



# NHBP TRIBAL COURT

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

2221 1 ½ MILE RD. • FULTON, MI 49052

P: 269.729.5151 • F: 269.729.4826 - ORI NO. MID0077J

## COURT RULES OF JURY PROCEDURE CHAPTER 11

### TABLE OF CONTENTS

Section 1. Purpose.....	2
Section 2. Definitions.....	2
Section 3. Obtaining Jurors for Service in Civil Matters .....	4
Section 4. Obtaining Jurors for Service in Criminal Matters .....	5
Section 5. Access to Juror Questionnaires.....	7
Section 6. Contempt of Court .....	7
Section 7. Jury Selection .....	7
Section 8. Management and Supervision of the Jury During the Trial and Deliberations .....	9
Section 9. Compensation for Service .....	10
Section 10. Term of Service .....	10
Section 11. Short Title, Effective Date and Citation Format .....	10
<b>CERTIFICATE OF ADOPTION .....</b>	<b>11</b>

**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 procedures by which fair and impartial juries are selected for the Nottawaseppi Huron Band of the Potawatomi Tribal Court.

**Section 2. Definitions**

The following words and terms are defined as follows:

- A. *“Alternate Jurors”* whenever possible the Court shall select at least one (1) 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 shall be eliminated by lot and shall not participate in deliberations.
- B. *“Band”* and *“Nation”* and *“Tribe”* are synonymous and mean the Nottawaseppi Huron Band of the Potawatomi (NHBP).
- C. *“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 juror, upon questioning by the Court or the parties, exhibits a bias or prejudice for or against a party or an issue;
  - 2. The prospective juror is a party in the case;
  - 3. The prospective juror served as a juror in a related civil action, or as a juror in a prior criminal action related to the current action;
  - 4. The prospective juror served as a juror in a civil action, or as a juror in a prior criminal action to a party;
  - 5. The prospective juror has been involved as an adverse party, adverse witness, attorney, or complaining witness in any civil or criminal case involving the parties;

6. The prospective juror is a witness on behalf of any party, or has any personal knowledge of the subject of the trial beyond that which is held by the members of the tribal community;
  7. The prospective juror is an immediate family member to a party;
  8. The prospective juror has a financial interest in the outcome of the case;
  9. The juror has a physical or mental disability which would make them unable to serve as a juror;
  10. The prospective juror has been previously convicted of a felony; and or
  11. For any good cause shown.
- D. “*Court*” means the Nottawaseppi Huron Tribal Court as the trial level court of the Tribe.
- E. “*Court Clerk*” refers to the Tribal Court Administrator or person designated to perform such duties by the Chief Judge or the Tribal Court Administrator.
- F. “*Juror*” means 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.
- G. “*Jury*” refers to 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.
- H. “*Jury Panel*” refers to the group of jurors selected at random from which a jury will be selected.
- I. “*Immediate Family Member*” means: domestic partners; parents; grandparents; children; step-children; foster children; grand children; siblings; mother-in-law; father-in-law; sisters-in-law; brothers-in-law.
- J. “*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.
- K. “*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 three (3) jurors without stating a reason on the record; and
  2. Each party in a criminal case can excuse up to three (3) jurors without stating a reason on the record.

- L. “*Tribal Citizen*” and “*Tribal Member*” are synonymous and mean a person enrolled at the Nottawaseppi Huron Band of the Potawatomi (NHBP).

**Section 3. Obtaining Jurors for Service in Civil Matters**

- A. The Jury Pool for civil cases shall be comprised of Tribal Citizens enrolled at the Nottawaseppi Huron Band of the Potawatomi who are at least eighteen (18) years of age.
  - 1. All Tribal Citizens who are members of the Tribal Council or who work for the Tribal Court shall be exempt from jury selection and jury duty.
- B. On an annual basis, the Court Clerk shall establish a Jury Panel.
- C. On this annual basis, the Court Clerk shall request from the Enrollment Department of the Tribe a roster of all Tribal Citizens eligible for jury service.
  - 1. The Court Clerk shall, through a random selection process, establish a Jury Panel of twenty-five (25) Tribal Citizens.
    - a. Jury Panels shall serve for a one (1) year time period after their initial selection.
  - 2. The Court Clerk shall, in consultation with the Chief Judge, develop and send notice to the individuals randomly selected that:
    - a. The individual has been randomly selected for a Jury Panel;
    - b. Service on the Jury Panel is for one (1) year;
    - c. If a jury is requested in a civil case, the Court shall:
      - i. Mail a Juror Questionnaire forty-five (45) days before the date set for trial that they must complete and return within fourteen (14) days; and
      - ii. Mail a Summons to appear for jury duty selection fourteen (14) days before the date set for trial.
    - d. Failure to complete and return the Juror Questionnaire or appear for jury duty may be grounds for the Court to find the prospective juror in civil contempt of Court.
- D. If a jury trial is requested in a civil case, the Court Clerk shall, in consultation with the Chief Judge:

1. Develop a Juror Questionnaire and mail the Juror Questionnaire not less than forty-five (45) days before the date set for trial
  - a. The Court Clerk may randomly select additional jurors if any of the individuals in the Jury Panel have been excused pursuant to this Court Rule.
2. Develop and mail a Summons to appear for jury duty selection fourteen (14) days before the date set for trial.
3. Provide notice with the Juror Questionnaire and Summons that failure to complete and return the Juror Questionnaire or appear for jury duty may be grounds for the Court to find the prospective juror in civil contempt of Court.

#### **Section 4. Obtaining Jurors for Service in Criminal Matters**

- A. Pursuant to Nottawaseppi Huron Band of the Potawatomi Resolution No. 03-17-16-05 § 2 (e), the Jury Pool shall be a fair cross section of the community that does not systematically exclude any distinctive group in the community.
  1. For the purposes of selecting individuals eligible for jury service in criminal cases, the community shall be defined as Tribal Citizens, residents of the Tribal land of the Nottawaseppi Huron Band of the Potawatomi and employees of the Nottawaseppi Huron Band of the Potawatomi Tribal Government, the entity that collectively, through the branches of government, adopts, implements and facilitates the adoption, enforcement and accountability of the laws, programs and traditions that govern the land, residents and visitors of Nottawaseppi Huron Band of the Potawatomi.
  2. The following individuals of the community as defined above are eligible for jury service in criminal cases:
    - a. All Tribal Citizens enrolled at the Nottawaseppi Huron Band of the Potawatomi who are at least eighteen (18) years of age;
    - b. All residents of Nottawaseppi Huron Band of the Potawatomi Housing who are at least eighteen (18) years of age; and
    - c. All employees of the Nottawaseppi Huron Band of the Potawatomi Tribal Government who are at least eighteen (18) years of age except for:
      - i. Members of Tribal Council;
      - ii. Tribal Court Judges;

- iii. Officers or employees of the Tribal Court; and
- iv. Employees of the Police Department, Including any detention center personnel.

B. On an annual basis, the Court Clerk shall establish a Jury Panel for criminal cases.

C. On this annual basis, the Court Clerk shall request:

- 1. A roster of all Tribal Citizens who are at least eighteen (18) years of age from the Enrollment Department;
- 2. A roster of all individuals who are residents of Tribal Housing who are at least eighteen (18) years of age from the Housing Department.
- 3. A roster of all individuals who are employees of the Tribal Government who are at least eighteen (18) years of age from the Human Resources Department.
  - a. The individuals exempted above shall not be included in this roster.
- 4. The Court Clerk shall, through a random selection process, establish a Jury Panel of twenty-five (25) individuals.
  - a. Jury Panels shall serve for a one (1) year time period after their initial selection.
- 5. The Court Clerk shall, in consultation with the Chief Judge, develop and send notice to the individuals randomly selected that:
  - a. The individual has been randomly selected for a Jury Panel;
  - b. Service on the Jury Panel is for one (1) year;

D. If a jury is requested in a criminal case, the Court shall:

- 1. Mail a Juror Questionnaire forty-five (45) days before the date set for trial that they must complete and return within fourteen (14) days; and
  - a. The Court Clerk may randomly select additional jurors if any of the individuals in the Jury Panel have been excused pursuant to this Court Rule.
- 2. Mail a Summons to appear for jury duty selection fourteen (14) days before the date set for trial.

3. Provide notice with the Juror Questionnaire and Summons that failure to complete and return the Juror Questionnaire or appear for jury duty may be grounds for the Court to find the prospective juror in civil contempt of Court.

### **Section 5. Access to Juror Questionnaires**

The only persons allowed to examine complete jury questionnaires shall be:

- A. Presiding judges of the Court;
- B. Tribal Court staff;
- C. Parties to the action in which the jurors are called to serve and their attorneys; and
- D. Any other person(s) expressly authorized access by other Court Rules or by written order of the Court.

### **Section 6. Contempt of Court.**

The Court may hold an individual in contempt of Court for the following acts or omissions:

- A. Failing to properly complete and return the Juror Questionnaire;
- B. Failing to attend Court when called for jury duty, or as otherwise directed by the Court at times specified without prior permission of the Court;
- C. Refusing to take an oath or affirmation;
- D. Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person to evade jury service or to be wrongfully discharged;
- E. Tampering with a jury list, jury selection box, or any other jury selection apparatus; or
- F. Doing any act designed to subvert the purpose of these Court Rules.

### **Section 7. Jury Selection**

- A. All members of the jury panel present ~~will~~ shall 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 six (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
1. Any challenge may be made for cause by either party during the selection of the jury. The challenge must specify both the facts constituting cause and the provision of these Rules under which challenge is made.
  2. 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 three (3) peremptory challenges;



2. In a criminal case the prosecutor and the defendant shall each have three (3) 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 been 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 8. 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 9. 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 if they are not paid by their employer for jury service.
- B. Any person selected as a juror shall receive the compensation set forth in Section 8(A) for the duration of the Trial and deliberations.
- C. All jurors traveling more than 100 miles roundtrip from their place of residence to the Pine Creek Reservation shall be paid \$25.00 to assist with travel costs.
- 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 10. Term of Service**

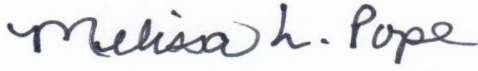
- A. After their initial selection to a jury panel, jurors remain eligible to serve on a jury for one year (1) year from the date of their selection.
- B. After serving on a panel for the one year (1) year time period, the juror cannot be impaneled for a two (2) year time period unless the Chief Tribal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

### **Section 11. Short Title, Effective Date and Citation Format**

- A. **Short Title.** The short title for these *Rules* is “Rules of Jury Procedure.”
- B. **Effective Date.** These *Rules* become effective when adopted by the Chief Judge of the Tribal Court.
- C. **Citation.** The official abbreviated citation form to these *Rules* is: NHBPCR Chapter 11.

**CERTIFICATE OF ADOPTION**

The Chief Judge of the Tribal Court adopts the above *Chapter of Court Rules* on June 6, 2016.



\_\_\_\_\_  
Hon. Melissa L. Pope, Chief Judge

\_\_\_\_\_  
June 6, 2016

Date of Adoption

**JUDICIAL HISTORY**

The Chief Judge adopted the *Court Rules of Jury Procedure* on November 11, 2011.  
Substantive amendments were adopted on June 6, 2016.