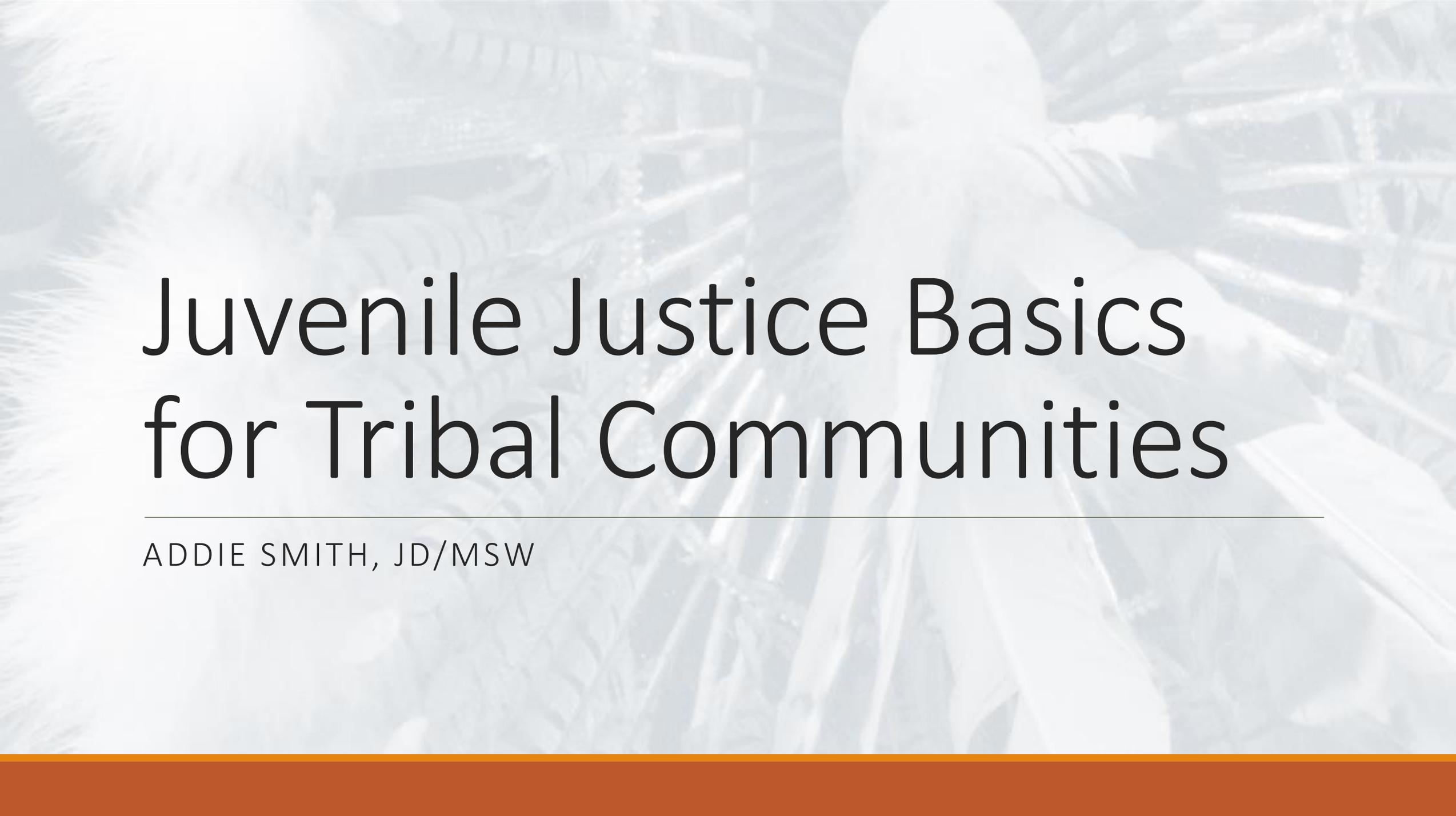


UNIT 3

How to Advocate for Tribal Children in the State Juvenile Justice System and/or Start Doing it Yourself

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Juvenile Justice Basics for Tribal Communities

ADDIE SMITH, JD/MSW

01

Context &
Jurisdiction

02

How State JJ
Systems Work

03

How Federal JJ
Works

04

Tribal JJ and Code
Considerations

05

Activity

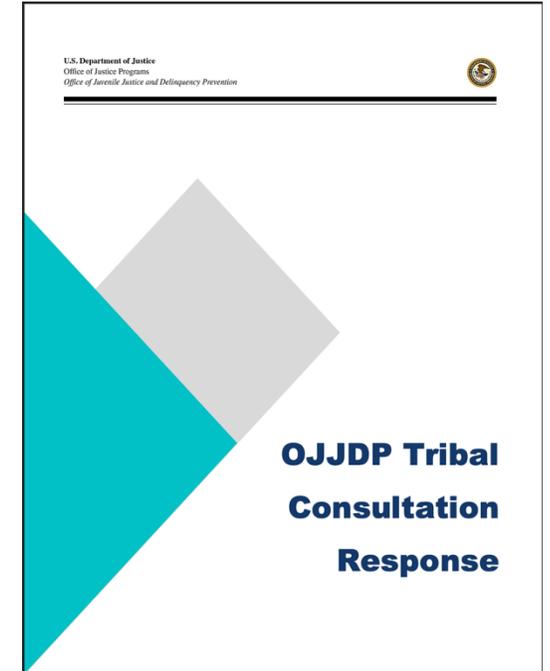
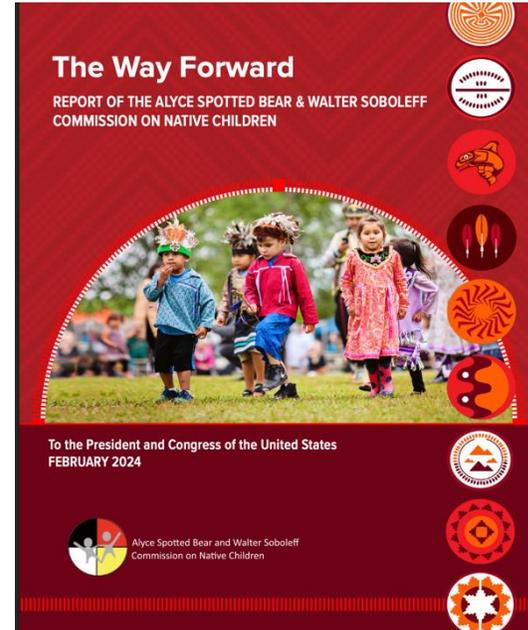
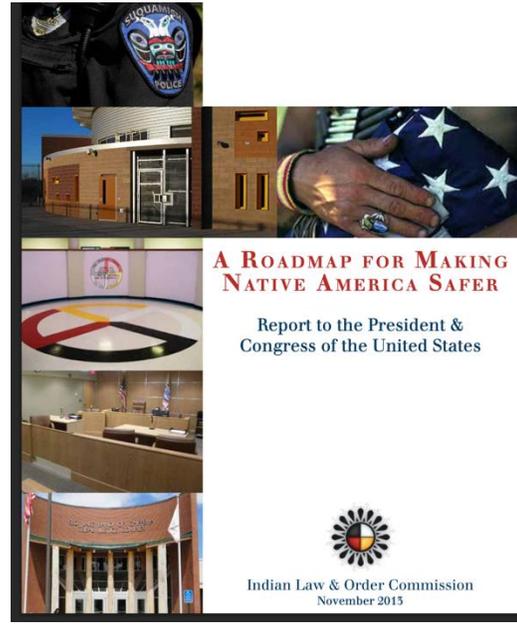
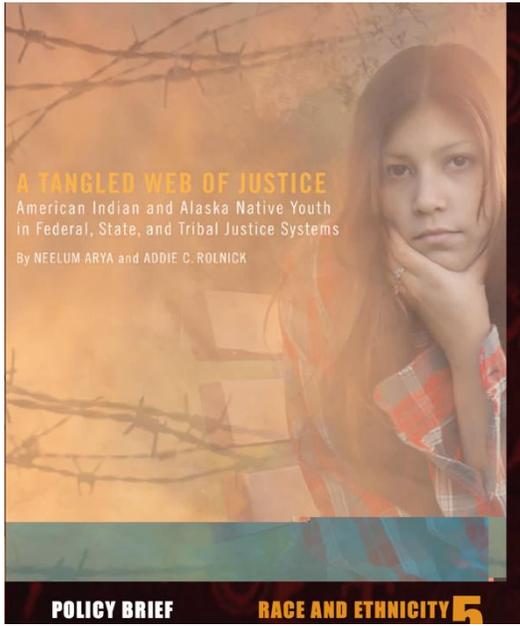
Agenda

Context and Jurisdiction



Young people are more amenable to rehabilitation than adults.

- Brains are still developing (until about 25)
 - Plasticity results in increased capability for change
- A majority of young people will age out of delinquent behavior *without any court intervention*
 - Brain development makes teenagers more likely to engage in risky and thrill-seeking behavior



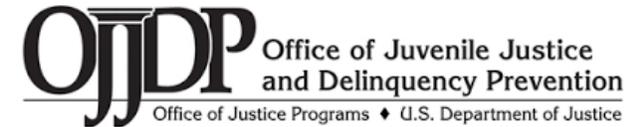
Major Reports

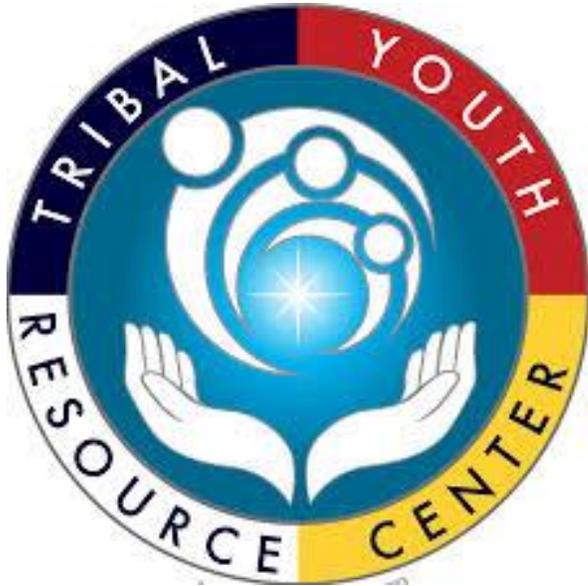
Federal Framework for Systems

Juvenile Justice and Delinquency Prevention Act establishes four core protections:

- Ensuring that young people are not housed in adult jails and lockups;
- Ensuring that if they are, under rare exception, placed in an adult jail or lock up, that they do not have sight (can't see) or sound (can't hear) adult inmates;
- Ensuring that young people are not detained for "status offenses," behaviors such as running away from home or skipping school that are illegal only because the young person has not yet reached the age of majority; and
- **Requiring states to reduce racial and ethnic disparities within the youth justice system. (R/ED)**

(Passed by Congress in 1974, and reauthorized in 1980, 1988, 1992, 2002, and 2018.)

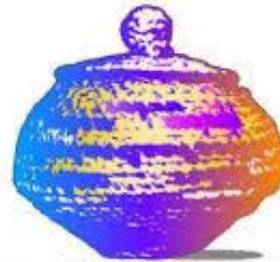




OJJDP Tribal Youth Programs and Services

“OJJDP's Tribal Youth Programs and Services helps Tribal communities prevent victimization and juvenile delinquency, reduce violent crime, and improve Tribal juvenile justice systems.”

- Approx \$20M (CTAS)
 - Tribal Youth Program
 - Juvenile Healing to Wellness
 - Children's Advocacy Center Expansion
- Technical Assistance
 - Tribal Youth Resource Center
 - The Resource Basket



**THE RESOURCE
BASKET**

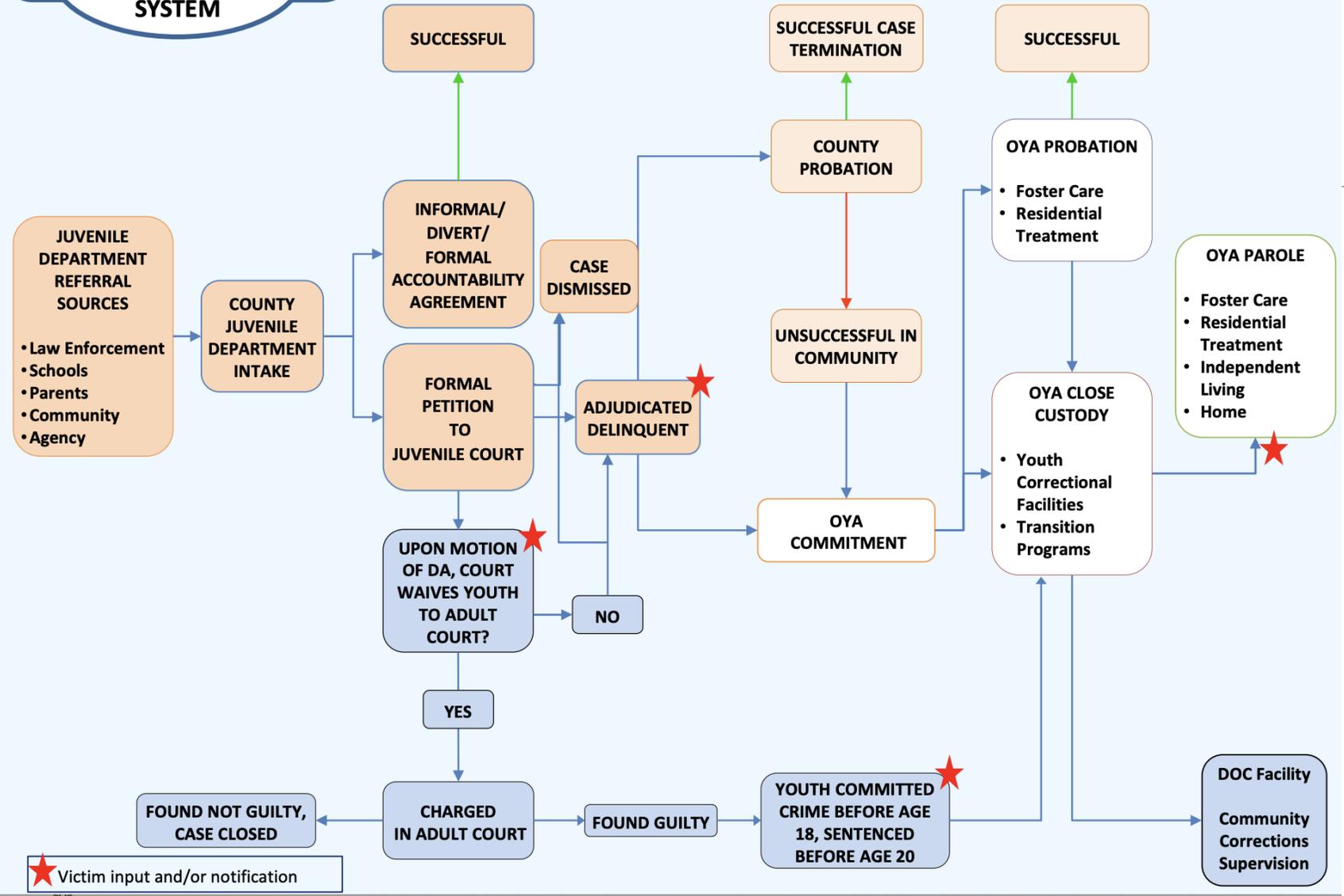
Jurisdiction

TABLE 4. CRIMINAL JURISDICTION OVER CRIMES COMMITTED BY INDIAN PEOPLE

	Crimes on Indian Country		Crimes on Indian Country – Pt. 280 States	Crimes on State land
	Major Crimes*	Other Crimes		
Non-Indian victim	Federal & Tribal	Federal & Tribal	State & Tribal	State
Indian victim	Federal & Tribal	Tribal	State & Tribal	State
Victimless crime	Tribal	Tribal	State & Tribal	State

State Juvenile Justice Systems

OREGON'S JUVENILE JUSTICE SYSTEM



Number of actual occurrences by decision point	To	Na
Population At Risk (ages 10 through 17)	21,368	199
Percent of total population		0.9
Referred to Juvenile Department	615	11
Cases Involving Secure Detention	230	12
Cases Not Petitioned	322	5
DA Declined / Insufficient Evidence / Rejected	96	2
Closed at Intake / Warning / Review and Close	97	0
Alternative Process	9	0
Allegations Not Petitioned but Informally Supervised	120	3
Cases Petitioned (Charges Filed)	139	5
Cases Resulting in Delinquency Findings	110	4
County Probation	70	2
OYA Probation & OYA Commitment for Community Placement	19	1
OYA Commitment for YCF	7	1
Other	14	0
Allegations Transferred to Adult Court	0	0
Dismiss, Plea Bargain, or Alternative Process	29	1

How does over-representation happen?

In Oregon

- 1% of Population
- .4% of all Delinquency Cases
- .45% of all County Probation
- 4% of OYA Parole/Probation
- 7% of OYA Close Custody
- Secure Confinement- Native/White disparity rate is 2.93

(OYA, JJIS; YDC, R/ED Report)

Nationally

- 1% of the population
- 2% of all delinquency (JJ) cases
- Secure Confinement- Native/White disparity rate is 3.7 nationwide

(OJJDP; Sentencing Project)

Best Practices

New Mexico: Delinquency Case
Notification Law § 32-1-14§

Oregon: Facility Notification Policy
ii-e-1.3

Yurok-Humbolt (CA): Tribal-County
Agreements (notice, transfer, joint
supervision)

When does ICWA apply?

In State Court

Not in tribal court

Indian Child

Under 18 at start of case;

Unmarried; and

Member of tribe; or
Eligible for membership and one bio parent is a member

Child Custody Proceeding

Emergency Proceeding

Involuntary Proceeding

Status Offense Proceeding

Voluntary Proceeding

§ 1903 (1), (3)
§ 23.103

What is a status offence?

A *status offense* is a nondelinquent (and noncriminal) act that is illegal for underage individuals (usually age 17 or younger), but not for adults.

OJJDP: There are five main types of status offenses:

- 1) truancy,
- 2) running away from home,
- 3) violating curfew,
- 4) violating underage liquor laws, and
- 5) ungovernability.

ORICWA OAR: (38) "Status offense" means an offense that would not be considered criminal if committed by an adult; they are acts prohibited only because of a person's status as a minor (e.g., truancy, runaway, beyond control).

Federal Juvenile Justice

Federal Court

- The Federal court system has no juvenile division
 - No specialized juvenile court judges,
 - No juvenile probation system.
- **2 percent or less** of Federal Judge caseload





Federal Custody

The Bureau of Prisons (BOP) has no juvenile detention, diversion, or rehabilitation facilities.

- If juveniles are detained it is through contract with State and local facilities
 - May be several States away from the juvenile's reservation.
- Native youth are not necessarily receiving any classroom teaching or other educational instruction or services at all
 - The BIE is responsible and has not been funded in years

Tribal Juvenile Justice Systems

MODEL INDIAN
JUVENILE CODE
2016 Revision



Juvenile Code

- Jurisdiction
- Advocate
- Due Process
- Custody Options/Detention Restrictions/AFSA
- Interrogations
- Detention Review
- Informal/Diversion/Best Interest Determination
- Deferred Adjudication

Alternatives

- Youth Court
- Circle Processes
- Healing to Wellness



Juvenile
Detention
Consideration





Questions?



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Coming Up | PANEL

Perspectives from the Bench: The Art of Appellate Court Review

***Moderator:* Judge Ron Whitener**

Chief Judge for the Tulalip Tribes (retired), Co-Owner of The Whitener Group

***Panelists:* Judge Cheryl Fairbanks**

Justice/Peacemaker/Attorney, Sovereignty 360

Judge Lisa Atkinson

Judge, Law Office of Lisa L Atkinson, PLLC



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