

Reasonable Doubt

The Tribe bears the burden of proof to show a defendant is guilty beyond a reasonable doubt.

The Menominee Tribal Court Rules of Criminal Procedure don't specifically state that the reasonable doubt standard must be met. However, this standard is generally understood to apply in criminal cases under the Indian Civil Rights Act, which governs tribal courts and guarantees due process rights, including the requirement that criminal convictions be based on proof beyond a reasonable doubt.

The Due Process Clause in the Indian Civil Rights Act prohibits tribes from depriving any person of liberty or property without due process of law. This includes the fundamental protections found in the U.S. Constitution like:

- The presumption of innocence
- Guilt must be proven beyond a reasonable doubt

The Tribe must prove each element of the criminal charge beyond a reasonable doubt. An element is the subpart of a crime. There can be many elements to one crime. Those elements can be found in the criminal statute itself. The criminal statute will be included in the Criminal Complaint.

For example, § 290-2 (A) of the Menominee Criminal Code defines the crime of battery as:

Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without consent of the person so harmed is guilty of battery.

The elements of the crime of battery under § 290-2 of the Menominee Criminal Code are:

- **Whoever causes bodily harm to another**

- There must be actual physical harm, not emotional harm.
- **By an act done with intent to cause bodily harm**
 - There must be an intent to cause bodily harm. Accidental or uncontrollable movements cannot be intentional.
- **To that person or another**
 - The harm must have been intended for a person, not an animal or object. If someone was trying to punch a wall and the alleged victim jumped in, the harm was intended for an object, not a person.
- **Without consent of the person so harmed is guilty of battery**
 - The person who sustained the harm must not have consented. For example, if the person who was physically harmed told the defendant, “Go ahead. Give it your best shot,” that person could have consented to the harmful contact.

It is important to make a list of the elements of every crime you are charged with. Each element provides a way to challenge the prosecutor’s evidence. Once you have made a list of elements for each crime charged, you can organize your evidence and arguments effectively.

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Table of Contents

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