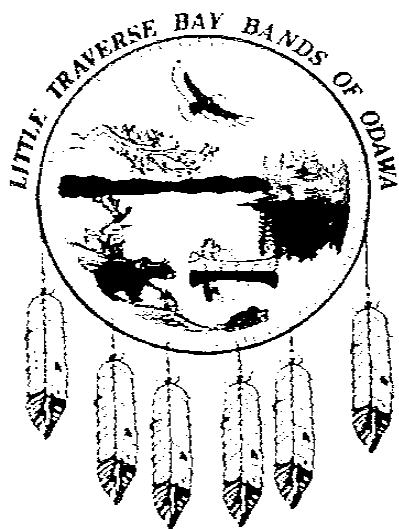


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**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
TRIBAL COURT**



**Chapter 8
“Rules for Jury Selection”
Court Rule
Adopted 12/15/2002**

Chapter 8
Rules for Jury Selection
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CHAPTER 8

8.000 RULES FOR JURY SELECTION

8.100 Purpose and Definitions

8.101 **Purpose.** The purpose of this Chapter is to establish the procedures by which fair and impartial juries are selected for the Tribal Court.

8.102 **Definitions.** The following terms shall have the following meanings:

(A) "*Tribal Court*" or "*Court*" is the trial level court of the Tribe; and

(B) "*Tribe*" refers to the Little Traverse Bay Bands of Odawa Indians.

8.200 Right of Jury Trial

8.201 **Civil Cases.** Any party to a civil case shall be entitled to a jury trial upon request except in *juvenile delinquency, child protection, small claims, minor civil traffic or civil conservation proceedings*. There is a \$50.00 *Jury Request Fee* required for all cases. In civil cases, a plaintiff may request a jury trial by filing a written request within twenty-eight (28) days of receiving an Answer and a defendant may request a jury trial by filing a written request within twenty-eight days of filing an Answer. Notwithstanding the preceding requirements, the Court may order a jury trial in any case if justice so demands.

8.202 **Criminal Cases.** A defendant in a criminal case accused of an offense punishable by jail time shall be entitled to a jury trial pursuant to the Indian Civil Rights Act. Where a motion for consideration for jail time has been granted pursuant to WOS TC Title 9, Criminal Laws; Liquor Control 9.106(g) the defendant shall be entitled to a jury trial upon written request.

8.300 Jury Pool

8.301 **Residence.** Each juror must be a resident of Emmet, Charlevoix, or Cheboygan county.

8.302 **Age.** Each juror must be at least eighteen (18) years of age.

8.303 **Questionnaires.** Jury questionnaires shall be mailed annually to fifty (50) Tribal members residing within the three-county jury area of the Tribe.

8.304 **Random Selection.** A random selection process shall be used to identify the fifty (50) potential jurors.

8.305 **Mailing of Questionnaires.** Each potential juror selected by the random draw shall be mailed a jury questionnaire by both first-class mail and certified mail.

8.306 **Deadline for return of questionnaires.** Each person who receives a jury questionnaire shall complete it and return it to the Tribal Court office within fourteen (14) days as specified by the date due in the questionnaire instructions.

8.307 **Access to Juror Questionnaires.** The only persons allowed to examine completed 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 or lay advocates; and
- (D) any other person(s) expressly authorized access by other Court Rules or by written order of the Court.

8.308 **Annual Pool.** Each person who is part of the jury pool shall remain in the pool for the remainder of the calendar year.

8.309 **Exemption.** Members of the Tribal Council, Tribal Court judges and court staff shall be exempt from jury duty.

8.310 **Previous Service.** Any person who serves on a jury shall be exempt from further jury service for the remainder of the calendar year.

8.311 **Pool Replenishment.** The jury pool may be replenished if necessary by random selection.

8.400 **Jury Service**

8.401 **Jury Summons Process.** When a jury trial is requested, the Court Clerk shall summon thirty (30) or more members of the jury pool for the jury selection process.

8.402 **Excuse from Jury Duty.** The Court may excuse any person from jury duty if such duty would cause extreme financial or health related hardship, or for good cause.

8.403 **Compensation.** Each juror who is called and reports for jury duty or serves on a jury shall be entitled to a fee set by the Court. Applicable fees are posted in the Tribal Court office.

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8.404 **Contempt of Court.** The following acts or omissions may be deemed to be contempt of Court in the Court's discretion:

- (A) failing to properly complete and return the jury questionnaire;
- (B) failing to attend court when called for jury duty, or as otherwise directed by the Court at times specified without prior excuse 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.

8.500 **Impaneling the Jury**

8.501 **Preliminary Instructions and Oath before Jury Selection.** Before beginning *voir dire* examination of potential jurors, the Court shall give the prospective jurors preliminary instructions and shall have them swear/affirm as to their ability to be fair and impartial.

8.502 **Selection of Jury Panel.** In an action that is to be tried before a jury, the names or corresponding numbers of the prospective jurors who were summoned shall be deposited into a container and the prospective jurors shall be selected for *voir dire* by a random draw from the container by the Court Clerk.

8.503 **Examination of Jurors.** The Court may conduct the *voir dire* examination of prospective jurors or may permit the parties or their attorneys or lay advocates to conduct such examination. If the Court conducts the examination, it may permit the parties or their attorneys or lay advocates to supplement the examination by direct questioning or by submitting questions for the Court to ask. Furthermore, the scope of *voir dire* examination of prospective jurors shall be within the discretion of the Court.

8.504 **Number of Jurors.** Seven (7) jurors shall be selected to serve on the jury. Alternate jurors may be selected at the Court's discretion.

8.505 **Jury Verdicts.** Each jury verdict, for a criminal case, shall be by at least six (6) of the seven (7) jurors agreeing as to guilt. Each verdict for civil case shall be by at least five (5) of the seven (7) jurors agreeing as to responsibility.

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8.506 **Challenges for Cause.** 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. A person shall be excluded from service on a jury for cause if any of the following is shown:

- (A) the prospective juror has been previously convicted of a felony;
- (B) the prospective juror is of unsound mind, physically or mentally incompetent, or suffers from any infirmities rendering the prospective juror incapable of performing the duties of a juror;
- (C) 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;
- (D) 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;
- (E) the prospective juror has formed or expressed such an opinion as to the guilt/innocence or responsibility of the defendant or party as would prevent the prospective juror from rendering a fair and just verdict based upon the evidence submitted at trial and in accordance with the jury instructions given by the Court;
- (F) the prospective juror has served as a juror during the calendar year;
- (G) the prospective juror stand in the relations of guardian or ward, attorney or client, master or servant, or landlord or tenant to any party, or the prospective juror is related to any party by blood or marriage third degree or closer, or that any of the foregoing apply to the relationship between the prospective juror and the person alleged to have been injured by the offense charged, or upon whose complaint such charge was brought;
- (H) is a witness on behalf of any party, or has any personal knowledge of the subject of the trial beyond that which is held generally by the members of the tribal community; or
- (I) for any other good cause shown.

8.507 **Waiver of Challenges for Cause.** Failure to challenge a prospective juror for cause when such opportunity shall be provided by the Court shall constitute a waiver to challenge such prospective juror for cause.

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8.508 **Peremptory Challenges.** A peremptory challenge is a challenge to a particular prospective juror for which no reason needs to be stated by the challenging party but upon which such juror must be excluded from service in the pending matter by the Court.

8.509 **Number of Peremptory Challenges.** Each party shall be entitled to three (3) peremptory challenges.

8.510 **Peremptory Challenges; Manner of Exercise.** After selection of the proposed jury, and the exercise of challenges for cause by both parties as to those prospective jurors, each party shall alternately exercise their peremptory challenges. If either party shall pass and fail to exercise a peremptory challenge at the time of their party's turn, the challenge which could have been exercised shall be deemed waived. Upon exercise of a peremptory challenge, a new juror shall be selected from the panel and shall be examined to determine if a challenge for cause shall exist. Thereafter, the parties shall proceed alternately, and in turn, with exercising or passing on the remaining peremptory challenges.

8.511 **Jury Oath.** Upon final selection of the jury, the chosen jury shall be sworn to undertake their duties fairly and impartially.

8.600 **Short Title and Effective Date**

8.601 **Short Title.** These procedures shall be titled "Rules For Jury Selection".

8.602 **Effective Date.** These procedures become effective when adopted by the Tribal Judiciary of the Little Traverse Bay Bands of Odawa Indians and signed below by the Chief Judge and Court Administrator.

CERTIFICATION OF ADOPTION

The Tribal Judiciary unanimously adopted the above Rules on December 15, 2002.

Dawn M. Shenoskey, Court Administrator

Honorable Michael Petoskey, Chief Judge

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