

ISLETA TRIBAL COURT JURY TRIALS

On November 14, 2001, the Isleta Tribal Council passed Resolutions 2001-134 and 2001-135, which govern jury trials in the Tribal Court. These resolutions may affect you either as a juror or as a criminal defendant.

Because you may be called as a potential juror in the near future, you should know your rights and duties. This article will tell you what you need to know about the Pueblo of Isleta Tribal Court jury system. According to the Tribal Council's resolutions:

1. A person accused of a crime may have a jury trial only if the crime is **punishable by jail**. There is no right to a jury trial in civil cases.
2. A person who wants a jury trial must request a jury at the time of arraignment.
3. Juries will have six members and two alternates. Prospective jurors will be randomly chosen.
4. You are qualified to be a juror if you are a member of the Pueblo and are at least eighteen years old.
5. Even if you are otherwise qualified, you may not serve on a jury if you are an elected or appointed official, you work for the Tribal Court, you work for the Pueblo's Police or Wildland department or wild land, or you have been convicted of a felony. If you fall into any of these categories and are summoned to serve on a jury trial, you must appear and tell the Court why you are not qualified to serve. If you do not appear, the Court may fine you up to \$500.00.
6. Even if you are qualified to be a juror, the Court may disqualify you from jury duty if you have a legal or personal relationship with one of the parties, you are biased or prejudiced in some way (so that you will not be able to decide the case fairly), or for any other reason justifying dismissal. If you fall into any of these categories and are summoned to serve on a jury trial, you must appear and tell the Court why you should be disqualified. If you do not appear, the Court may fine you up to \$500.00.

7. The Court may excuse otherwise qualified individuals if they are participating in traditional activities within the community, if they are ill, if they are disabled, or for any other good reason. If you fall into any of these categories and are summoned to server on a jury trial, you must appear and tell the Court why you should be excused. If you do not appear, the court may fine you up to \$500.00.
8. Serving on a jury is your legal and civic duty – if you are summoned by the Court to serve on a jury, you must appear when summoned. If you do not come to Court for jury selection and service, the Court may fine you up to \$500.00.
9. Your employer may not punish you in any way if you are summoned to jury duty. Any employer who discharges, disciplines, threatens otherwise coerces an employee who is to serve jury duty, may be held in contempt of court and penalized.
10. Jurors shall be paid \$50.00 per day for their jury service.
11. The Defendant who wants a jury trial will not pay any fees before the trial. However, if the Defendant is found guilty by a jury, the Defendant will pay Restitution to the Pueblo of Isleta for the cost of the trial. The restitution will be in addition to any fines or other sentencing requirements, and will include \$50.00 per trial day for court costs and \$50.00 per day per juror. (For example, a person convicted in a jury trial that lasts one day will be required to pay \$450.00 restitution: \$50.00 court costs + (8 jurors x \$50.00) = \$450.00.)

If you have any questions about juries or your rights or duties, please call the Tribal Court at 505-869-9699 for more information.



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.

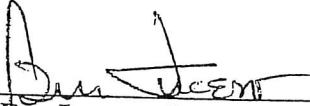
- C. **Issues to be Decided.** In trials without a jury, the presiding judge shall hear and determine all issues of fact and law. In trials with a jury, the jury shall determine all issues of fact, and the presiding judge shall determine all issues of law.

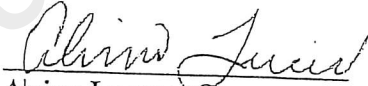
Section 11 Savings Clause


- 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



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

2001-
RESOLUTION NO. 135

JUROR COMPENSATION AND RESTITUTION FOR COURT COSTS

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

WHEREAS, the Isleta Tribal Council adopted Resolution No: 98-57 on the matter of Court Costs and Juror Compensation for both criminal and civil matters;

WHEREAS, the Isleta Tribal Council hereby amends Resolution No. 98-57 with regard to criminal cases in order to ensure that defendants may exercise their right to a jury trial without precondition;

WHEREAS, the cost of judicial prosecution of anyone found guilty of a criminal offense is an additional cost and burden upon the Pueblo of Isleta by the criminal conduct at issue and it is appropriate that a person convicted of a criminal offense make full restitution to the Pueblo for the costs associated with the criminal offense committed by such person.

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 98-57 is hereby amended by deleting Subsection A and providing that the remainder of said resolution shall apply to the conduct of civil jury trials only;

THEREFORE, BE IT FURTHER RESOLVED that the following rules shall apply with respect to criminal prosecutions by the Pueblo of Isleta in addition to the Pueblo of Isleta Jury Rules and Procedures adopted by Resolution _____:

- A. Each member of a jury panel called to serve in a criminal matter who in fact serves upon a jury shall be entitled to compensation at a rate of Fifty Dollars (\$ 50.00) per day.
- B. No monetary charge or other condition shall be imposed upon the right of any criminal defendant to exercise his or her right to be proven guilty of

Any offense charged through trial in the Pueblo of Isleta Tribal Court or the defendant's exercise of his or her right to demand a jury trial in any such proceeding with respect to a crime punishable by imprisonment.

- C. In recognition of the costs and financial burden placed upon the Pueblo of Isleta and its Tribal Members by the criminal conduct of any person convicted in a proceeding before the Pueblo of Isleta Tribal Court, in addition to any penalty for such conduct through the Pueblo of Isleta Tribal Court pursuant to the Pueblo's Law and Order Code, a person convicted of any crime in the Tribal Court shall be required to make restitution to the Pueblo in the amount of (i) Fifty Dollars (\$50.00) per trial day for the time and expense of the Tribal Court Judge and staff; and (ii) the aggregate amount of juror compensation paid with respect to any such criminal trial at which said defendant was convicted.

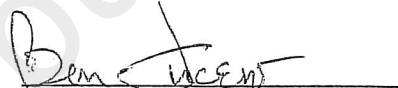
THEREFORE, BE IT RESOLVED that this Resolution and the amendments to Resolution 98-57 made hereby shall be effective upon adoption.

CERTIFICATION

We, the undersigned officials of the Pueblo of Isleta, hereby certify that the foregoing Resolution was duly adopted by the Pueblo of Isleta Tribal Council at a regular meeting held on November 14, 2001, a quorum present, with 10 voting for, 0 voting against, and 0 abstaining.



Alvino Lucero, Governor
Pueblo of Isleta



Ben Lucero, President
Isleta Tribal Council



Séferino Lente, Secretary
Isleta Tribal Council