

Nottawaseppi Huron Band of the Potawatomi

Tribal Court

Court Rules of Jury Procedure

Chapter 11

Section 1: Purpose

The purpose of this Chapter of Court Rules is to establish the procedure by which juries, in the Tribal Court, are:

1. Obtained for service;
2. Selected for service;
3. Managed and supervised during service;
4. Compensated for service;
5. The term of service; and
6. To set forth legal rules regarding challenges, instructions to the jury, deliberations and jury questions.

Section 2: Definitions

The following words and terms are defined as follows:

- A. "Alternate Jurors" whenever possible the Court shall select at least one extra juror for every panel to sit as the trier of fact in case of illness or other incapacity or disqualification of an empanelled juror. If no such disqualification occurs, then the extra juror will be eliminated by lot and will not participate in deliberations.
- B. "Challenges for Cause" each party in a civil or criminal case can challenge the fitness of any juror to be the trier of fact in the case. Examples of reasons for challenges for cause may be, but are not limited to the following:
 1. The prospective juror is related by blood or marriage to a party in the case;
 2. The prospective juror has a financial interest in the outcome of the case;
 3. The prospective juror is a party in the case;
 4. The juror, upon questioning by the Court or the parties, exhibits a bias or prejudice for or against a party;

5. The juror has a physical or mental disability which would make them unable to serve as a juror; and/or
 6. The juror has a compelling reason for being unable or unwilling to serve.
- C. "Court" means the Nottawaseppi Huron Tribal Court as the trial level court of the Tribe.
- D. "Court Clerk" refers to the Tribal Court Administrator or person designated to perform such duties by the Chief Judge or the Tribal Court Administrator.
- E. "Juror" a person selected and confirmed by the Tribal Court to sit as the trier of fact in a civil or criminal case in the Tribal Court.
- F. "Jury" a collection of jurors selected and confirmed by the Tribal Court to collectively be the fact finder in a civil or criminal case in the Tribal Court.
- G. "Jury Panel" the group of jurors selected at random from which a jury will be selected.
- H. "Party" means a person or entity who is either the plaintiff or defendant or the petitioner or respondent in a civil case and includes the Tribe and the defendant in a criminal case.
- I. "Peremptory Challenges" means that a party in a case may excuse jurors from sitting on a jury without giving a reason.
1. Each party in a civil case can excuse up to 3 jurors without stating a reason on the record; and
 2. Each party in a criminal case can excuse up to 6 jurors without stating a reason on the record.
- J. "Tribe" means the Nottawaseppi Huron Band of the Potawatomi.

Section 3. Obtaining Jurors for Service

- A. Membership-to be eligible for jury duty selection and service a potential juror must be an enrolled member of the Tribe and at least 18 years of age.
- B. The Enrollment Department of the Tribe shall create and maintain a roster of all Tribal members eligible for jury service.

- C. The Tribal Court Administrator shall develop, in consultation with the Chief Judge, a “Juror Questionnaire” to be mailed to selected eligible jurors 45 days prior to any jury trial date.
- D. Each person receiving a juror questionnaire must complete it and return it to the Tribal Court within 14 days of the initial mailing.
- E. Failure to complete and return the questionnaire can be grounds for the Court to find the prospective juror in civil contempt of Court.
- F. Any “panel” or group of eligible jurors shall consist of at least 20 persons but no more than 30 Tribal members. This panel shall be issued a summons to appear for jury duty selection. The summons is to be created by and prepared by the Tribal Court Administrator or his designee, and mailed to the panel no later than 14 days prior to the date selected for service.
- G. Jury panels shall serve for a 1 year time period after their initial selection.
- H. All members of the Tribal Council or the Tribal Court or their respective staffs shall be exempt from jury selection and jury duty.
- I. The jury panel may be replenished by random selection done by the Tribal Court Administrator as needed.

Section 4. Jury Selection

- A. All members of the jury panel present will be placed under oath by the presiding Tribal Court Judge to answer truthfully all questions put to them during the selection process.
- B. Once a jury has been selected or impaneled, the selected jurors shall take an additional oath to give careful attention to the proceedings, obey the Court’s instructions and to render a just and fair decision in accordance with the law and evidence presented.
- C. After the initial oath, the Court Clerk shall select 6 jurors to sit for initial questioning by the Court and the parties. If any juror called is dismissed, then the Clerk shall select another juror from the panel to replace that juror.
- D. The Court shall initiate the examination of jurors by:
 - 1. Identifying the parties and their counsel;
 - 2. Briefly outlining the nature of the case; and

3. Explaining the selection process.
- E. The Court may initiate questioning of the prospective jurors as to their qualifications to serve in the case at trial. The Court may allow the parties to submit questions for the Court to ask regarding juror qualifications. The Court shall allow the parties to examine the prospective jurors and the Court may:
1. Limit the number of questions that can be asked;
 2. Limit the time for examination;
 3. Allow one or more jurors to be examined apart from other jurors;
 4. Interject questions during the parties examination as it feels are relevant and necessary for fair jury selection; and
 5. Limit the examination to questions as to the basis of challenges for cause or to gather such information sufficient to enable the parties to intelligently exercise their peremptory challenges.
- F. Challenges for Cause-Any time the Court disqualifies a juror for cause, the Court shall state the reasons for the disqualification on the record but outside of the hearing of the other prospective jurors. The Court shall excuse the challenged juror and call another.
- G. Peremptory Challenges:
1. In a civil case, the plaintiff and defendant or petitioner and respondent shall each have 3 peremptory challenges;
 2. In a criminal case the prosecutor and the defendant shall each have 6 peremptory challenges; and
 3. The parties, at their discretion, may exercise their peremptory challenges throughout the examination of the jury panel. Any peremptory challenge not used will be considered waived.
- H. Selected Jury-when a number of jurors have selected, equal to the number required for a jury, plus any alternates as determined by the Court, and all challenges have been used or waived, those persons selected shall constitute the jury. Alternates will not be determined until the time right before the jury begins deliberations.

Section 5. Management and Supervision of the Jury During the Trial and Deliberations

- A. The Tribal Court Administrator or his or her designee shall be responsible for supervising the jury whenever the jury is out of the Court Room. This includes:
 - 1. Before selection;
 - 2. After instruction and before deliberations;
 - 3. During any meal time, court recesses or breaks; and
 - 4. During deliberations until final verdict.
- B. The Tribal Court Administrator or his or her designee shall be responsible for transmitting any and all communications between the jury and the Court, before, and during deliberation. All communications must be in writing.
- C. No contact with either the parties or their attorneys or witnesses shall be allowed for the jury after jury selection has begun. If jurors are being released from deliberations or from the trial for a period of time the Court shall instruct them to:
 - 1. Have no contact with the parties, counsel or witnesses during deliberations, between times of deliberations or at any other recess in the trial;
 - 2. Not to discuss the case among themselves or with anyone else or permit themselves to be exposed to any news accounts of the proceedings; and
 - 3. Not to form any opinion about the facts of the case until the case is submitted to them for deliberations.
- D. The Court for good cause may require the jury to be sequestered during deliberations. The Court shall arrange for food and shelter for the jury at the Court's expense during any period of sequestration. The Tribal Court Administrator or his or her designee shall remain with the jury during any period of sequestration.

Section 6. Compensation for Service

- A. Any person called as a juror who participates in the actual selection process shall be paid \$25.00 for a 4 hour half-day and \$50.00 for an 8 hour full day.
- B. Any person selected as a juror shall receive the compensation set forth in Section A for the duration of the Trial and deliberations.

- C. All jurors shall be paid mileage from their place of residence to the Pine Creek Reservation at the presently applicable federal mileage rate, if they travel a minimum of 10 miles roundtrip.
- D. If during the course of a trial or deliberations the jury is ordered sequestered, the Tribal Court shall be responsible for all meals, housing and transportation of jurors during the period of sequestration.

Section 7. Term of Service

- A. After their initial selection to a jury panel, jurors remain eligible to serve on a jury for 1 year from the date of their selection.
- B. After serving on a panel for the 1 year time period, the juror cannot be impaneled for a 2 year time period unless the Chief Tribal Court Judge determines otherwise.