

Jury Plan of EDOK

JURY SELECTION PLAN EASTERN DISTRICT OF OKLAHOMA (Amended February 20, 2020)

Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. §§ 1861, et seq., "the Act," the following plan for the random selection of juries is adopted by this Court, subject to approval by the reviewing panel for the Tenth Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

APPLICABILITY OF THE PLAN. 28 U.S.C. §§ 1861 and 1863

This plan is applicable to the Eastern District of Oklahoma, which consists of the following counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Coal, Haskell, Hughes, Johnston, Latimer, LeFlore, Love, McCurtain, McIntosh, Marshall, Murray, Muskogee, Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, and Wagoner.

DECLARATION OF POLICY. 28 U.S.C. § 1861

It is the policy of this Court that all litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community that constitutes the Eastern District of Oklahoma and that all citizens shall have the opportunity to be considered for service on grand and petit juries and shall be obligated to serve as jurors when summoned, unless excused for valid reasons by the Court.

DISCRIMINATION PROHIBITED. 28 U.S.C. § 1862

No citizen shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin, or economic status.

MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS. 28 U.S.C. § 1863(b)(1)

This plan shall be managed by the Clerk of the Court under the supervision and control of the Chief Judge of this Court or such other judge as the Chief Judge may designate to perform these duties. Whenever used in the Plan, the terms "Clerk" and "Clerk of the Court" shall mean the Clerk of the District Court, any authorized Deputy Clerk, or any other person authorized by the Court to assist the Clerk in the performance of functions under this Plan.

METHOD AND MANNER OF RANDOM SELECTION. 28 U.S.C. §§ 1863(b), 1864(a) and 1866(a)

Pursuant to 28 U.S.C. § 1861, all litigants "have the right to grand and petit jurors selected at random from a fair cross section of the community." The court uses a two-step process to select jurors. First, a master jury wheel is created by selecting names at random from the most current registered voter lists. Then names are randomly drawn periodically from the master jury wheel to receive juror qualification

questionnaires. Individuals' answers to these questionnaires determine whether they are legally qualified to serve. If so, the names of those persons are put in a second wheel, a qualified jury wheel. As prospective jurors are needed for a specific trial or grand jury, juror summonses are sent to persons randomly selected from the qualified wheel. All of these selections are carried out through a properly programmed electronic data processing system from pure randomized selection. The pure randomized process ensures that the mathematical odds of any single name being picked are substantially equal.

JURY SELECTION SOURCES. 28 U.S.C. §1863(b)(2) & (3)

The judges of the court find that names of prospective grand and petit jurors shall be selected at random from official voter registration lists as maintained by the Oklahoma State Election Board. The judges do further find that such lists represent a fair cross section of the communities in the Eastern District of Oklahoma. Accordingly, the Clerk shall issue written instructions requesting the Oklahoma State Election Board to provide a list of all registered voters in this district in electronic format ("voter data files"). The Clerk shall require the Oklahoma State Election Board to provide an affidavit stating that the voter data files contain a list of all registered voters in this district.

Since electronic data processing methods can be used advantageously for selecting and copying names from the voter data files furnished by the Oklahoma State Election Board, a properly programmed electronic data processing system shall be used to select master wheel names from voter lists of all counties in the district, provided that the required proportions of names for each county are maintained as described herein and a purely randomized selection process is followed. Further, the Jury Management System ("JMS") shall be used to select names from the master wheel to be delivered qualification questionnaires, from the qualified wheel to be summoned to serve as grand or petit jurors, and for the recording of names of prospective jurors and records needed by the court to administer the selection and payment of jurors.

MAINTAINING MASTER JURY WHEEL. 28 U.S.C. § 1863(b)(4)

The Clerk shall maintain a master jury wheel for the district. The names and addresses of all persons randomly selected from the voter data files of the counties in the district shall be placed in the master jury wheel. The initial selection of names to fill the master jury wheel shall be of sufficient number as may be deemed needed for a four-year period. Master jury wheel records may be stored on secure electronic media. The minimum number of names to be placed in the master jury wheel shall be one-half of one

percent of the total number of names on the voter data files used as a source of names for the district, but in no event shall that number be less than 1,000. Each county in the district shall be substantially proportionately represented in the master jury wheel in accordance with the number of registered voters in each county.

The Chief Judge may order additional names to be placed in the master jury wheel from time to time, as necessary and in accordance with the formula herein above described. The master jury wheel currently in effect shall be emptied and refilled every four years using the names and addresses of all persons randomly selected from the voter data files, not later than September 1 of the year following a general presidential election. No later than September 1, the Clerk shall begin selecting names for filling the qualified jury wheels from the newly filled master jury wheel and will cease selecting names from the prior master jury wheel.

DRAWING OF NAMES FROM THE MASTER JURY WHEEL AND COMPLETION OF JUROR QUALIFICATION FORMS, 28 U.S.C. §§ 1863(b)(7) 1864(a), and 1869(h)

From time to time as directed by the Court, the Clerk shall cause to be drawn at random, by means of JMS, a sufficient number of names from the master jury wheel to maintain an adequate number of names in the qualified jury wheel to meet the needs of the Court. The Clerk shall post a general notice for public review in the Clerk's office and on the Court's website explaining the process by which names are periodically and randomly drawn.

The number of names to be drawn from the master jury wheel shall be determined by the Clerk based upon anticipated juror demands of the Court, plus a margin of extra names sufficient to compensate for those individuals who will be ineligible or unavailable. The lists of names drawn shall not be exhibited to any person except as provided in the Act or this Plan. Lists of names so drawn are generated by JMS and are maintained in the Clerk's office.

The Clerk shall prepare, by means of JMS, and deliver to every person whose name is so drawn, a juror qualification questionnaire form, accompanied by instructions to execute and return the questionnaire, duly signed and sworn to, within ten (10) days. Prospective jurors have the option of completing the juror questionnaire using the on-line eJuror system via the Court's internet website. Following the initial delivery of the juror qualification questionnaire, any form returned as undeliverable shall be so recorded in JMS, and a name from the same zip code will be drawn and mailed a questionnaire. If any person fails to return a completed juror qualification form as instructed, the Clerk may pursue the matter in accordance with 28 U.S.C. § 1864(a).

QUALIFIED JURY WHEEL AND SUMMONS FOR JURY SERVICE, 28 U.S.C. §§ 1863(b)(7) & (8), 1866, and 1869(j) & (k)

From time to time as directed by the Court, the Clerk shall cause to be drawn at random, by means of JMS, from the qualified jury wheel such number of names of persons as may be required for assignments to grand and petit jury panels. The Clerk shall prepare, by means of JMS, and mail to every person whose name is so drawn, a summons for jury service. At the option of the Clerk, summonses may be mailed by the Clerk's office or by a commercial mailing service.

For those who have been summoned for jury service, the Clerk, in consultation with the presiding judge, is authorized to grant temporary excuses from jury service to jurors whose service on a particular day or days would create undue hardship or extreme inconvenience. The Clerk is authorized to reinsert the names of those individuals temporarily excused back in the qualified wheel. Examples of undue hardship and extreme inconvenience include scheduled medical appointments, vacation plans, business travel, burdensome travel distances, and grave illness in the family.

Persons summoned and appearing for service may be assigned to separate trial panels, which will be selected by lot. The Clerk shall prepare for the use of the Court and counsel a separate list of names, occupations, spouses' occupations, and cities and counties of residence of persons assigned to each petit jury panel.

QUALIFICATIONS FOR JURY SERVICE. 28 U.S.C. § 1865(b)

Any person shall be deemed qualified to serve on grand and petit juries unless the person:

- a. is not a citizen of the United States¹, is not eighteen (18) years old, or has not resided for a period of one year within the judicial district;
- b. is unable to read, write, and understand the English language with a degree of proficiency sufficient to satisfactorily complete the juror qualification form;
- c. is unable to speak the English language;
- d. is incapable, by reason of mental or physical infirmity, of rendering satisfactory jury service; or
- e. has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored.

EXEMPTIONS FROM JURY SERVICE. 28 U.S.C. §§ 1863(b)(6) and 1869(i)

The Court hereby finds that exemption of the following groups or persons or occupational classes is in the public interest and is consistent with the Act, and accordingly, members of such groups are exempt from

jury service:

1. Members in active service in the Armed Forces of the United States;
2. Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any territory or subdivision thereof; and
3. Public officers in the executive, legislative or judicial branches of the government of the United States, or of any State, the District of Columbia, or such territory or possession of the United States or any subdivision thereof, who are actively engaged in the performance of official duties. Public officer shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

EXCUSE FROM JURY SERVICE UPON INDIVIDUAL REQUEST. 28 U.S.C. § 1863(b)(5)(A) & (B)

The Court finds that jury service by members of the following occupational classes or group of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act, as amended, and shall be granted upon individual request:

1. Persons over 70 years of age;
2. Persons who have, within the past two years, served on a federal grand or petit jury;
3. Persons having active care and custody of a child or children whose health and/or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirm persons;
4. Any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that said enterprise must close if such person were required to perform jury duty;
5. Persons actively practicing or engaged full-time in one of the following: attorney or physician;
6. Students in actual attendance at a university, college, academy, or other school having a regular schedule of classes;
7. Volunteer safety personnel, *i.e.*, individuals serving a public agency in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES. 28 U.S.C. §§ 1865(a) & (b) and 1866(c)

The presiding district judge or the judge qualifying the jury panel, or the Clerk as provided herein, shall determine solely on the basis of the information provided on the juror qualification questionnaire and other competent evidence whether a person is qualified, exempt, or to be excused from jury service.

The Clerk, under the supervision of the Court, is authorized to determine whether any person is qualified, exempt or excused from jury service in this court. The Court specifically authorizes the Clerk, under the supervision of the Court, to make such determinations in all matters, including those requiring the exercise of discretion.

PENALTY FOR FAILURE TO APPEAR FOR JURY SERVICE. 28 U.S.C. § 1866(g)

Any person summoned for jury service who fails to appear as directed may be ordered by the Court to appear and show cause for failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$1,000 or imprisoned not more than three days, ordered to perform community service, or any combination thereof.

LENGTH AND/OR FREQUENCY OF SERVICE. 28 U.S.C. § 1866(e)

In any two-year period, no person shall be required to (1) serve or attend court for prospective service as a petit juror for a total of more than thirty days, except when necessary to complete service in a particular case, or (2) to serve on more than one grand jury, or (3) to serve as both a grand and petit juror.

In an effort to limit the inconvenience to individuals, it is the policy of this Court that petit pools will be "on call" for no more than three (3) months after which time the Clerk shall summon a new jury pool. In the case of Grand Jurors, the term of service shall be twelve (12) months unless the Court finds that an extension would be in the "public interest."

PENALTY FOR EMPLOYERS WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY. 28 U.S.C. §§ 1875(a) & (b)(3)

No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service. Any employer who violates the provisions of this section shall be subject to a civil penalty of not more than \$5,000 for each violation as to each employee and may be ordered to perform community service.

RECORDS TO BE MAINTAINED BY THE CLERK AND MADE PUBLIC UPON REQUEST. 28 U.S.C. §§ 1863(a), 1867(d) & (f), and 1868

The Clerk shall retain the following documents:

- Jury Selection Plan
- Orders regarding refilling of the master jury wheel, petit juries, and grand juries
- Written instructions to the Oklahoma State Election Board to provide list of registered voters
- Affidavit of Oklahoma State Election Board that the Clerk's instructions to provide list of registered voters were followed

- Voter data files
- Qualification questionnaires
- Individual petit jury and grand jury panel information

These records shall not be disclosed, except (1) pursuant to this Plan, or (2) pursuant to an order of the Court finding disclosure is necessary in preparation of a motion challenging the selection of a jury, until the master jury wheel has been refilled and all persons selected as jurors from the prior master jury wheel have completed service. Parties who have obtained an order of disclosure shall be allowed to inspect, reproduce, and copy such records at reasonable times during the pendency of the motion challenging the selection of a jury.

Upon written order of the Court, except when the Court orders a longer retention period, these records can be disposed of four 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.

PUBLIC RELEASE OF JUROR INFORMATION. 28 U.S.C. § 1863(b)(7)

The names, occupations, spouses' occupations, and cities and counties of residence of persons drawn from the qualified jury wheel and appearing for jury selection shall be distributed to the parties during voir dire. Otherwise, only the names of such persons shall be disclosed to the public. Such disclosure shall require formal request and approval of the presiding judge and shall be made only after trial. The presiding judge may keep such information confidential in any case where the interests of justice so require.

As approved in the attached Minutes of the Judicial Council of the Tenth Circuit Court of Appeals, this Jury Plan is effective March 3, 2020, and it supersedes all previous jury plans.

Dated this 3rd day of March, 2020.



Ronald A. White, Chief United States District Judge

¹Notice will be provided to the appropriate election officials, for purposes of verifying voter registration eligibility, of any person who identifies themselves as non-citizens through the juror qualification process.

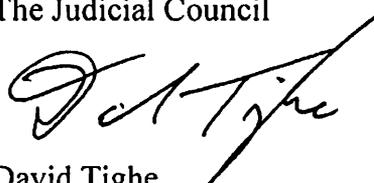
**MINUTES OF THE JUDICIAL COUNCIL
OF THE TENTH CIRCUIT**

March 3, 2020

On this date, the Judicial Council approved the Eastern District of Oklahoma's amended Jury Selection Plan, as submitted on February 20, 2020, by Clerk of Court Patrick Keaney, with approval from Chief Judge Ronald A. White. The court may choose the effective date of the approved plan, in accordance with 28 U.S.C. § 1863(c), and shall send copies of it to the Administrative Office of the United States Courts and the United States Attorney General, *id.* § 1863(a), as described in the *Guide to Judiciary Policy*, Vol. 4, Ch. 3, § 320.30.40.

The Judicial Council

By:

A handwritten signature in black ink, appearing to read "D. Tighe", written over a horizontal line.

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