

JURORS

Table of Contents

| | |
|---|---|
| Section 1. Jury pool..... | 2 |
| Section 2. Random Selection | 2 |
| Section 3. Drawing jury panels..... | 2 |
| Section 4. Certifying and Juror Names | 3 |
| Section 5. Delivery of envelopes | 3 |
| Section 6. Sealing and retaining juror name cards | 4 |
| Section 7. Summoning Jurors..... | 4 |
| Section 8. Jury Panel – oath or affirmation..... | 4 |
| Section 9. On-call systems jurors..... | 5 |
| Section 10. Selecting trial jurors from panel..... | 5 |
| Section 11. Qualifications and exemptions of jurors..... | 5 |
| Section 12. Substantial compliance..... | 7 |
| Section 13. Number of jurors..... | 7 |
| Section 14. Challenges to jurors | 7 |
| Section 15. Role of the court and jury | 7 |
| Section 16. Jury Selection..... | 7 |
| Section 17. Oath to the jury | 8 |
| Section 18. Discharge of employee for jury service | 8 |
| Section 19. Asking jurors their address or telephone number in presence of defendant prohibited | 9 |
| Section 20. Adverse action against student for jury service prohibited | 9 |
| Section 21. Fees and mileage for jurors | 9 |
| Section 22. Conduct of jury during trial | 9 |

Section 1. Jury pool

- A. Each year, during the first week in November, or soon thereafter in the event of a conflict, or at any time at the direction of the Chief Judge of the District Court, a District Judge and the Court Clerk of the District Court, or a deputy designated by the Court Clerk, shall select a sufficient number of eligible jurors from a list to be compiled of all qualified jurors as described in subsection B of this Section for service in jury trials conducted in the District Court for the ensuing calendar year. The selection of the eligible jurors shall be done in the manner provided in this Title. The list of eligible jurors so selected shall be no less than 20 eligible jurors, but can be more than 100 jurors depending upon the needs of the District Court during the ensuing calendar year as determined by the Chief Judge or a District Judge.
- B. In order to determine all persons eligible for jury service, the following lists of qualified jurors shall be provided to the Court Clerk on or before September 30 of each year:
1. The Choctaw Nation Finance, Membership and/or IT Departments shall develop and supply a list of the names and addresses of all members over eighteen (18) years of age that have registered a vehicle with the State of Oklahoma for the purpose of obtaining a Choctaw Nation license plate for such vehicle from the State of Oklahoma during the preceding year. If a vehicle registration reflects joint ownership of the vehicle, all of the registered owners should be separately included on the list to be compiled.
 2. The Clerk of the District Court shall supply a list of all persons over eighteen (18) years of age, irrespective of Choctaw Nation membership, who have voluntarily registered as prospective jurors.
- C. Each list identified in section B of this Section shall contain, insofar as is known, the full name, date of birth, actual place of residence and mailing address for each person listed.
- It shall be the duty of the Court Clerk to maintain the list of eligible jurors at all times.

Section 2. Random Selection

- A. Random selection may be processed by random selecting from a Jury Selection software of the District Court.

Section 3. Drawing jury panels

- A. At the time specified in Section 1(A) of this Title, the Chief Judge or a Judge of the District Court, and the Court Clerk will randomly select all of the jurors eligible for service in jury trials for the upcoming calendar year by random by the District Court Jury Selection software. At least twenty (20) days prior to each jury docket of the District Court, the Chief Judge or a District Judge shall determine the number of jurors believed to be reasonably necessary for jury service during the upcoming jury docket, and shall order the Court Clerk to randomly select such number of names from the eligible jurors previously identified in the manner specified in Section 10 of this Title of this Section. The eligible jurors randomly selected shall be known as the general panel of jurors for service for the respective jury docket.

- B. Jurors are selected when the Choctaw Nation exercises tribal jurisdiction over crimes of domestic violence pursuant to the authority of 25 USC § 1304 shall be known as a special panel of jurors for service for the respective jury docket.
- C. The Court Clerk shall maintain a list of the selected names at all times in a confidential manner. Only the Chief Judge, a District Judge, the Court Clerk, or a deputy appointed by the Court Clerk, or other court staff as requested or permitted by the Chief Judge shall be present for the random selection of the general or special panel of jurors. The persons attending such selection shall not divulge the name of any person that may be selected as a prospective juror to any person.
- D. The Chief Judge or a District Judge may order an additional selection of names for the completion of a jury, the impaneling of a new jury or otherwise if additional random selection(s) shall become necessary; however, such prospective jurors shall be available only as special prospective jurors and shall be discharged as soon as their services are not further needed. The District Court may excuse or discharge any person selected and summoned as a juror, whenever such action shall be deemed expedient or in the best interest of the court or the administration of justice.
- E. No person may be required, over his objection, to render service as a juror for more than a total of twenty (20) working days in any calendar year unless, when such time limit is reached, he or she is sitting on a jury panel engaged in the consideration of a case, in which event the juror shall be excused when such case is terminated. However, if the district court is of the opinion that the jury business of a jury docket fixed by the court may be concluded within six (6) days, the judge may require a jury, or a juror, to remain until the termination of said jury service. Persons summoned for jury service need not be required to serve during previously fixed days or weeks or a docket fixed by the court for jury trials, but they may be recalled from time to time as the needs of the court require without regard to the docket term fixed by the court for jury trials for which they were originally summoned.

Section 4. Certifying Juror Names

The cards containing the names of prospective jurors randomly selected for the general or special panel of jurors shall be certified under the hand of the Court Clerk and the supervising Judge and the list shall be sealed in an envelope and endorsed “Jurors for the Jury Docket of the District Court scheduled to commence on” (filling in the blank with the appropriate date). The District Clerk shall sign his or her name across the seal of the envelope.

Section 5. Delivery of envelopes

The Chief Judge or a District Judge shall supervise the selection process of the jury panels, and shall deliver such envelope to the Court Clerk and shall administer to the Court Clerk each of his or her deputies an oath in substance as follows: “You and each of you do solemnly swear that you will not open the jury envelope now delivered to you, nor permit them to be opened, until the time prescribed by law, nor communicate to anyone the name or names of persons appearing on the jury panel until the time it shall be published, and that you will not, directly or indirectly,

converse or communicate with anyone selected as juror concerning any case pending for trial in the district court at the next jury docket, so help you God.”

Section 6. Sealing and retaining juror name cards

The Court Clerk shall retain said envelopes securely and unopened, until otherwise directed by the District Court.

Section 7. Summoning jurors

The District Court Clerk shall summon all persons for jury service by mailing a copy of such summons containing the time, place, and the name of the court upon which said persons are required to attend, by certified mail, return receipt requested, or as directed by the court, not less than ten (10) days before the day said person is to appear in the court. The District Court Clerk shall make a return of such service by filing an affidavit stating the date of mailing and type of mail used in sending the summons.

Section 8. Jury panel—oath or affirmation

A. Each member of the general or special jury panel, when reporting for duty as provided for in Section 9 of this title, shall take and subscribe to an oath or affirmation which shall be in substantially the following form:

OATH

I, the undersigned, do solemnly swear or affirm that I am a citizen of the United States and a resident of the territorial jurisdiction of the Choctaw Nation of Oklahoma. I further swear or affirm that I am eighteen years of age or older.

I further swear or 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 swear or affirm that I am not now adjudicated as being mentally incompetent and that I am not mentally retarded.

(Signature or mark of general jury panel member)

(Signature of court clerk) _____ (Date)

B. The oath or affirmation provided for in subsection A of this section shall be administered by a Judge assigned to the District Court, and once subscribed to, shall be maintained in the office of the District Court clerk as a judicial record.

Section 9. On-call systems jurors

- A. When an on-call system is implemented by order of the district court, each juror retained for services subject to call shall be required to contact a the District Court Clerk's Office for information as to the time and place of his or her next assignment.
- B. For purposes of this section, "on-call system" means a method whereby the court estimates the number of jurors required for a jury docket and those jurors not needed during any particular period are released to return to their home or employment subject to call when needed.
- C. Pursuant to a summons for jury service, each qualified person is retained for service subject to call.

Section 10. Selecting trial jurors from panel

Trial Jurors shall be selected by Jury selections software.

Section 11. Qualifications and exemptions of jurors

- A. It is the policy of the Choctaw Nation of Oklahoma that all litigants in the courts of the Choctaw Nation of Oklahoma 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 in the district or division wherein the court convenes.
- B. It is the policy of the Choctaw Nation of Oklahoma that all tribal members of the Choctaw Nation of Oklahoma and other citizens of the United States who are over eighteen years of age and have resided within the territorial jurisdiction of the Choctaw Nation of Oklahoma for a period of at least thirty (30) days, who are of sound mind and discretion and of good moral character are competent to act as jurors, except as herein provided, whether or not said person is a member of the Choctaw Nation of Oklahoma.
- C. It is further the policy of the Choctaw Nation of Oklahoma that all people qualified for jury service pursuant to this section have an obligation to serve on trial juries when summoned by the courts of the Choctaw Nation, unless excused.
- D. No person shall be excluded from service as a trial juror in the District Court of the Choctaw Nation of Oklahoma on account of race, color, religion, sex, national origin, or economic status.
- E. The following persons are not qualified to serve as jurors:
 - 1. judges of the Court of Appeals of the Choctaw Nation and all employees of the court;
 - 2. judges of the District Court of the Choctaw Nation and all employees of the court;

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 and peacemakers of the peacemaking court;
 7. persons who have been convicted of any felony or crime involving moral turpitude, provided that when such conviction has been vacated, overturned upon appeal, or pardoned or when any such person has been fully restored to his civil rights by the jurisdiction wherein such conviction occurred, the person shall be eligible to serve as a juror;
 8. Choctaw Nation elected or appointed officials, not to include employees of the Choctaw Nation of Oklahoma; and
 9. Elected or appointed officials of the Federal Government or of the State of Oklahoma.
- F. 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. persons who have served as a juror during the last two (2) immediately preceding calendar years in the courts of the Choctaw Nation of Oklahoma. .
- G. 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. A judge of the court for which the individual was called to jury service shall make undue or extreme physical or financial hardship determinations. The authority to make these determinations is delegable only to judges of the Choctaw Nation of Oklahoma. 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. 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 jury pool 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. 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.

H. Any tribal member of the Choctaw Nation of Oklahoma, employee or any other person residing within the territorial jurisdiction of the court may serve as a juror if he or she volunteers to do so in writing.

Section 12. Substantial compliance

Substantial compliance with the provisions of this title shall be sufficient to prevent the setting aside of any verdict or decision rendered by a jury chosen hereunder, unless the irregularity in drawing, and summoning, or impaneling the same 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.

Section 13. Number of jurors

In any case before the Choctaw Tribal District Court, a jury shall consist of six (6) jurors plus (1) one alternate selected from the current list of eligible jurors as provided for herein.

Section 14. Challenges to jurors

The plaintiff and the defendant may challenge and have dismissed not more than three (3) jurors selected from the list of eligible jurors without cause. There shall be no limit to challenges for cause. The trial judge shall decide as to the sufficiency of all challenges for cause. In cases involving multiple plaintiffs and/or multiple defendants, the trial judge shall, in his or her discretion, determine the appropriate number of challenges without cause 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.

Section 15. 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.

Section 16. Jury selection

A. In selecting a jury from among the panel members, the initial questioning of the jurors shall be conducted by the trial judge in order to determine whether each prospective juror is capable of being fair and impartial. Questions to be asked by the trial judge include whether a panel member:

- a) is directly related and a person involved in the action, including, but not limited to, the parties, counsel, alleged victims, or any perspective witness;
- b) is or has been involved in any business, financial, professional, or personal relationship with a party or alleged victim;
- c) has had any previous involvement in a criminal or civil lawsuit or dispute with a party or alleged victims;
- d) has a financial or personal interest in the outcome of the action before the court; or
- e) has formed an opinion as to the defendant's guilt or innocence.

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.

B. 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. Each party shall have unlimited challenges for cause. Each such challenge for cause must be identified on the record and determined by the trial court at the time the challenge was made. Each party shall have three (3) peremptory challenges. In criminal cases where defendants are tried together, prosecution and defense shall each be entitled to one additional peremptory challenge. In civil cases involving multiple parties, additional challenges may be allowed at the discretion of the court.

Section 17. Oath to jury

After selection of the jury and prior to the opening statements of the parties, the court shall place the jury under oath or affirmation

OATH TO THE JURY

Do you, and each of you, solemnly swear (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, so help you God? (Or, this you do affirm under the penalties of perjury?)

Section 18. 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. 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.

Section 19. Asking jurors their address or telephone number in presence of defendant prohibited

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 defendant.

Section 20. 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.

Section 21. Fees and mileage for jurors

Jurors and persons summoned for jury duty shall receive \$100.00 per day of jury duty and the current mileage reimbursement rate to and from his or her usual residence to the court at the rate specified in the Federal Register of the United States.

Section 22. Conduct of jury during trial

Once empaneled, jurors shall be instructed by the trial judge that it is their duty not to converse among themselves or with anyone else on the subject connected with 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, in the discretion of the trial court. 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 case of the bailiff or other proper court officer.