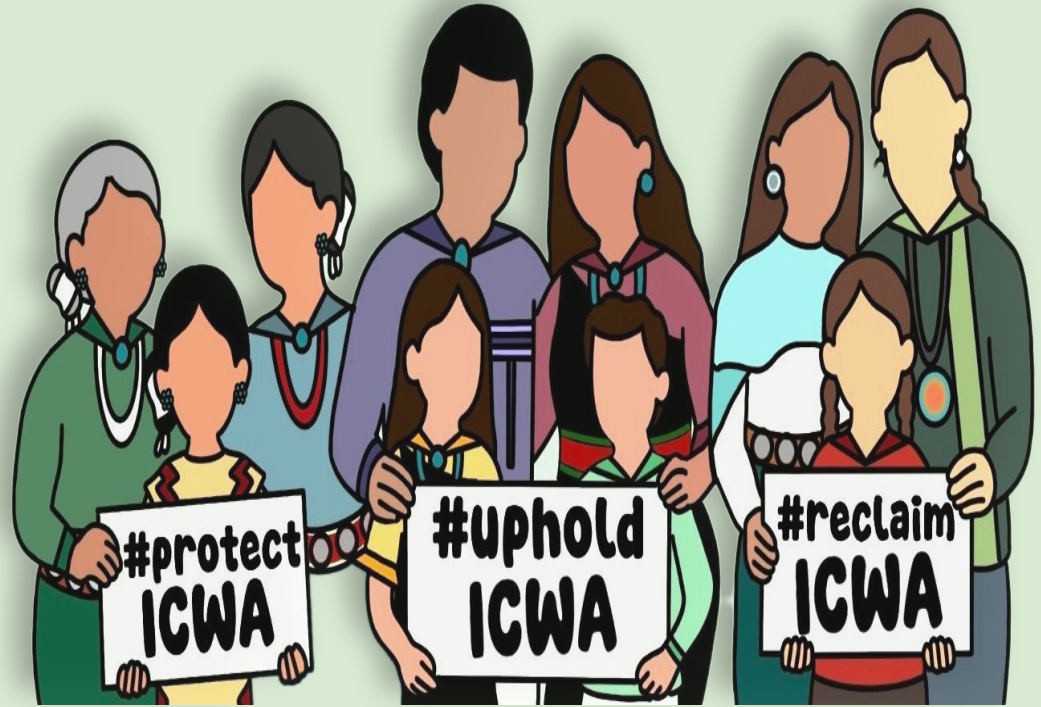


Upholding ICWA in Child Welfare Cases Involving Domestic Violence: Protecting Indian Parent's Rights



Welcome and Introduction

J. Elaine Williams, MSW (Pueblo of Jemez)

Contractor with the CO Office of Respondent Parents Counsel and owner of ICWA Consulting Services, LLC.

Eileen Lujan, MSW (Pueblo of Taos)

Distinguished elder and ICWA Qualified Expert Witness (QEW) for Taos Pueblo.

Our journey and connection started in Portland, OR. we work to advocate and uphold ICWA to protect Indian families.



KIND HEARTED WOMEN 2013

(PBS)



Robin Poor Bear, subject of the public television documentary *Kind Hearted Woman*, died Nov. 20 (2015) at her home in Fort Totten, N.D. The White Earth DOVE Program, a nonprofit fighting sexual and partner violence in White Earth, Minn., said in a Facebook post Monday that “Robin’s legacy and tireless efforts in (victim services) provided changes that will be everlasting. Robin provided her heart and soul where it was needed and never hesitated when she was called upon. Surviving are her two children, Darian and Anthony.

The removal of Indian children and TPR to Native families is the perpetuation of systematic and legalized genocide to Native American Families.

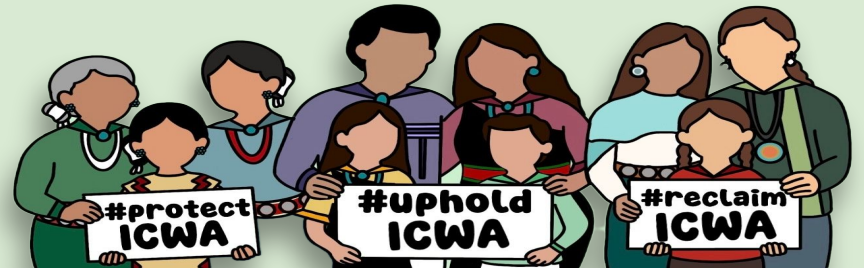
Bureau of Indian Affairs (BIA) ICWA
Federal Guidelines:

§ 23.120 How does the State court ensure that active efforts have been made?

(a) Prior to ordering an involuntary foster-care placement or termination of parental rights, the court must conclude that active efforts have been made to prevent the breakup of the Indian family and that those efforts have been unsuccessful....

§ 23.113 What are the standards for emergency proceedings involving an Indian child?

(a) Any emergency removal or placement of an Indian child under State law must terminate immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child.



Gold Standard Safety Planning

Should include:

- Multiple supports (family, friends, domestic violence agencies)
- Defined with clear and reasonable expectations
- Contacts for all individuals involved and roles identified
- A realistic timeframe
- Detailed with clear language
- Modifiable not set in stone



Should not:

- Be created by the victim or parents
- Continue for many months should be short term
- Be weaponized to victims/parents
- Used as a quid pro quo
- Limit family time
- Burden heavy
- Have other family members policing parents
- Place blame on victims

ACTIVE EFFORTS ARE NOT A BLANKET EFFORT

Preventing the
Removal & Break
Up of the Indian
Family

Due Diligence

Tribal
Collaboration

Treatment
Planning



Placement
Preference &
Good Cause

Less Drastic
Alternatives
LDAs

Family Time

ICWA Inquiries

Tribal
Enrollment

Case Scenarios



Mother of two children is involved in a domestic violence incident with her boyfriend. Neighbor called due to the noises heard through the walls with loud banging. APD arrives and did not observe evidence of an altercation but due to the boyfriend's history of domestic violence they decided to call CPS where the children were placed in foster care. Parents are enrolled Tribal members of Isleta Pueblo (father) and Navajo Nation (mother) they both mentioned ICWA protections but the caseworker assigned told them they will address this at court.

What are some of the violations to ICWA that come to mind?



Same case, five months later the parents start to feel discouraged because they are wanting support and hoped that their children would be placed with family. They have both provided family ancestry charts and still no progress by CPS.

They are concerned about the care of the children in the foster care home. The maternal grandmother is willing to be an in-home supervisor but has waited for two months for background checks and fingerprinting to get completed by the department.

In what ways could a domestic violence advocate or Tribal ICWA representative assist the Indian Family?

Strategies to uphold ICWA for *Tribal Advocates*

- Request records early assess for truth and identify bias
- Ensure that robust safety planning is offered
- Suggest in-patient treatment services to include children
- Know Domestic Violence shelter programming in your area
- Do not rely solely on the department's reports
- Connect with the parent (or Tribal citizen) independently
- Meet with extended family in-person or request a virtual family meeting
- Provide family information to the DEPT
- Ensure that parents know their rights as to ICWA (including non-Native parent)



Strategies to protect ICWA for *Domestic Violence Advocates*

- Ask for support when needed, coaching and/or training in ICWA
- Attend dependency court with your client if possible as an advocate
- Ask to be a part of the safety planning to ensure it is not client focus or burden heavy
- Providing civil rights and ICWA resources
- Ensure that child protection services is not re-victimizing the parents by blaming
- Promote robust visitation in the most natural setting with family/kin and community programming
- Promote family healing services not silo services



QUESTIONS



QUESTIONS

Thank you for attending our session!!!!

Elaine Williams

ICWA Consulting Services, LLC.

PH. 303.519.8865

Email:

ewilliams@icwaconsultingservices.com

Follow ICS on Instagram!

Eileen Lujan

Email:

lujaneileen29@gmail.com