

FREQUENTLY ASKED QUESTIONS:

If you have ever been arrested or a loved one has been arrested, you probably have many questions and concerns. This provides answers to many of these procedural questions.

WHAT IS A CRIMINAL CASE?

A criminal case is any action where the defendant is accused of violating criminal law(s). When a police officer files a Criminal Complaint and Statement of Probable Cause; an Affidavit for Arrest Warrant; or Criminal Summons; the Complaint will make reference to the Section of the Law and Ordinance Code that the Defendant is alleged to have violated. The Pueblo has adopted the criminal laws found in Chapter 30 (Criminal) and Chapter 66 (Traffic) of the New Mexico Statutes Annotated, and other Ordinances/Rules passed by Tribal Council.

WHAT HAPPENS FOLLOWING AN ARREST?

The Pueblo of Santa Ana Uniform Bond Schedule is used for setting bond at time of arrest. If someone has violated their terms of probation or conditions of release, the Judge will determine the bond set or issue a “No-Bond Hold”. No Bond Holds means the person cannot post a bond to be released from jail.

The Pueblo of Santa Ana makes due diligence to set all arraignment hearings at least 24-48 hours after an arrest.

HOW DO I POST BOND?

A bond may be posted at the Tribal Finance Office (**cash or money order only**) and a copy will be given to the Court. This can only be done during regular business hours between 8:00 a.m. – 4:30 p.m. Any bonds posted after regular business hours must be paid at the detention center.

After paying the bond, but before release, the defendant must be issued a Conditions of Release form. This is to ensure the defendant is informed of all the conditions he/she is agreeing to upon release from jail. Any individual posting bond for a defendant must understand that any Bond paid may not be refundable if the defendant fails to appear for hearings or does not comply with Conditions of Release. A receipt will be issued to the individual posting the bond.

If you are not able to post bond, you will remain incarcerated until your scheduled arraignment date.

WHAT HAPPENS AT ARRAIGNMENT?

The Judge will review the Criminal Complaint and Statement of Probable Cause filed with the Court by the arresting officer. At arraignment, the Judge will look at the nature and circumstances of the offenses; the character; any previous criminal history; and place of residence of the accused. The Judge will take into consideration the crime(s) charged, maximum penalties, violations of any kind in previous court mandated probation orders, and level of flight risk. The Judge will then modify or leave the bond as set or order the release of the defendant on their own recognizance.

WHAT DOES THE JUDGE DO AT ARRAIGNMENT?

The Judge will establish jurisdiction over the defendant by confirming from the documents submitted that the defendant is a member of a federally recognized tribe.

The Judge will confirm that the defendant has had the opportunity to review the Criminal Complaint and Statement of Probable Cause.

The Judge will read the defendant their rights and the defendant will have the opportunity to ask any questions regarding their rights.

The Judge will read the charges that the defendant has been charged with and will explain the maximum penalty that can be imposed for each crime if found guilty of those crimes.

The Judge will then ask the defendant to enter a plea of Guilty, Not Guilty or No Contest to each of the charges. A Not Guilty Plea moves the case forward to the Pretrial Hearing. A Guilty or No Contest Plea moves the case forward to the sentencing phase.

If the defendant enters a Guilty Plea or a No Contest Plea the defendant will have to describe his/her actions when he/she committed the crime or infraction. The Judge may not accept a Guilty Plea or No Contest Plea if the Defendant will not describe the offense committed. The Court has a responsibility to ensure that people are only convicted for crimes they actually committed.

CAN I APPEAR FOR A HEARING?

All criminal hearings, including arraignments, are public hearings conducted in the tribal council room. Anyone over the age of 18 is permitted to attend.

WHY CAN'T I SPEAK WITH THE JUDGE DIRECTLY?

The Judge enforces the rules of the Court and the Laws of the Pueblo of Santa Ana. The Judge cannot take sides so he/she cannot assist or discuss your case with you outside of the court hearing.

The Judge must hear both sides of the dispute and, based on the facts presented, make a fair and unbiased ruling. For this reason, the Judge will not engage in ex parte communications with the litigants. That means the judge will only talk about the case in court and in front of the other party, and those hearings are recorded.

This protects the integrity of the Court and ensures that the Judge remains unbiased in making a fair and just ruling based on evidence and facts presented. Each party will be given a fair and equal opportunity to present their case.

THE PRETRIAL AND SENTENCING PHASES

WHAT HAPPENS AFTER A NOT GUILTY PLEA?

If during the Arraignment the defendant enters a **Not Guilty Plea**, the Judge will set the matter for trial.

WHAT IS THE DIFFERENCE BETWEEN A BENCH AND JURY TRIAL?

- A Bench Trial is when the Judge hears the case and renders his/her own decision or
- A Jury Trial is when a panel of six (6) jurors are selected to hear the case. This panel will render their decision. A jury on the Pueblo of Santa Ana consists of Santa Ana Tribal Members over the age of eighteen (18) who live on the Pueblo.
 - If the defendant would like a jury trial, the defendant **HAS TO LET THE JUDGE KNOW** early enough so the Court can convene a jury before the trial.

WHAT HAPPENS AT THE PRE-TRIAL PHASE?

The Pre-trial hearing provides the Prosecution and the Defendant an opportunity to sit down outside of the courtroom and discuss a plea agreement. The Judge will instruct the Defendant that the prosecution is under no obligation to offer a plea agreement and the Defendant is under no obligation to accept a plea agreement.

If NO agreement is reached:

Following the meeting of the parties the Judge will inquire if the parties were able to reach an agreement. If the parties were not able to come to an agreement, the Judge will issue a pre-trial order. The order will provide the parties with deadlines to complete certain pretrial requirements including witness lists, discovery, and pretrial motions. The Judge will also set a trial date.

If parties reach a plea agreement:

If the parties agree to a Plea agreement, the Prosecutor will inform the Judge of the agreement reached. The Prosecutor or Public Defender will draft the plea agreement and all parties will sign the agreement. The Judge will confirm that both parties are accepting the terms.

However, the Judge does not have to accept the proposed plea agreement for certain legal reasons. The Judge can request the parties to revise the plea agreement and re-file. If the

Court does accept the plea agreement, the Judge will make a decision on the items left up to the Court to determine.

SENTENCING

- The Judge can impose a sentence immediately following a No Contest or Guilty plea; or the parties can request a separate sentencing hearing.
- The Judge can sentence the defendant to jail time; time served; supervised probation; unsupervised probation; fines and/or fees and; or community service.
- The Judge has the discretion to impose fines as specified in the law. If the defendant is unable to pay the fines, the fines can be converted to community service hours on the Judge's approval. The Judge will also impose court cost of \$57.00. The Judge may also impose separate community service requirements in addition to the fines and fees.

WHAT DOES IT MEAN TO RUN SENTENCES CONCURRENT?

If there is more than one conviction in the same case, the Judge may order jail time to run concurrently - sentences may be served at the same time.

WHAT DOES IT MEAN TO RUN SENTENCES CONSECUTIVELY?

Sentences must be served for each conviction separately.