

3. Applicability of the Plan

The United States District Court for the Western District of Oklahoma adopts this Plan for random selection of prospective grand and petit jurors to achieve the objectives of 28 U.S.C. §§ 1861 and 1862. Pursuant to 28 U.S.C. § 116(c), the Western District of Oklahoma comprises the counties of Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Kay, Kingfisher, Kiowa, Lincoln, Logan, McClain, Major, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills, Stephens, Texas, Tillman, Washita, Woods, and Woodward. Court is held in Oklahoma City and Lawton. This Plan shall serve as guidance for the management of the jury selection process in the District.

4. Plan Management

The Clerk of Court shall manage the prospective jury selection process, subject to the supervision and control of the Chief Judge. The Clerk may authorize designated deputies to assist with the performance of the functions under this Plan. The Chief Judge may authorize non-Court personnel to assist the Clerk in the performance of the Clerk's functions under this Plan.

5. Public Access

The Clerk shall retain and provide public access to this Plan by posting a copy on the Court's website.

MASTER JURY WHEEL ADMINISTRATION

6. Jury Selection Source

- a. The source from which names of prospective jurors shall be selected at random shall be the Oklahoma General Election Voter Registration List maintained by the Oklahoma State Election Board for all counties within the District. This list shall be referred to as the "source list."
- b. The names of prospective grand and petit jurors for the master jury wheel will be selected from the source list.

7. Names Selected from Source List for Master Jury Wheel

- a. The selection of names from the source list for the master jury wheel shall be conducted through the use of an authorized properly programmed electronic data processing system that can accomplish the purely randomized selection of jurors.
- b. The Clerk will provide a clear work statement to any third-party vendor or other non-Court official that is hired to build the master jury wheel. The work statement will address the randomization and proportionality requirements in 28 U.S.C. § 1863(b)(3).
- c. The Court will include in its jury files a signed affidavit certifying that work performed by any third-party vendor or other non-Court official for random selection of jurors was performed according to the Court's procedures.
- d. The number of names to be drawn for the master jury wheel from each county shall be in the same substantial proportion as the total number of persons

listed on the voter registration list for each county is to the total number of persons on the voter registration lists for all counties within the District.

- e. After determining the total number of names required for the master jury wheel and the proportionate number of names to be drawn from the source list for each county, the selection of names shall be made in a purely randomized manner by a properly programmed electronic data processing system to produce the total number of names required for the master jury wheel.
- f. The automated random selection of names described in this section ensures that each county is proportionately represented in relation to the total number of registered voters, in accordance with 28 U.S.C. § 1863(b)(3). The process of selecting names from the source list for the master jury wheel shall also ensure that the mathematical odds of any single name being selected are substantially equal.
- g. The total number of prospective juror names to be selected will be based on historical jury usage needs and projected workloads.

8. Master Jury Wheel

- a. The Clerk shall maintain the master jury wheel for the District. The master jury wheel is an electronic database.
- b. Names of all persons randomly selected from the source list for each county shall be placed in the master jury wheel.

- c. The Chief Judge may order additional names to be selected from the source list and placed in the master wheel periodically as may be necessary.
- d. The master jury wheel under this Plan shall be filled not later than March 31, 2025, and emptied and refilled between November 15, 2028 and March 31, 2029 and every fourth year thereafter. If for any reason approved by one of the Judges of this District the master jury wheel is not emptied and refilled within the time herein provided, the current master jury wheel shall continue to serve until it is properly refilled.
- e. Based on historical jury usage needs, the minimum number of names to be placed initially in the master jury wheel for the District will be 44,000.

9. Names Drawn from the Master Jury Wheel

The Court shall direct the method used to randomly draw prospective jurors from the master jury wheel. The number of names to be randomly drawn shall be determined by the Clerk, based on anticipated juror needs of the Court, plus a margin of additional names sufficient to compensate for the estimated number of jurors who may not be available or who may be ineligible.

10. Summoning Jurors

- a. On or before March 31, 2025, and each succeeding 31st day of March thereafter, a juror qualification questionnaire letter shall be mailed by the Clerk's Office as set forth in ¶ 10(b). The selection of the names of individuals to receive the qualification questionnaire letter will be made

electronically through a properly programmed electronic data processing system for purely randomized selection.

- b. The qualification questionnaire letters shall be mailed in the following manner:
 - i. First year: to one-fourth of all names in the master jury wheel through purely random selection by a properly programmed electronic data processing system.
 - ii. Second year: to one-third of all remaining names in the master jury wheel through purely random selection by a properly programmed electronic data processing system.
 - iii. Third year: to one-half of all remaining names in the master jury wheel through purely random selection by a properly programmed electronic data processing system.
 - iv. Fourth year: to all remaining names listed in the master jury wheel.
- c. The qualification questionnaire letters shall be accompanied with instructions to complete the questionnaire prescribed by the Administrative Office of the United States Courts using the eJUROR tool on the Court's website or to request a paper questionnaire.
- d. If a substantive omission, ambiguity, or error appears in a completed questionnaire, the Clerk may return the questionnaire with instructions to the person to make the required additions or corrections and return the questionnaire within 10 days.

- e. The Clerk shall maintain a qualified jury wheel that lists those jurors not disqualified or exempt pursuant to this Plan.
- f. When the Court orders a grand or petit jury to be drawn, the Clerk shall issue summons for the required number of jurors. Persons drawn for jury service may, in accordance with 28 U.S.C. 1866, be served by first class mail addressed to such persons at their usual residence or business address.
- g. Petit and grand jurors shall be drawn proportionately from the qualified jury wheel as ordered by the Court by a purely randomized process through a properly programmed electronic data processing system.
- h. The selection of names from the source list, the master wheel, and the qualified wheel must ensure that the mathematical odds of any single name being chosen are substantially equal.
- i. In the event of an emergency (e.g., unavailability of the automated Jury Management System), the Court will randomly select names of jurors from the source list using the "starting number and increment" technique. The Clerk will draw a card by lot from a box filled with cards numbering 1 through 55. The number drawn will be the starting number and the juror name corresponding with that number from the registered voter list will be selected for service. Then every subsequent 55th name will be selected from the registered voter list until the necessary number of jurors has been selected.

11. Unanticipated Shortage of Jurors

Pursuant to 28 U.S.C. § 1866(f), when there is an unanticipated shortage of available petit jurors drawn from the master jury wheel, the Chief Judge may require the United States Marshal to summon a sufficient number of petit jurors. Jurors shall be selected at random from the source list as specified in this Plan in a manner ordered by the Court consistent with 28 U.S.C. §§ 1861 and 1862.

12. Determination of Qualification, Disqualification, and Exemption

The Clerk, under the supervision of the Chief Judge, shall determine qualification, disqualification, exemption, and excuses. The determination shall be based on the information provided on the juror qualification questionnaire and other competent evidence. The Clerk shall enter the determination of disqualification, exemption, or excuse in the appropriate Court records.

- a. Pursuant to 28 U.S.C. § 1865(b), a person shall be qualified to serve on grand and petit juries in this District unless he or she:
 - i. is not a citizen of the United States;
 - ii. is not yet 18 years old;
 - iii. has not resided within the District for at least a period of one year;
 - iv. is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification questionnaire;
 - v. is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

- vi. has a criminal charge pending against him or her for the commission of, or has been convicted in a state or federal court of, a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored. The restoration of civil rights will be based upon the law of the jurisdiction in which the conviction occurred. The prospective juror must provide written documentation of civil rights restoration.
- b. The Court finds that jury service would not entail an undue hardship or extreme inconvenience to the members of any group of persons or occupational classes, except those exempted by statute or as set forth in this Plan. Pursuant to the provisions of 28 U.S.C. § 1863(b)(6), the following persons are exempt from jury service:
- i. members in active service in the Armed Forces of the United States;
 - ii. members of the fire or police department of any state, district, territory, possession, or subdivision thereof; and
 - iii. public officers in the executive, legislative, or judicial branches of the government of the United States, or any state, district, territory or possession, or subdivision thereof, who are actively engaged in the performance of official duties. Pursuant to 28 U.S.C. § 1869(I), a “public officer shall be defined as a person who is either elected to public office or who is directly appointed by a person elected to public office.”

- c. All matters of discretion to excuse from jury service are reserved for determination by the Clerk subject to the supervision of the Chief Judge. Pursuant to 28 U.S.C. § 1863(b)(5), the Court finds that jury service by members of the following groups of persons would entail undue hardship or extreme inconvenience, that excusing them would not be inconsistent with the Jury Selection and Service Act, and that such excuse shall be granted upon individual request:
- i. persons over 70 years of age;
 - ii. persons who have, within the past two years, served on a federal grand or petit jury;
 - iii. persons who provide essential care of a child or children under ten years or age;
 - iv. persons who provide essential care to an aged or infirm person;
 - v. volunteer safety personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a public agency.
- d. Any person summoned for jury service may be temporarily excused by the Court, or by the Clerk under the supervision of the Court, upon a showing of undue hardship or extreme inconvenience, for such period as the Court deems necessary, or the name of such person may be reinserted into the qualified jury wheel for selection pursuant to 28 U.S.C. § 1866.

13. Maintenance, Inspection, and Disclosure of Juror Records

a. Maintenance

- i. The contents of records or papers used by the Clerk in the process of filling the master jury wheel or in connection with the jury selection process shall not be disclosed, except pursuant to a motion under 28 U.S.C. § 1867 challenging the Court's compliance with the selection procedures upon order of the Court.
- ii. All jury records and papers may be disposed of 10 years after the master jury wheel has been refilled and all persons selected have completed jury service in accordance with 28 U.S.C. § 1868. These records are not to be transferred to the Federal Records Center.
- iii. Jury records and papers shall be preserved electronically when practicable. The Clerk shall implement and maintain a quality control process for documents stored electronically and electronically preserved documents shall be routinely backed up.

b. Inspection and Disclosure

- i. The names and personal information concerning petit and grand jurors shall not be disclosed to attorneys, parties, the public, or the media except as provided herein.
- ii. Until they have been qualified in open court, the names of persons summoned for grand or petit jury service shall not be made public unless a judge of this Court so orders.

- iii. Immediately prior to empanelment of a petit jury, the parties, their lawyers, and any person employed by or working with those lawyers, shall ordinarily have access to the list of those jurors summoned to appear and to any supplemental juror questionnaires issued by the Court.
- iv. Prior to empanelment of a grand jury, the lawyers and staff representing the government shall ordinarily have access to the list of jurors summoned to appear.
- v. The information made available to these individuals shall not be shared except as necessary for jury selection.
- vi. If the interests of justice so require, the Court may order that the names of jurors remain anonymous.
- vii. After a petit jury has been discharged, the names and addresses of the jurors may be released to the public only upon order of the Court. In accordance with Judicial Conference guidance, the Court has determined that the names of all jurors and potential jurors will not be disclosed in the public docket or in transcripts filed with the Court absent an order of the Court. Transcripts or any other trial document containing jurors' names will be filed in redacted form in the public docket. All requests for release of juror names must be made in writing to the presiding judge.

This Plan shall become effective upon approval by the Judicial Council of the Court of Appeals for the Tenth Circuit.

ENTERED for the Court this 12th day of April, 2024.

A handwritten signature in blue ink, appearing to read "Timothy D. DeGiusti".

TIMOTHY D. DeGIUSTI
Chief United States District Judge

**MINUTES OF THE JUDICIAL COUNCIL
OF THE TENTH CIRCUIT**

April 26, 2024

On this date, the Judicial Council approved the Western District of Oklahoma's Revised Jury Plan for Random Jury Selection, submitted April 12, 2024, by Clerk of Court Carmelita R. Shinn, with approval from Chief District Judge Timothy D. DeGiusti. The court may choose the effective date of the approved plan. 28 U.S.C. § 1863(c). Further, the court shall send copies of the approved plan to the Administrative Office of the United States Courts and to the United States Attorney General, as required by the Jury Selection and Service Act, 28 U.S.C. §§ 1861-1878, and the *Guide to Judiciary Policy*, Vol. 4, Ch. 3, § 320.30.40.

The Judicial Council



By:

Leslee Fathallah
Deputy Circuit Executive

for David Tighe
Circuit Executive and Secretary to the
Judicial Council of the Tenth Circuit