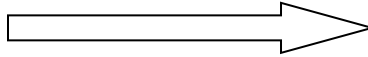


Reason to Know vs. Undetermined for Determining Whether ICWA Applies

“Reason to Know” is a distinct legal standard as opposed to Undetermined (AKA “Reason to Believe”) that a child is an Indian Child for ICWA purposes. If any information is provided that suggests a child is *or may* be an Indian Child, even if it cannot be proven, then *further inquiry is required*.

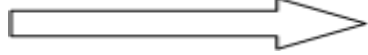
“Reason to Know”

- Exists when *any* of these circumstances *are* true.
- ICWA is triggered.



“Undetermined”

- Exists when there is information suggesting that *any* of these circumstances *might* be true, or insufficient information is presented.
- ICWA is not triggered; however, a diligent effort must be made to investigate whether there is a reason to know the child is an Indian child. 2016 BIA Guidelines, § B.1.
- DCS shall notify the Tribe by mailing a registered or certified Notice with return receipt requested pursuant to 25 CFR § 23.111(c).



Information suggesting tribal membership or eligible for tribal membership *may* include:

- 1) Any participant, including the child, informs the Court that the child is an Indian Child. (Not based on DNA).
- 2) There are family members enrolled or affiliated with a Tribe.
- 3) If there is any family member who lives/lived on a Reservation or participated in cultural activities.
- 4) If any family member had a case in Tribal Court or another Court where ICWA applied.
- 5) Either parent or the child possess an identification card indicating membership in an Indian Tribe.
- 6) There are other reasons to believe the child/ren might be an Indian Child.

25 CFR § 23.107(c) and 2016 BIA Guidelines, § B.1.



Only Tribes can determine membership, and they have the right to intervene at any time. AZ ST JUV CT Rule 113(a)(1) (*Effective: July 1, 2022*); and 25 U.S.C. § 1911(c).