

Bureau of Indian Affairs, Interior

§ 11.1005

(a) A citation to the specific section(s) of this part which gives the children's court jurisdiction of the proceedings;

(b) A citation to the section(s) of this part which the minor is alleged to have violated;

(c) The name, age, and address of the minor who is the subject of the complaint, if known; and

(d) A plain and concise statement of the facts upon which the allegations are based, including the date, time, and location at which the alleged facts occurred.

§ 11.1001 Warrant.

The children's court may issue a warrant directing that a minor be taken into custody if the court finds there is probable cause to believe the minor committed the delinquent act alleged in the complaint.

§ 11.1002 Custody.

A minor may be taken into custody by a law enforcement officer if:

(a) The officer observes the minor committing a delinquent act; or

(b) The officer has reasonable grounds to believe a delinquent act has been committed that would be a crime if committed by an adult, and that the minor has committed the delinquent act; or

(c) A warrant pursuant to § 11.1001 has been issued for the minor.

§ 11.1003 Law enforcement officer's duties.

A law enforcement officer who takes a minor into custody pursuant to § 11.1002 of this part shall:

(a) Give the following warnings to any minor taken into custody prior to any questioning:

(1) The minor has a right to remain silent;

(2) Anything the minor says can be used against the minor in court;

(3) The minor has the right to the presence of counsel during questioning; and

(4) If he or she cannot afford counsel, the court will appoint one.

(b) Release the minor to the minor's parent, guardian, or custodian and issue a verbal advice or warning as

may be appropriate, unless shelter care or detention is necessary.

(c) If the minor is not released, make immediate and recurring efforts to notify the minor's parents, guardian, or custodian to inform them that the minor has been taken into custody and inform them of their right to be present with the minor until an investigation to determine the need for shelter care or detention is made by the court.

§ 11.1004 Detention and shelter care.

(a) A minor alleged to be a juvenile offender may be detained, pending a court hearing, in the following places:

(1) A foster care facility approved by the tribe;

(2) A detention home approved by the tribe; or

(3) A private family home approved by the tribe.

(b) A minor who is 16 years of age or older may be detained in a jail facility used for the detention of adults only if:

(1) A facility in paragraph (a) of this section is not available or would not assure adequate supervision of the minor;

(2) The minor is housed in a separate room from the detained adults; and

(3) Routine inspection of the room where the minor is housed is conducted every 30 minutes to assure his or her safety and welfare.

§ 11.1005 Preliminary inquiry.

(a) If a minor is placed in detention or shelter care, the children's court shall conduct a preliminary inquiry within 24 hours for the purpose of determining:

(1) Whether probable cause exist to believe the minor committed the alleged delinquent act; and

(2) Whether continued detention or shelter care is necessary pending further proceedings.

(b) If a minor has been released to the parents, guardian or custodian, the children's court shall conduct a preliminary inquiry within three days after receipt of the complaint for the sole purpose of determining whether probable cause exists to believe the minor committed the alleged delinquent act.