

**OFFICE OF THE FEDERAL DEFENDER
EASTERN DISTRICT OF CALIFORNIA**

**FEDERAL DEFENDER
INITIAL APPEARANCE AND ARRAIGNMENT**

INITIAL APPEARANCE: Soon after your arrest, you will be brought before a Magistrate Judge. The Magistrate Judge will make sure you are the person named in the complaint or arrest warrant. He or she will tell you of the charges against you, and explain your rights. The Magistrate Judge will appoint our office to represent you, if you qualify financially.

RIGHT TO COUNSEL: You have the right to have an attorney represent you. If you can't afford to hire an attorney, the court will appoint a lawyer from the Federal Defender's Office or another attorney to represent you. In order to qualify for appointed counsel, you must complete a financial affidavit. An Assistant Federal Defender will be available to help you with the paperwork.

PRETRIAL SERVICES: Unless you are charged with illegally entering the United States, a Pretrial Services Officer will ordinarily ask to interview you before your initial appearance. This person works for the court, and wants to get information about you so he or she can make a recommendation about whether you should be held in jail or released until your trial. **YOU SHOULD ASK TO SPEAK TO A LAWYER BEFORE YOU TALK TO THE PRETRIAL SERVICES OFFICER.** If you talk to a Pretrial Services Officer before you see a lawyer, do not discuss the charges against you or any other illegal activity -- what you say will be used against you. Both the judge and the prosecutor will see the Pretrial Services report.

DETENTION OR RELEASE: See Handout on Detention Hearings. After a hearing, the Magistrate Judge will decide whether to keep you in jail until your trial, or let you post bail, or release you on other conditions. Sometimes this decision is made at the initial appearance, but sometimes the lawyer asks that a separate detention hearing be held a few days later. This gives the lawyer and defense investigator

time to develop a strong case for release.

ARRAIGNMENT: At arraignment you will be formally notified of the charges against you. Either before the initial appearance or shortly after, the prosecutor will seek an indictment from the grand jury. An indictment is a formal document that charges you with one or more federal crimes. These charges will be reviewed at the arraignment, and you will be asked to enter a plea.

In almost all cases, your attorney will enter a plea of "not guilty." You will have the chance to change your plea later, if you and your attorney decide that is best for you. A guilty plea gives up many important rights, and you should not do that until your attorney has been able to review all the evidence. A "not guilty" plea gives your legal team the chance to investigate and see if the case against you is any good. It preserves all your rights.

MAGISTRATE JUDGES AND DISTRICT JUDGES: Your initial appearance, detention hearing, and arraignment will be before a United States Magistrate Judge. At the arraignment, the Magistrate Judge may give you court dates for your trial in front of a United States District Judge. If your case is a felony, the district judge will handle most stages of your case after the arraignment. A felony is any offense punishable by more than one year. The district judge can also overrule the Magistrate Judge's decision about detention or release.

District judges are judges have life terms, appointed by the President of the United States. Magistrate Judges are chosen by the local district judges, and serve for eight years at a time.