

Bureau of Indian Affairs, Interior

§ 11.311

paid for by the government if the accused is indigent) and that the arraignment will be postponed should he or she desire to consult with counsel.

(d) The magistrate shall call upon the defendant to plead to the charge:

(1) If the accused pleads "not guilty" to the charge, the magistrate shall then inform the accused of the trial date and set conditions for release prior to trial.

(2) If the accused pleads "guilty" to the charge, the magistrate shall accept the plea only if he or she is satisfied that the plea is made voluntarily and that the accused understands the consequences of the plea, including the rights waived by the plea. The magistrate may then impose sentence or defer sentencing for a reasonable time in order to obtain any information he or she 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 or her behalf.

(e) The court may, in its discretion, allow a defendant to withdraw a plea of guilty if it appears that the interest of justice would be served by doing so.

§ 11.310 Bail.

(a) Each person charged with a criminal offense under this part shall be entitled to release from custody pending trial under whichever one or more of the following conditions is deemed necessary to reasonably assure the appearance of the person at any time lawfully required:

(1) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times;

(2) Release to the custody of a designated person or organization agreeing to assure the accused's appearance;

(3) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release;

(4) Release after deposit of a bond or other sufficient collateral in an amount specified by the magistrate or a bail schedule;

(5) Release after execution of a bail agreement by two responsible members of the community; or

(6) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

(b) Any law enforcement officer authorized to do so by the court may admit an arrested person to bail pending trial pursuant to a bail schedule and conditions prepared by the court.

(c) A convicted person may be released from custody pending appeal on such conditions as the magistrate determines will reasonably assure the appearance of the accused unless the magistrate determines that release of the accused is likely to pose a danger to the community, the accused, or any other person.

(d) The Court of Indian Offenses may revoke its release of the defendant and order him or her committed at any time where it determines that the conditions of release will not reasonably assure the appearance of the defendant, or if any conditions of release have been violated.

§ 11.311 Subpoenas.

(a) Upon request of any party, the court shall issue subpoenas to compel the testimony of witnesses, or the production of books, records, documents or any other physical evidence relevant to the determination of the case and not an undue burden on the person possessing the evidence. The clerk of the court may act on behalf of the court and issue subpoenas which have been signed either by the clerk of the court or by a magistrate of the Court of Indian Offenses and which are to be served within Indian country over which the Court of Indian Offenses has jurisdiction.

(b) A subpoena shall bear the signature of the chief magistrate of the Court of Indian Offenses, and it shall state the name of the court, the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

(c) A subpoena may be served at any place but any subpoena to be served