

Title 6 - Criminal Procedures

Chapter 4. Arraignment and Release

Sec. 401. Arraignment.

(a) Arraignment is the bringing of an accused before the Court, informing him/her of his/her rights and of the charges against him/her, receiving his/her plea, and setting conditions of pre-trial release as appropriate in accordance with this Code.

(b) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall arraignment be later than the next regular session of Court. The accused shall not be in custody longer than 48 hours without a probable cause determination.

(c) Before an accused is required to plead to any criminal charges, the judge shall:

(1) Read the complaint to the accused and determine that he/she understands the complaint and the section of the Tribal Code which he/she is charged with violating, including the maximum authorized penalty; and

(2) Advise the accused that he/she has the right:

(A) To remain silent,

(B) To have a speedy and public trial where he/she has had sufficient time to prepare his/her defense is he/she pleads "not guilty",

(C) To be tried by a jury if the offense charged is punishable by imprisonment,

(D) To be represented by counsel at his/her expense, before he/she pleads to the charge, and

(E) To file a writ of habeas corpus in the United States District Court if the accused feels his/her rights have been violated.

(d) If the accused is arraigned pursuant to the Fort Peck Tribes Special Domestic Violence Criminal Jurisdiction over non-Indians, the accused has the right to obtain counsel and the right to a reasonable continuance to obtain counsel. If the accused cannot afford counsel, one will be appointed for him/her at the expense of the Tribes. The right to appointed counsel continues through the appeals process.

(e) If the arrest was without a warrant, and the defendant is to be continued in custody, the judge shall also determine during arraignment whether there is probable cause to believe that an offense against Tribal law has been committed by the named accused.

(f) The judge shall call upon the defendant to plead to the charge:

(1) If the accused pleads "not guilty" to the charge, the judge shall then set a pretrial or trial date and consider conditions for release prior to trial as provided in Section 402.

(2) If the accused pleads "guilty" to the charge, the judge shall accept the plea only if the judge is satisfied that the plea is made voluntarily and the accused understands the consequences of the plea, including the rights which he/she is waiving by the plea. The judge may then impose sentence or defer sentencing for a reasonable time in order to obtain any information the judge deems necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to be heard by the Court prior to sentencing.

(3) If the accused refuses to plead, the judge shall enter a plea of "not guilty" on his/her behalf. **(AS PER RESOLUTION NOS. 27-201-2013-12, DATED 12/23/2013; 26-788-2014-06, DATED 6/09/2014)**