

## **CRIMINAL OFFENSES**

### **Chapter Eight GRAND JURY**

#### **SECTION 801. CALLING THE GRAND JURY.**

Upon written petition of the Attorney General, any judge of the District Court shall order a Grand Jury to be convened.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

#### **SECTION 802. TERM OF THE GRAND JURY.**

Except as hereinafter provided, and except in the case of special Grand Juries called to investigate a particular circumstance, a term of the Grand Jury shall not continue longer than 120 days after the date upon which it is empaneled and sworn.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

#### **SECTION 803. SELECTION AND QUALIFICATIONS OF JURORS.**

Grand Jurors shall be selected and qualified as provided in Chapter six of Title 6 of the Sac and Fox Code.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

#### **SECTION 804. GRAND JURY DEFINED.**

A Grand Jury is a body consisting of six jurors impaneled and sworn to inquire into and true presentment make of all public offenses against the Sac and Fox Nation committed or subject to prosecution within the jurisdiction of the Sac and Fox Nation. Any five of the grand jurors concurring may find an indictment or return a true bill.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

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### **SECTION 805. CHALLENGE OF GRAND JURY.**

The Sac and Fox Nation, or a person held to answer a charge for a public offense, may challenge the panel of a Grand Jury, or an individual Grand juror.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 806. GROUNDS FOR CHALLENGE TO PANEL.**

A challenge to the panel may be interposed by either party for one or more of the following causes only:

1. That the requisite number of ballots was not drawn from the Jury wheel of the Sac and Fox Nation.
2. That the drawing was not conducted in the presence of the officers designated by law, or in the manner prescribed by law.

[History: PUBLIC LAW SF-90-84, June 27, 1990]

### **SECTION 807. JURY DISCHARGED IF CHALLENGE ALLOWED.**

If a challenge to the panel be allowed, the Grand Jury must be discharged.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 808. GROUNDS FOR CHALLENGE TO JUROR.**

A challenge to an individual Grand juror may be interposed by either party, for one or more of the following causes only:

1. That he is a minor.
2. That he is not a qualified juror.
3. That he is otherwise disqualified under any of the provisions of law, in relation to the qualification of grand jurors.
4. That he is insane.
5. That he is a prosecutor upon a charge against the defendant.
6. That he is a witness on the part of the prosecution and has been served with

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process by an undertaking as such.

7. That a state of mind exists on his part in reference to the case, which will prevent him from acting impartially and without prejudice to the substantial rights of the party challenging; but no person shall be disqualified as a grand juror, by reason of having formed and expressed an opinion upon the matter or cause to be submitted to such Jury, founded upon public rumor, statements in public journals, or common notoriety, provided it satisfactorily appear to the court, upon his declaration, under oath, or otherwise, that he can and will, notwithstanding such opinion, act impartially and fairly upon the matters to be submitted to him.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 809. CHALLENGE MAY BE ORAL OR WRITTEN - HOW TRIED.**

Challenges may be oral or in writing, and must be tried by the court.

[History: PUBLIC LAW SF-90-84, June 27, 1990.1

### **SECTION 810. RULING ON CHALLENGE.**

The court must allow or disallow the challenge and the clerk must enter its decision upon the minutes if demanded.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 811. EFFECT OF CHALLENGE ALLOWED.**

If a challenge to an individual Grand Juror is allowed, he cannot be present at, or take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the Grand Jury thereon.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 812. VIOLATION, WHERE CHALLENGE ALLOWED.**

The Grand Jury must inform the court of a violation of the last section and it is punishable by the court as a contempt.

[History: PUBLIC LAW SF-90-84, June 27, 1990]

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### **SECTION 813. CHALLENGE TO BE MADE BEFORE JURY IS SWORN-EXCEPTION.**

Neither the Sac and Fox Nation, nor a person held to answer a charge for a public offense, can take advantage of any objection to the panel or to an individual grand juror unless it be by challenge, and before the Grand Jury is sworn, except that after the Grand Jury is sworn, and before the indictment is found, the court may, in its discretion, upon a good cause shown, receive and allow a challenge.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 814. NEW GRAND JURY IN CERTAIN CASES.**

If the Grand Jury is discharged by the allowance of a challenge to the whole panel; or if from any cause, in the opinion of the court, another Grand Jury may become necessary, the court may in its discretion order that another Grand Jury be summoned.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 815. SPECIAL GRAND JURY.**

A Grand Jury formed and impaneled as to a particular case(s), after a challenge or challenges to individual Grand jurors have been allowed, shall be sworn to act only in such particular case(s), and as to all other cases at the same term of the court the Grand Jury shall be formed in the usual manner provided by law. A special Grand Jury may continue in existence for such period of time as may be necessary to properly act in the particular case(s) for which it is formed.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 816. COURT TO APPOINT FOREMAN.**

From the persons summoned to serve as Grand Jurors, and appearing, the court must appoint a foreman. The court must also appoint a foreman when a person already appointed is discharged or excused before the Grand Jury are dismissed.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

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### **SECTION 817. OATH TO FOREMAN.**

The following oath must be administered to the foreman of the Grand Jury:

You, as foreman of this Grand Jury, shall diligently inquire into, and true presentment make, of all public offenses against the Sac and Fox Nation, committed or subject to prosecution within the jurisdiction of this Court, of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the Sac and Fox Nation, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unrepresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 818. OATH TO OTHER GRAND JURORS.**

The following oath must be administered to the Grand Jury:

You shall diligently inquire into, and true presentment make, of all public offenses against the Sac and Fox Nation, committed or subject to prosecution within the jurisdiction of this Court of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the Sac and Fox Nation, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unrepresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present, the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 819. RESERVED.**

### **SECTION 820. CHARGE TO GRAND JURY.**

The Grand Jury, being impaneled and sworn, must be charged by the court. In doing so

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the court must give them such information as it may deem proper as to the nature of their duties, and as to the charges for public offenses returned to the court, or likely to come before the Grand Jury.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 821. JURY TO RETIRE.**

The Grand Jury must then retire to a private room and inquire into the offenses cognizable by them.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 822. GRAND JURY MUST APPOINT CLERK.**

The Grand Jury must appoint one of their number a clerk, who must preserve minutes of their proceedings, except of the votes of the individual members, and of the evidence given before them.

[History: PUBLIC LAW SF-90-84, June 27, 1990]

### **SECTION 823. DISCHARGE OF GRAND JUROR.**

A member of the Grand Jury may for ill health of himself or immediate family, or other cause rendering him unable to serve, be discharged before the term is ended or the labor of the Grand Jury completed; or if the judge becomes satisfied that any grand juror is wilfully refusing to discharge his duty, the court may order his discharge. In either event or in case of the death of one or more grand jurors, as many names as the court may order shall be drawn from the Jury wheel in the same manner the original grand jurors were drawn, and from the names so drawn that shall be summoned as many grand jurors as can be found and are able to attend as necessary, and if found they shall be summoned in the order in which their names were drawn from the wheel. If the number be not thus obtained there shall be another drawing in the same manner. When a sufficient number so drawn appears to fill the panel, the Grand Jury shall in open court be re-impaneled, but subject to challenge and be charged and sworn in the same manner as when the Grand Jury was originally impaneled.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 824. DISCHARGE OF GRAND JURY.**

On the completion of the business before the Grand Jury, or completion of the statutory time limit for sessions of a Grand Jury, or whenever the court shall be of the opinion that the

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public interests will not be subserved by further continuance of the session, the Grand Jury must be discharged, but whether the business be completed or not they are to be discharged not later than 120 days after the date on which they be first impaneled.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 825. GENERAL POWERS AND DUTIES OF GRAND JURY.**

The Grand Jury has power to inquire into all public offenses committed or subject to prosecution in the jurisdiction of the Sac and Fox Nation, and to present them to the court, by indictment or accusation in writing.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 826. FOREMAN TO SWEAR WITNESS.**

The foreman may administer an oath to any witness appearing before the Grand Jury.

[History: PUBLIC LAW SF-90-84, June, 27, 1990.]

### **SECTION 827. EVIDENCE BEFORE GRAND JURY.**

In the investigation of a charge for the purpose of presenting an indictment or accusation, the Grand Jury may receive the written testimony of the witness taken in a preliminary examination of the same charge, and also the sworn testimony prepared by the Attorney General without bringing those witnesses before them, and may hear evidence given by witnesses produced and sworn before them, and may also receive legal documentary evidence. Each indictment or accusation shall be voted on separately by the Grand Jury.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 828. HEARSAY INADMISSIBLE.**

The Grand Jury may not receive hearsay or secondary evidence.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 829. EVIDENCE FOR THE ACCUSED - PROCURING ADDITIONAL EVIDENCE.**

The Grand Jurors, upon request of the accused, shall, and on their own motion may, hear the evidence for the accused. It is their duty to weigh all the evidence submitted to them and when

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they have reason to believe that there is other evidence, they may order such evidence to be produced, and for that purpose the Attorney General shall cause process to issue for the witnesses.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 830. INDICTMENT TO BE FOUND WHEN.**

The Grand Jury ought to find an indictment when all the evidence before them, taken together, is such as in their judgment would, if unexplained or uncontradicted, warrant a conviction by the trial court or jury.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 831. MEMBERS TO GIVE EVIDENCE.**

If a member of the Grand Jury knows, or has reason to believe, that a public offense has been committed, which is triable in the jurisdiction of the Sac and Fox Nation, he must declare the same to his fellow jurors, who must thereupon investigate the same.

[History: PUBLIC LAW SF-90-84,, June 27, 1990.]

### **SECTION 832. SUBJECTS FOR INQUIRY BY GRAND JURY.**

The Grand Jury must inquire:

1. Into the case of every person imprisoned in the tribal jail, on a criminal charge, and not indicted or formally charged by information.
2. Into the condition and management of the tribal jail; and,
3. Into the willful, wrongful, or corrupt misconduct in office of public officers of every description in the jurisdiction of the Sac and Fox Nation.

[History: PUBLIC LAW SF-90-84, June 27, 1990.1

### **SECTION 833. ACCESS TO PRISONS AND RECORDS.**

The Grand Jury is also entitled to free access at all reasonable times, to the tribal jail, and to the examination, without charge, of all public records of the Sac and Fox Nation.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

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### **SECTION 834.       ADVICE OF COURT OR ATTORNEY GENERAL - WHO MAY BE PRESENT.**

The Grand Jury may at all reasonable times ask the advice of the Court or of the attorney General. In no event shall the Grand Jury be advised as to the sufficiency or insufficiency of the evidence necessary to return a true bill, in a matter under investigation before them. The Attorney General, with or without a regularly appointed Assistant Attorney General individually or collectively, may at all times cause to be issued subpoenas for the attendance of witnesses and other evidence, appear before the Grand Jury for the purpose of giving information or advice relative to any matter cognizable before them, and may interrogate witnesses before them whenever he thinks it necessary. A qualified court Clerk or reporter shall be present and take the testimony of all witnesses as in cases at trial and upon request a transcript of said testimony or any portion thereof shall be made available to an accused or the Attorney General, at the expense of the requesting party or officer. But no other person is permitted to be present during their sessions except the members and a witness actually under examination, except that an interpreter, when necessary, may be present during the interrogation of a witness. Provided that, no person, except the members of the Grand Jury, shall be permitted to be present during the expression of their opinions or the giving of their votes upon any matter before them.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 835.       PROCEEDINGS KEPT SECRET.**

Every member of the Grand Jury must keep secret whatever he himself or any other grand juror may have said or in what manner he or any other grand juror may have voted on a matter before them.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 836.       JUROR MAY DISCLOSE PROCEEDINGS, WHEN.**

A member of the Grand Jury may, however, be required by any court to disclose the testimony of a witness examined before the Grand Jury for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any person, upon a charge against him for perjury in giving his testimony or upon his trial thereof.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 837.       PRIVILEGE OF GRAND JUROR.**

A grand juror cannot be questioned for anything he may say, or any vote he may give in the Grand Jury, relative to a matter legally pending before the Jury, except for a perjury of which

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he may have been guilty in making an accusation of giving testimony to his fellow jurors.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 838. INTERPRETER-APPOINTMENT-COMPENSATION.**

Upon the request of either the Attorney General, or the Grand Jurors, a district judge shall appoint, whenever necessary, an interpreter, and shall swear him to secrecy, not to disclose any testimony or the name of any witness which shall be presented to the Grand Jury except when testifying in a court of record.

The compensation for any interpreter thus appointed shall be fixed and allowed by the judge appointing him, and such fees, when earned, may be allowed and paid from time to time as they accrue, and shall be paid from the funds from which the grand jurors are paid.

[History: PUBLIC LAW SF-90-84,, June 27, 1990.]

### **SECTION 839. RESTRICTION ON SESSIONS BEFORE AND AFTER ELECTIONS.**

No Grand Jury shall be convened or remain in session during a period beginning thirty (30) days before any primary, run-off primary, or general election, for Tribal offices, and ending ten (10) days after such primary, run-off primary, or general election. Any Grand Jury in session at the commencement of any such period shall be discharged forthwith.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]

### **SECTION 840. REPORTS OF INVESTIGATIONS OF PUBLIC OFFICES OR INSTITUTIONS.**

In addition to any indictments or accusations that may be returned, the Grand Jury, in their discretion, may make formal written reports as to the condition and operation of any public office or public institution investigated by them. No such report shall charge any public officer, or other person with willful misconduct or malfeasance, nor reflect on the management of any public office as being willful and corrupt misconduct. It being the intent of this section to preserve to every person the right to meet his accusers in open court and be heard, in open court, in his defense.

[History: PUBLIC LAW SF-90-84, June 27, 1990.]