

Reason to Know

v.

Reason to Believe (aka Undetermined)

**Reason to Know = ICWA Triggered**

**Reason to Believe = Diligent Effort Required**

# Reason to Know

## Registered/Certified Mail - return receipt

- Tribe
- Parent
- Department of the Interior – appropriate regional BIA office

*See ICWA § 1912 (a) and 25 C.F.R. § 23.111*

Reason to Believe -  
Undetermined

**Certified Notice Required**

# Notice Best Practices

Establish a relationship with Tribes

Contact the Tribe informally during investigation

Certified Notice as soon as possible

Document in legal file the date certified/registered mail sent and to whom

File the signed receipts

Adjudication  
Disposition,  
Termination,  
Guardianship

Reason to Know

Undetermined/Reason to Believe

Response from Tribe

No Response from Tribe

# Qualified Expert Witness

To provide the court “with knowledge of the social and cultural aspects of Indian life to diminish the risk of cultural bias.”

*The Indian Child Welfare Act Handbook* at page 135

To “prevent courts from basing their decisions solely upon the testimony of social workers who possessed neither specialized professional education nor the familiarity with Native culture necessary to distinguish between cultural variations between child rearing practices and actual abuse and neglect.”

*184 P.3d 9 (Alaska 2008)*

# QEW – Who may testify?

Preference is person designated by child's tribe to testify regarding prevailing social and cultural standards for child-rearing practices

May request assistance from child's tribe or BIA  
QEW Affidavit

NOT a social worker assigned to case

*See § 23.122*

# Best Practices for Identifying QEW

Contact child's Tribe

Relationship with Tribe – QEW affidavit

BIA

Document efforts on the record – avowal, pleading, affidavit

- **Letters**
- **Calls**
- **Notice**
- **Response**