

ADVICE OF RIGHTS

Under the Fort Peck Comprehensive Code of Justice (CCOJ) and the Indian Civil Rights Act, you have the following rights:

1. You have the right to remain silent. If you make any statement it may be used against you in Court.
2. You have the right to hire an attorney at your own expense or request the assistance of the Tribal Public Defender if you meet eligibility criteria.
3. You have the right to be informed of the nature of the charges against you and to receive a copy of those charges. You have the right to know the maximum penalty allowed by Tribal Law for those charges.
4. You have a right to speak with the Tribal Public Defender before you plead to the charge.
5. At your arraignment, you may plead not guilty, guilty, or with the Court's approval, no contest.
6. If you plead guilty or no contest, you give up your right to a trial and the Court will proceed to sentencing.
7. You have the right to be released from custody pending trial upon the payment of reasonable bail unless you are considered a flight risk or pose a danger to yourself, someone else, or the community.
8. You have a right to a speedy public trial on the charges. If the charges include the possibility of a jail sentence, you may choose either a jury or bench trial.
9. At trial, you have the right to confront and cross-examine the Tribes' witnesses.

10. You also have the right to call your own witnesses and to present other evidence. You have the right to assistance of the Court through subpoenas to enforce this right.

11. At trial, you may choose whether or not to testify. No inference of guilt may be drawn against you if you choose not to testify.

12. You have the right to appeal any final decision of the Tribal Court.

13. You have the right to not be put in jeopardy twice for the same offense.

14. If you want to have a jury trial you must maintain contact with your attorney or advocate or else you will waive your right to a jury trial.

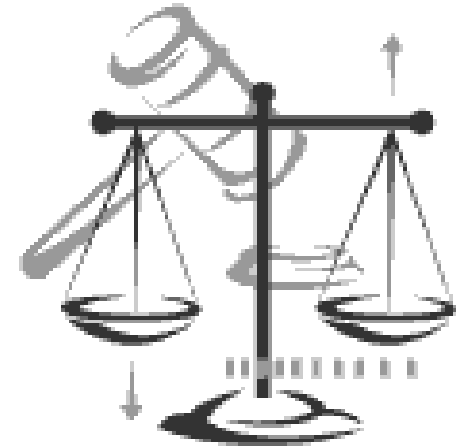
NEED REPRESENTATION BUT DO NOT HAVE MONEY TO HIRE AN ATTORNEY?

Please stop by the Tribal Public Defenders Office as soon as possible to fill out an application. However, there is absolutely **NO LAST MINUTE DEFENSE AVAILABLE.**

Tribal Public Defender's Office

PO Box 1027
Poplar, MT 59255
Phone (406) 768-2470

FORT PECK ASSINIBOINE AND SIOUX TRIBES



Public Defender's Office

HOW TO FIND YOUR WAY THROUGH THE CRIMINAL JUSTICE SYSTEM

If you are receiving this pamphlet you have probably had some encounter with the criminal justice system and may have been charged with a violation of the law.

In order to make sure that your rights are not being violated you should know a little bit about the criminal justice system and various terms associated with it.

CONTACT WITH LAW ENFORCEMENT

In order to stop and detain a suspect, the police must have a reasonable suspicion, which they can articulate with objective facts, that the individual has committed or is about to commit an unlawful act. In order to arrest an individual, the police must have probable cause. Probable cause is the confirmation of the suspicion by further evidence of a criminal offense.

Probable cause is such facts and circumstances which would lead a reasonable person to believe that an offense has been committed.

CCOJ Title VI, Ch. 2, Sec. 201(3)(c)

NOTIFICATION OF RIGHTS

At the time of arrest the police officer must immediately advise you of the following rights:

1. You have the right to remain silent
2. Any statement you make can be used against you in Court.
3. You have the right to obtain counsel at your own expense; and
4. You have the right to make at least one completed telephone call to a friend and at least

one completed call to a lay counselor or attorney after being registered and identified at the jail.

The police cannot interrogate you or attempt to solicit any information from you before reading you your rights. However, if you begin talking on your own without any solicitation from the police, that statement may be used against you even if the officer has not read you your rights.

ARRAIGNMENT

If you are charged with a violation of the law your first appearance at court will be your arraignment.

At this proceeding, the complaint, the document that lists the charge against you and relevant facts surrounding the charge, will be given to you and you may have it read out loud by the judge. Then you are read your rights and asked to enter a plea. You may plea not guilty, guilty, or no contest. A no contest plea means that the defendant neither admits nor disputes a charge. Although different, a no contest plea has the same effect as a guilty plea.

If you plead not guilty the judge will set a date for your pretrial hearing or trial. You have the choice of a jury trial, where your case will be decided by a group of six people in the community or a bench trial, where the judge decides your case.

The judge will also determine if you may be released before trial and what conditions or bail is necessary to ensure your appearance at your trial.

If you plead not guilty at the arraignment you still have the option of accepting a negotiated plea, where you would be required to change your plea to guilty or no contest in exchange for a particular sentence.

If you plead guilty or no contest the judge may immediately impose sentencing or schedule a sentencing hearing. Sentencing will be the last proceeding in your case.

PRETRIAL HEARING

The next proceeding after arraignment is a pretrial hearing. This hearing allows for the disposition of cases by plea agreements. If no plea agreement has been reached, this proceeding will serve to narrow the issues and resolve any outstanding matters before trial.

TRIAL

At the trial the prosecutor will have the burden of proof to establish every element of a crime beyond a reasonable doubt. The prosecutor will introduce the Tribes' evidence first through witnesses, documents, and other physical evidence. Then, you or your attorney will have a chance to introduce evidence on your behalf. After the introduction of evidence is complete and both sides have given closing arguments, the court will render its decision as to your guilt or innocence.