

PUEBLO OF SANTA ANA

RESOLUTION OF THE TRIBAL COUNCIL

RESOLUTION NO. 2018-R-32

RE: RESOLUTION APPROVING SECOND AMENDMENT TO JURY PROCEDURES IN PUEBLO OF SANTA ANA RULES OF PROCEDURE FOR THE CONTEMPORARY COURT CRIM. RULE 13(b) TRIALS

WHEREAS, the Pueblo of Santa Ana is a federally recognized Indian tribe governed under a traditional form of government, and possessing all the inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council is the duly recognized decision and policy making body for the Pueblo of Santa Ana; and

WHEREAS, the Tribal Council and its Governor have a duty to take measures that protect the safety and well-being of the Pueblo and all persons who may conduct business or travel through the Pueblo; and

WHEREAS, the Tribal Council is committed to ensuring that all defendants appearing before the Contemporary Court are granted due process and a fair trial; and

WHEREAS, the Tribal Council approved Resolution No. 07-R-54 on November 8, 2007, adopting the Pueblo of Santa Ana Rules of Procedure for the Contemporary Court (hereinafter, "Rules"); and

WHEREAS, Crim. Rule 13(b) provides that "[t]rials shall be heard and decided by the Contemporary Court Judge or a jury of the tribal Sheriffs, which is consistent with the custom and traditions of the Pueblo;" and

WHEREAS, the Indian Civil Rights Act of 1968 provides that a defendant in a criminal case has the right to a trial by jury; and

WHEREAS, the right to a trial by jury is interpreted to mean an impartial jury that is drawn from sources that reflect a cross section of the community and that does not systematically exclude any distinctive group in the community; and

WHEREAS, compliance with the protections afforded in the Indian Civil Rights Act and clarity regarding when a jury trial is waived sufficiently ensures the reliability of Contemporary Court convictions; and

WHEREAS, on October 30, 2017 per Resolution No. 2017-R-34, the Tribal Council approved an amendment to Crim. Rule 13(b) to permit the selection and use of a jury pool that is representative of the Pueblo of Santa Ana community; and

WHEREAS, Resolution No. 2017-R-34 had a sunset clause that approved the provision for only one year; and

WHEREAS, since the Tribal Council approved Resolution No. 2017-R-34 there has not been a jury trial to test the process; and

WHEREAS, it is in the best interest of justice to provide for a long term and predictable rule regarding jury pool selection; and

WHEREAS, there is good cause to expand the pool of jurors necessary for criminal trials held by the Contemporary Court;

NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Ana that it hereby approves the change to Crim. Rule 13(b) as follows:

Trials shall be heard and decided by the Contemporary Court Judge or by a jury of no less than six members. A defendant has a right to a jury trial upon request for any crime for which imprisonment is a possibility. The right exists regardless of whether a sentence or a fine or both are ultimately imposed. A jury verdict shall be unanimous.

To be eligible to serve as a juror, a person must be a tribal member, a spouse or partner of a tribal member, and/or a permanent resident of the Pueblo of Santa Ana. A juror must be 18 years of age or older, never have been convicted in any court of a felony, or is currently on probation for any offense in any court, and must not at the time the list is made, or at the time of trial, be holding the office of tribal judge (Contemporary or Traditional), Court Staff, tribal official, tribal police officer, nor a witness or a party in the matter before the court.

The Contemporary Court may set such pre-trial hearings as it deems necessary to ensure an orderly disposition of the case; and

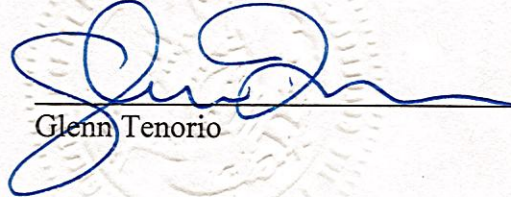
BE IT FURTHER RESOLVED that the Tribal Council of the Pueblo of Santa Ana hereby authorizes the Judge, after collaboration with the Governor or his designee, to develop and implement additional rules and procedures regarding jury selection, jury assembly process, summons, qualifications, duties, and responsibilities; and

BE IT FINALLY RESOLVED that the Governor of the Pueblo of Santa Ana or his designee is hereby authorized and directed to execute all documents necessary to carry out the intent of this Resolution on behalf of the Pueblo.

CERTIFICATION

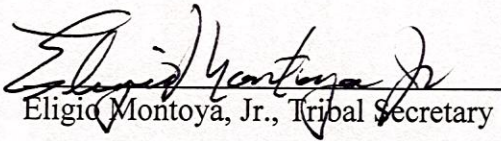
I, the undersigned, as the Governor of the Pueblo of Santa Ana, hereby certify that the Santa Ana Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 17th day of September, 2018, at the Santa Ana Pueblo, New Mexico, a quorum being present, approved the foregoing Resolution with 16 members voting in favor and 0 were opposed.

GOVERNOR



Glenn Tenorio

ATTEST:



Eligio Montoya, Jr., Tribal Secretary