

QUAPAW NATION

P.O. Box 765
Quapaw, OK 74363-0765

(918) 542-1853
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Resolution No. 041721-A

A RESOLUTION ENACTING THE QUAPAW NATION JUROR CODE

WHEREAS, the Quapaw Nation is a federally recognized Indian tribe (the "Nation" or the "Tribe" or "Tribal ") and is governed by the Resolution Authorizing the Quapaw Tribal Business Committee to Speak and Act in Behalf of the Quapaw Tribe of Indians-known as the "Governing Resolution" adopted by the Quapaw Indian Council on August 19, 1956, and approved by the Commissioner of Indian Affairs on September 20, 1957;

WHEREAS, the Quapaw Nation asserts Tribal governmental jurisdiction to the fullest extent recognized by law over the lands within the original Quapaw Reservation, as established as a homeland for the Quapaw Nation by the Treaty of May 13, 1833;

WHEREAS, the Governing Resolution delegates authority to the Quapaw Nation Business Committee to speak and act on the behalf of the Quapaw Nation;

WHEREAS, the Quapaw Nation Business Committee is thus empowered and obligated to transact Tribal business, including enacting resolutions, laws and policies for the best interest of the Quapaw Nation;

WHEREAS, the Quapaw Nation Business Committee find it is in the best interest of the Quapaw Nation to enact the proposed Quapaw Nation Juror Code; and,

WHEREAS, the Business Committee desires to enact the Quapaw Nation Juror Code effective on the date of this Resolution.

NOW, THEREFORE BE IT RESOLVED THAT, by the Business Committee of the Nation that the proposed Quapaw Nation Juror Code is hereby enacted as follows:

QUAPAW NATION JUROR CODE

§ 1. Jury Management System

- (A) The Court Clerk, acting under the supervision of the Quapaw Nation Court, shall develop and maintain the Jury Management System, which shall consist of the name, date of birth, and address of each person eligible to sit as a juror for trial before the Court. The Court Clerk is permitted to generate the requisite information provided herein from the following sources:
- (1) Quapaw Nation membership records;

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- (2) Quapaw Nation and enterprises human resource records; and,
 - (3) Tribal Tag records.
- (B) On April 1st of each calendar year, the Court Clerk will utilize the Jury Management System to generate a Juror Pool consisting of one hundred fifty (150) eligible jurors. The Court Clerk shall maintain the Juror Pool in electronic format, which must be used exclusively for jury selection purposes.
- (C) To be eligible to serve as a juror a person must be over eighteen (18) years of age, reside within Ottawa County, Craig County, or Delaware County, and be:
- (1) An enrolled Quapaw Nation Tribal member;
 - (2) A Quapaw Nation or enterprise employee; or
 - (3) A spouse of an enrolled Tribal member.
- (D) At least forty-five (45) days prior to a jury term, the Presiding Judge of the Quapaw Nation District Court shall determine the number of jurors necessary for the upcoming jury term. The Court shall give due consideration to the number of jurors that may be ineligible at the time the jurors are sat for trial and the alternative jurors needed to meet the needs of an upcoming jury term. The Court shall then order the Court Clerk to generate a Term Panel consisting of the determined number of jurors to meet that obligation.
- (E) At least thirty (30) days prior to a jury term, the Court Clerk shall randomly generate a Term Panel from the Juror Pool. As used within this Code, a Term Panel means all individuals that must appear for jury duty but may not be ultimately selected to sit on a jury in trial.
- (1) Once the jurors have been selected for the Term Panel, the Court Clerk shall mail each member of the Juror Panel notice which shall include their check-in date, time, and location.
 - (2) At the time of check-in, each juror shall check-in with the Court Clerk in the Court Room of the KI-HO-TA Center to go over details for the juror term.
- (F) The Court Clerk shall utilize a jury selection software approved by the Quapaw Nation Court to ensure the Juror Pool and Term Panels are made up of random samples of eligible jurors.

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§ 2. Number of Jurors

- (A) In any case before the Quapaw Nation District Court, a jury shall consist of six (6) jurors and a minimum of one (1) and as many as two (2) alternates selected from the Term Panel.
- (B) The alternate jurors shall be sworn in the same manner as jurors and shall be seated with the regular jurors, and shall attend the trial with the regular jurors and shall obey all orders and admonitions of the Court; and if the regular jurors are ordered to be kept in the custody of an officer during the trial then the alternate jurors shall also be kept with the other jurors, and except as hereinafter provided, shall be discharged upon the final submission of the cause to the jury.

§ 3. Disclosure of Personal Information about Jurors

- (A) No person shall disclose, copy, or permit any person to copy any general Term Panel list or any portion thereof except as provided in this Section.
- (B) Persons serving as jurors during a trial shall not be asked or required to give their complete residence address or telephone number in the presence of the parties.
- (C) Names and personal information concerning prospective and sitting jurors shall not be disclosed to the public outside open court, except upon order of the court. A request for disclosure of jurors' names and personal information shall be made in writing directly to the Presiding District Judge, or any district judge acting as his or her designee. The court shall order juror names and personal information to be kept confidential unless the interests of justice require otherwise.
- (D) Names and personal information concerning prospective jurors may be provided to the attorneys of record after the Term Panel has been selected and summoned, unless otherwise directed by the court. The names and information will be provided in written form only. The attorneys shall not share the jury list or information contained in the jury list except as necessary for purposes of jury selection. Following jury selection, the attorneys shall return the original jury lists and any copies to the court. Counsel shall be under a continuing duty to protect the confidentiality of juror names and personal information.

§ 4. Jury Docket

- (A) A jury term shall begin on the first day of the first trial for any number of trials scheduled to begin within five (5) days of each other.

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- (B) In the Spring and Fall a pre-jury trial docket will be held for cases requesting or demanding a jury trial. During these dockets, all cases requesting jury trial will be set for a time and date certain on the Courts Calendar for jury trial.
- (C) Once a time and date certain has been set for each jury trial on any give jury term, the Court Clerk will prepare a jury trial docket to be mailed out to all Attorney's and parties for their records and the Courts records.

§ 5. Term Panel Affirmation

- (A) Each member of the Term Panel, when reporting for duty as provided for in Section 1 of this Code, shall take and subscribe to an oath or affirmation which shall be in the following form:

AFFIRMATION

I, the undersigned, do solemnly affirm that I am a citizen of the United States and reside within Ottawa County, Craig County, or Delaware County, Oklahoma.

I further affirm that I am eighteen years of age or older.

I further affirm that I have not been convicted of a felony for which a period of ten (10) years since the completion of the original judgment and sentence has not expired, or for which I have not been pardoned.

I further affirm that I am not now adjudicated as being mentally incompetent and that I am not intellectually disabled.

(Signature or mark of Term Panel member)

Court Clerk

Date: _____

- (B) The affirmation provided for in subsection A of this section shall be administered by a Court Clerk, and once subscribed to, shall be maintained in the office of the Quapaw Nation District Court Clerk as a judicial record.

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§ 6. Call and Notice for Jurors

- (A) One (1) week before the jury term a phone call will be made and notice will be sent to the selected jurors reminding them of the upcoming term.
- (B) Once jurors are not needed and the jurors has been selected for the trial, the remaining members of the Term Panel not selected to sit on the jury shall be released, subject to call when needed for that jury term.
- (C) Pursuant to a summons for jury service, each qualified person is retained for service subject to call for that given jury term.

§ 7. Qualifications and Exemptions

- (A) It is the policy of the Quapaw Nation that:
 - (1) All persons qualified for jury service pursuant to this section have an obligation to serve on juries when summoned by the Quapaw Nation District Court, unless disqualified pursuant to Subsection C of this Section or excused pursuant to Subsection E of this Section.
 - (2) All litigants in the courts of the Quapaw Nation who are entitled to trial by jury shall have the right to trial juries selected at random from a fair cross section of the community as provided for in this Code.
 - (3) All tribal members of the Quapaw Nation and other citizens of the United States who are over eighteen years of age, who are of sound mind and discretion and of good moral character are competent to act as jurors, except as herein provided.
- (B) No person shall be excluded from service as a trial juror in the Quapaw Nation District Court account of race, color, religion, sex, national origin, or economic status.
- (C) The following persons are not qualified to serve as jurors:
 - (1) Judges of the Court of Appeals of the Quapaw Nation and all employees of the court;
 - (2) Judges of the District Court of the Quapaw Nation and all employees of the court;

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- (3) The Clerk of the Court of Appeals and all employees in his or her office;
 - (4) The Clerk of the District Court and all employees in his or her office;
 - (5) Law enforcement officers;
 - (6) Licensed attorneys of any jurisdiction;
 - (7) Any person convicted of a felony for which a period of ten (10) years since the completion of the original judgment and sentence has not expired, or for which he or she have not been pardoned, shall be eligible to serve as a juror before the Quapaw Nation District Court.
 - (8) Quapaw Nation elected or appointed officials; and,
 - (9) Elected or appointed officials of the Federal Government or of the State of Oklahoma.
- (D) The court may excuse or discharge any prospective juror selected and summoned as a juror at the request of the person, if the person is:
- (1) over seventy (70) years of age;
 - (2) a practicing physician, optometrist, dentist or veterinarian;
 - (3) a public or private school teacher;
 - (4) a parent or guardian with unattended minor children who are not in school;
or,
 - (5) a person who served in the previous year.
- (E) The Court may also excuse or discharge any prospective juror selected and summoned as a juror at the request of the person if jury service would cause undue or extreme physical or financial hardship to the prospective juror or a person under his or her care or supervision.
- (1) A person requesting to be excused based on a finding of undue or extreme physical or financial hardship shall take all actions necessary to have obtained a ruling on that request by no later than the date on which the individual is scheduled to appear for jury duty.

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- (2) For purposes of this section, “undue or extreme physical or financial hardship” is limited to circumstances in which an individual would be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the Term Panel or on the jury, incur costs that would have a substantial adverse impact on the payment of the individual’s necessary daily living expenses or on those for whom he or she provides the principle means of support, or suffer physical hardship that would result in illness or disease. Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment.
- (3) A person requesting a judge to grant an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with documentation, such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused.

§ 8. Failure to Appear for Jury Service

The authority to enforce a jury summons is an inherent power of the Quapaw Nation District Court. Summons shall be sent out for a second notice if not replied to, or if the juror does not appear for their check in date. An individual who fails to appear in person on the date set pursuant to Section 4 of this act, and who has failed to be excused or discharged, shall be in indirect contempt of court, shall have a bench warrant issued for failure to appear, and shall be punished by the imposition of a fine not to exceed One Hundred Dollars (\$100.00), a second and subsequent violation of this section shall result in a fine not to exceed Five Hundred Dollars (\$500.00). The prospective juror may be excused from paying sanctions for good cause shown or in the interests of justice. In addition to or in lieu of the fine, the court may order that the prospective juror complete a period of community service for a period no less than if the prospective juror would have completed jury service, and provide proof of completion of this community service to the court.

§ 9. Jury Selection

- (A) In selecting a jury from the Term Panel, the initial questioning of the jurors shall be conducted by the trial judge in order to determine whether each perspective juror is capable of being fair and impartial. The trial judge shall ask each panel member if they:
 - (1) are directly related to a person involved in the action, including, but not limited to, the parties, counsel, alleged victims, or any perspective witness;

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- (2) are or have been involved in any business, financial, professional, or personal relationship with a party or alleged victim;
 - (3) have had any previous involvement in a criminal or civil lawsuit or dispute with a party or alleged victims;
 - (4) have a financial or personal interest in the outcome of the action before the court; or
 - (5) have formed any opinion as to the defendant's guilt or innocence.
- (B) When the court determines that a juror is prejudiced or cannot act impartially, the juror shall be excused. After questioning by the trial judge, the parties may, at the judge's discretion, question the jurors concerning the nature of the action. The trial judge may limit such examination when the judge believes that such examination to be improper, or unacceptably time consuming.

§ 10. Oath to the Jury

After selection of the jury and prior to the opening statements of the parties, the Court shall place the jury under oath and require affirmation of the following:

AFFIRMATION OF THE JURY

"Do you, and each of you, solemnly affirm that you will well and truly try the issues submitted to you in the case now on trial and reach a true verdict, according to the law and evidence presented to you?"

§ 11. Challenges to Jurors

- (A) The plaintiff and the defendant shall each have three (3) peremptory challenges to jurors, where a selected juror can be challenged and dismissed without cause. In criminal cases where defendants are tried together, prosecution and defense shall each be entitled to one additional peremptory challenge. In cases involving multiple plaintiffs and/or multiple defendants, the trial judge shall, in his or her discretion, determine the appropriate number of peremptory challenges that may be exercised by the plaintiffs and/or defendants, but in no event shall the total number of challenges to be exercised by the plaintiffs and or defendants be less than three (3) jurors selected from the list of eligible jurors.
- (B) There shall be no limit to challenges for cause. The trial judge shall decide as to the sufficiency of all challenges for cause. Each such challenge for cause must be

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identified on the record and determined by the trial court at the time the challenge was made.

- (C) The trial judge may dismiss any juror for cause where the judge determines in his or her discretion that the juror has demonstrated a bias that would prejudice the rights of the litigants and prevent a fair and just result from trial.
- (D) All challenges to perspective jurors must be made to the trial court before the jury was empaneled and sworn. When a potential challenge for cause is discovered after the jury is sworn, and before the introduction of any evidence, the court may allow a challenge for cause to be made.

§ 12. Substantial Compliance and Conflict of Laws

- (A) Substantial compliance with the provisions of this Code shall be sufficient to prevent the setting aside of any verdict or decision rendered by a jury chosen hereunder, unless any irregularity resulted in depriving a party litigant of some substantial right; provided, however, that such irregularity must be specifically presented to the district court within thirty (30) days of the filing of a decision in the action.
- (B) This Code is to be read in conjunction and consistent with the Quapaw Rules of Civil Procedure and Quapaw Criminal Procedure Act. Should this Code conflicts with the Quapaw Rules of Civil Procedure or Quapaw Criminal Procedure Act, then the provisions of this Code shall control.

§ 13. Role of the Court and Jury

The trial judge shall instruct the jury as to the law applicable to the case. The jury shall decide the facts in accordance with the law as supplied by the trial court. The trial judge will render judgment in accordance with a jury's verdict and existing law.

§ 14. Discharge of Employee for Jury Service

- (A) No person shall be discharged from his employment because of said person's absence from his or her employment by reason of having been required to serve on a jury for the court.
- (B) An employee may not be required or requested to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Nothing in this provision shall be construed to require an employer to provide annual, vacation, or

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sick leave to such employees who otherwise are not entitled to such benefits under company policies.

- (C) Any person, firm, or corporation who discharges or causes to be discharged an employee because of said person's absence from his or her employment by reason of having been required to serve on a jury for the court shall be liable to the person so discharged in a civil action at law for both actual and punitive damages. Damages shall include all pecuniary losses suffered including, but not limited to, lost earnings, both past and future, mental anguish, and all reasonable damages incurred in obtaining other suitable employment, including the cost of relocation and retraining, if any, and a reasonable attorney fee to be determined by the court.

§ 15. Adverse Action Against Student for Jury Service Prohibited

No school, college, university, or other educational institution may take or permit to be taken any adverse academic action against a student because of the student's service on a jury or because the student was summoned for jury service.

§ 16. Fees and Mileage for Jurors

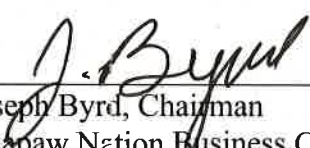
Persons summoned for jury duty shall receive \$40.00 per day of jury duty and the mileage reimbursement for travel to the court from his or her usual residence at the current rate specified in the Federal Register of the United States.

§ 17. Conduct of Jury During Trial


Once chosen as a juror, jurors shall be instructed by the trial judge that it is their duty not to converse among themselves or with anyone else on any subject connected to the trial, or to form or express an opinion thereon, until the issues of the case are finally submitted to them. Jurors may be allowed to take notes at the discretion of the trial judge. During each adjournment or recess prior to the submission of the case to the jury, jurors notes shall be collected by the bailiff and the trial judge shall instruct the jurors as to whether they may separate or must remain in the care of the bailiff or other proper court officer.

CERTIFICATION

The foregoing resolution of the Quapaw Nation was presented and duly adopted through a regular meeting of the Quapaw Nation Business Committee on April 17, 2021, with a vote reflecting 1 yes, 0 no, 0 abstaining, and 0 absent.



Joseph Byrd, Chairman
Quapaw Nation Business Committee



Callie Bowden, Vice-Chairwoman
Quapaw Nation Business Committee