



PUEBLO OF ISLETA
P.O. BOX 1270 ISLETA, NM 87022

RESOLUTION NO. 2001-134

**PUEBLO OF ISLETA
JURY TRIAL RULES AND PROCEDURES**

At a duly called meeting of the Tribal Council of the Pueblo of Isleta, the following Resolution was passed:

WHEREAS, the Isleta Tribal Council is the Legislative branch of the Pueblo of Isleta Tribal Government; Pueblo of Isleta Tribal Constitution, Article V;

WHEREAS, many persons accused of criminal offenses punishable by imprisonment are demanding a trial by jury pursuant to the Indian Civil Rights Act as codified and amended at 25 U.S.C. §§ 1301-1303;

WHEREAS, the Pueblo of Isleta lacks a mechanism for the empanelling of a jury;

WHEREAS, it is necessary and proper for the Pueblo of Isleta to ensure that persons accused of criminal offenses punishable by imprisonment are provided a jury on the basis of these rules and procedures;

NOW, THEREFORE BE IT RESOLVED, that the Pueblo of Isleta Tribal Council hereby adopts and enacts the Pueblo of Isleta Jury Trial Rules and Procedures, as follows:

**PUEBLO OF ISLETA
JURY TRIAL RULES AND PROCEDURES**

**Section 1.
Generally**

- A. Title.** The title of these procedures shall be the Jury Trial Rules and Procedures of the Pueblo of Isleta.
- B. Authority.** These rules and procedures are enacted in accordance with the inherent governmental powers of the Pueblo of Isleta, and specifically under Article V, Section 2 of the Pueblo of Isleta Tribal Constitution and Section 1-1-72 of the Pueblo of Isleta Law and Order Code.

- C. **Purpose.** The purpose of these procedures is to provide for the speedy and fair administration of justice within the Pueblo of Isleta.
- D. **Priority Over Conflicting Laws.** The terms of this enactment shall be deemed as controlling and determinative in any disputes concerning any previously adopted tribal laws, rules or procedures containing terms, which may be inconsistent with this enactment.

**Section 2.
Obtaining Jurors**

- A. **Juror Qualifications.** Any member of the Pueblo of Isleta, at least eighteen (18) years of age shall be eligible to serve on a jury panel for the Court of the Pueblo of Isleta, except any tribal member that may be currently serving in an elected or appointed position for the Pueblo of Isleta, an employee of the Pueblo of Isleta's Judiciary, any employee of the Pueblo of Isleta's law enforcement agencies, or any person convicted of a felony.
- B. **Random Selection of Jury Pool.** Jurors shall be selected at random, by the Isleta Tribal Courts. The Treasurer of the Pueblo of Isleta shall provide the Isleta Tribal Courts with an initial list of tribal members who received per capita distributions the previous year.
 - 1. The Treasurer shall make available the list of tribal members to the Court Clerk of the Pueblo of Isleta Tribal Courts annually.
 - 2. The Treasurer shall report any changes to the per capita distribution list annually to the Court Clerk or when the Court Clerk makes a formal written request to the Treasurer for an update of such list.
 - 3. The Court Clerk shall eliminate ineligible persons from the list, and maintain and use the list of eligible persons provided to the Court for the purposes of empanelling a jury when needed. The Court Clerk shall certify the list of eligible jurors utilizing the following certification form:

"I certify that the foregoing list of potential jurors was compiled without discrimination, except to eliminate persons not eligible for service as jurors pursuant to the terms of the Pueblo of Isleta Jury Trial Rules and Procedures."
 - 4. Under the supervision and in the presence of a judge, the Court Clerk shall randomly draw by lot a panel of twenty (25) persons from the certified jury list. Those persons shall be summoned to the Court for jury service and be subject to selection for a jury panel pursuant to Section 3. The six-(6) persons who will serve as the jury members, and the two (2) alternates, shall be selected from the entire panel of 25 eligible persons.
 - 5. The Isleta Tribal Court shall have the authority to compel persons before the court by issuing a summons to such persons for jury selection and service. Failure to appear upon receipt of a proper summons shall constitute contempt of court,

and the Court shall have the authority and discretion to assess a fine of up to \$ 500.00 on such person(s).

6. Any employer, who discharges, disciplines, threatens or otherwise coerces an employee who is summoned for jury selection or service shall be subject to contempt of court proceedings.

Section 3 Jury Selection

- A. **Jury Trial Requests.** Upon a timely and proper request for a jury trial, the Isleta Tribal Courts shall summon a panel of 25 potential jurors for jury duty. Failure to appear for jury duty without good cause shall constitute contempt of court.
- B. **Swearing in of Panel.** All members of the jury panel shall affirm that they will answer truthfully all questions concerning their qualifications.
- C. **Examination by the Court.** The court shall begin examination of the jurors by identifying the parties, their counsel, and briefly describing the case and explaining the purpose of the examination. The presiding judge may question the potential jurors as to their eligibility for jury service.
- D. **Examination by Counsel.** Following the examination by the court, the prosecution and defense shall examine jurors under the supervision of the court. Examination by counsel shall be limited to inquiries that form the basis for challenges for cause or preemptory challenges.
- E. **Preemptory Challenges.** The prosecution and defense shall each be entitled to one (1) preemptory challenge of a potential juror, which requires that no reason be given. The judge is without authority to deny either party's preemptory challenge.
- F. **Challenges for Cause.** The prosecution and defense shall have unlimited challenges for cause. Disqualification for cause shall be at the sole discretion of the presiding judge and may be based upon, but not limited to the following considerations:
 1. Person does not meet the qualifications required by law;
 2. The existence of a legal or personal relationship between the prospective juror and a party;
 3. Suspected or stated bias or prejudice of the prospective juror affecting the juror's ability to hear the evidence and decide the matter impartially. If the challenge is sustained, the potential juror shall be excused from jury service on that trial.
 4. Any other reason justifying dismissal for cause.
- G. **Challenges.** All challenges will be made outside the presence of the jury and shall be recorded by the Court Clerk.
- H. **Jury Selection.** When eight persons succeed an examination without elimination due to preemptory challenge or for cause, those persons shall constitute the jury. Two (2) alternates shall be chosen by lot prior to the jury retiring to begin deliberations. If the

jury panel is exhausted before a sufficient number of jurors are selected, additional jurors shall be drawn by lot from the jury list until a jury is selected.

- I. **Exclusion and Excusals.** Any person not meeting the qualification requirements contained in these rules and procedures may be excluded from jury service by the presiding judge. The presiding judge shall have the power to excuse otherwise eligible persons from jury duty based upon traditional activities within the community, sickness, disability, or for other good cause shown.

Section 4 Jury Preparation

- A. **Oath.** The Court shall administer an oath to each Juror that he or she will faithfully execute their duties as jurors.
- B. **Preliminary Jury Instructions.** The Court shall instruct the jury as to its duties and conduct as well as the legal principles governing the case.
- C. **Jury Instructions.** Prior to the jury retiring to begin deliberations, the presiding judge shall instruct the jurors as to the elements of the crime prosecuted. The presiding judge shall provide such written instructions to the jury for reference as they deliberate. The prosecution and defense shall submit proposed jury instructions to the Court for review and approval at pre-trial conference. This provision does not limit the authority of the Court to develop standardized jury instructions subject to the approval of the Isleta Tribal Council.

Section 5 Jury Deliberations

- A. **Deliberations.** After the jury receives its instructions, the presiding judge shall direct that the 6-member jury retire in a designated room to deliberate. The jury shall select from amongst themselves a foreperson. The persons designated as alternates shall not be allowed to enter the designated room or otherwise participate in such deliberations. However, the alternates may not be excused until a verdict has been reached. No court personnel or any other person shall be allowed into the jury deliberation room.
- B. **Materials Used During Deliberations.** The Court shall not allow the jury to use any materials, notes or any other evidence during their deliberations. The jury must render their decision based upon their recollection of the trial proceedings and the written instructions.

Section 6 Juror Conduct

- A. **Juror Conduct.** The following conduct is prohibited while persons serve on a jury:

1. Jurors may not discuss any aspect of the case or trial between themselves or with any other persons including their family and household members until the trial is brought to a conclusion;
2. Jurors may not take notes of the trial process and presentation.

Section 7 Verdict

- A. **Verdict In Writing.** The verdict of the jury shall be in writing, signed by the foreperson of the jury and returned to the judge in open court. The presiding judge shall review the written verdict and return such verdict to the foreperson who shall be required to read such verdict to the accused and for the record.
- B. **Verdicts in Criminal Cases.** Jury verdicts in criminal cases must be unanimous. All six (6) persons must agree upon the guilt of the accused.

Section 8 Discharge of Jury

- A. **Discharge.** The jury shall be discharged when:
 1. Its verdict has been recorded; or
 2. If the presiding judge has determined, after the passing of such time, that it appears that there is no reasonable probability that the jurors will reach a unanimous decision; or
 3. A necessity exists for their discharge.

Section 9 Jury Tampering

- A. **Jury Tampering.** It shall be unlawful for any party or any representative of the party, or any other person to attempt to influence a juror's vote by the use of threats, coercion, or other inducement, or to influence the selection or drawing of jurors other than in accordance with law. Any person violating this provision shall be held in contempt of court, pay a fine of \$ 500.00, sentenced to seven (7) days in jail and pay restitution to the Pueblo for the costs of such incarceration including the costs of empanelling another jury.

Section 10 Right to a Jury Trial

- A. **Right to a Jury Trial.** A person shall be entitled to a trial by jury for criminal offenses punishable by imprisonment only. A person shall not be entitled to a trial for criminal offenses punishable only by monetary fines.
- B. **Jury Demand.** A demand for a jury trial must be made at the time of arraignment. The presiding judge shall ensure that the accused is informed of their right to a jury trial at the time of arraignment. If the accused understands his/her right to demand a jury trial

and determines to waive such right, the court shall ensure that the decision of the accused is properly recorded. All criminal trials shall be tried by the Court without a jury except in cases where the defendant has been granted a jury trial.

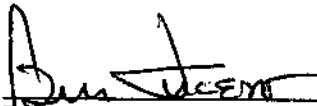
- C. **Issues to be Decided.** In trials without a jury, the presiding judge shall hear and determine all issues of fact and law. In trials with a jury, the jury shall determine all issues of fact, and the presiding judge shall determine all issues of law.

**Section 11
Savings Clause**

- A. **Severability.** In the event that any provision of these Rules and Procedures is declared invalid or unconstitutional by a court of competent jurisdiction, all other provisions shall not be affected and shall remain in full force and effect. The Isleta Tribal Court shall ensure that the Isleta Tribal Council is placed on notice of any constitutional challenge to any provision contained in these Rules and Procedures to afford the Isleta Tribal Council an opportunity to defend its enactment.

CERTIFICATION

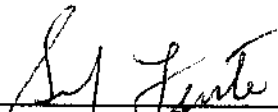
We, the undersigned, tribal officials of the Pueblo of Isleta, do hereby certify that the foregoing resolution was passed at a duly called meeting of the Tribal Council of the Pueblo of Isleta, held on the 14 day of NOVEMBER, at which a quorum was present with 10 voting for, 0 opposing and 0 abstaining.



Ben Lucero, President
Isleta Tribal Council



Alvino Lucero, Governor
Pueblo of Isleta



Seferino Lente, Secretary
Isleta Tribal Council