

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**PLAN FOR RANDOM JURY SELECTION**

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**PLAN FOR RANDOM JURY SELECTION**

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C. § 1861 et seq.), this court adopts the following Plan for Random Jury Selection, subject to the approval of the reviewing panel for the Eighth Circuit Court of Appeals, and subject to such rules and regulations as may be adopted by the Judicial Conference of the United States. When approved, this plan will supersede the jury plan now in effect in the District of Nebraska.

1. Declaration of Policy. The policy of the United States District Court for the District of Nebraska is that all litigants within the district entitled to trial by jury have the right to grand and petit juries selected at random from a fair cross section of the community wherein the court convenes. Further, all citizens have the opportunity to be considered for service on grand and petit juries in the district and have an obligation to serve as jurors when summoned for that purpose.

2. Discrimination Prohibited. No citizen will be excluded from service as a grand or petit juror in this district on account of race, color, religion, sex, national origin, or economic status.

3. Applicability of Plan. The United States District Court for the District of Nebraska adopts this plan for random selection of grand and petit jurors to achieve the objectives of 28 U.S.C. §§ 1861 and 1862. Pursuant to 28 U.S.C. § 107, Nebraska constitutes one judicial district, and court is held at Lincoln, North Platte, and Omaha. For purposes of jury selection, a separate divisional master jury wheel will be maintained for each place of holding court. This plan applies to the three divisional master jury wheels, which comprise the master jury wheel for the district.

4. Management. The clerk manages the jury selection process, subject to the supervision and control of the chief judge of the district. The chief judge may authorize non-court personnel to assist the clerk in the performance of the clerk's functions under this plan.

5. Sources of Names. The sources of names of prospective grand and petit jurors for service in this district are the voter registration lists, as compiled by all counties in the State of Nebraska or by the State of Nebraska, the lists of licensed motor vehicle operators eighteen years of age or older, and the list of holders of state identification cards of persons eighteen years or older for all counties in the State of Nebraska, as compiled by these counties or by the State of Nebraska.

6. Procedures for Selection from Voter Registration, Motor Vehicle Operator, and State Identification Lists.

(a) Registration of voters and licensing of motor vehicle operators are uniformly required throughout the State of Nebraska. The Nebraska Secretary of State's Office has agreed to give the clerk databases in electronic media or in printed hard copy of the official list of persons registered to vote in each county in the most recent general election. Likewise, the Department of Motor Vehicles for the State of Nebraska has agreed to give the clerk databases in electronic media or in printed hard copy of the official list of persons eighteen years or older licensed to operate motor vehicles and the holders of state identification cards of persons eighteen years or older in each county. The databases will be merged and edited so that motor vehicle operators who are also registered voters are listed only once on the merged list.

(b) The selection of names for the master jury wheels from complete source list databases in electronic media may be accomplished by a purely randomized process through a properly programmed electronic data

processing system. Similarly, a properly programmed electronic data processing system for purely randomized selection may be used to select names from the master jury wheels for the purpose of summoning persons to serve as grand or petit jurors. This automated random selection of names must ensure that each county within the jury division is proportionally represented in relation to the number of registered voters, in accordance with 28 U.S.C. § 1863 (b)(3). The selection of names from the source list and the master jury wheels must also ensure that the mathematical odds of any single name being picked are substantially equal.

- (c) As a part of the jury record, the clerk will maintain the clerk’s written instructions to, and a certificate of compliance by, the computer operator who selects names from the source list for the master jury wheels. The clerk’s office will not maintain the complete voter registration, motor vehicle operator, and state identification card lists after the names have been selected.

7. Master Jury Wheels.

- (a) A master jury wheel is a listing, maintained electronically, containing the names of all those randomly selected from the sources identified in Paragraph 5. A master jury wheel is maintained for each of the three places of holding court in the district; namely, Omaha, Lincoln, and North Platte. Names from the following counties, randomly selected as provided in Paragraph 6 above, will be placed in a master jury wheel for Omaha:

Antelope	Cuming	Holt	Sarpy
Boone	Dakota	Knox	Stanton
Boyd	Dixon	Madison	Thurston
Burt	Dodge	Nance	Washington
Cedar	Douglas	Pierce	Wayne

Colfax                      Greeley                      Platte                      Wheeler

Names from the following counties, randomly selected as provided in Paragraph 6 above, will be placed in a master jury wheel for Lincoln:

Adams	Hamilton	Merrick	Richardson
Butler	Harlan	Nemaha	Saline
Cass	Howard	Nuckolls	Saunders
Clay	Jefferson	Otoe	Seward
Fillmore	Johnson	Pawnee	Thayer
Franklin	Kearney	Phelps	Webster
Gage	Lancaster	Polk	York
Hall			

Names from the following counties, randomly selected as provided in Paragraph 6 above, will be placed in a master jury wheel for North Platte:

Arthur	Dawes	Hayes	Morrill
Banner	Dawson	Hitchcock	Perkins
Blaine	Deuel	Hooker	Red Willow
Box Butte	Dundy	Keith	Rock
Brown	Frontier	Keya Paha	Scotts Bluff
Buffalo	Furnas	Kimball	Sheridan
Chase	Garden	Lincoln	Sherman
Cherry	Garfield	Logan	Sioux
Cheyenne	Gosper	Loup	Thomas
Custer	Grant	McPherson	Valley

All counties of the district and state are included in the foregoing listings.

- (b) The minimum number of names to be placed in the master jury wheel for Omaha will be at least ten thousand; for Lincoln at least five thousand; and for North Platte at least two thousand.
- (c) The chief judge may order additional names to be placed in the respective master jury wheels from time to time as necessary.
- (d) The master jury wheels will be emptied and refilled no later than May following the year of the general election.

8. Drawing of Names from Master Jury Wheels. Pursuant to 28 U.S.C. § 1878, the court uses a one-step procedure to qualify and summon jurors. From time to time, as directed by the district court, the clerk will draw at random the names of as many persons as may be required for jury service from the master jury wheels. The clerk may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheels. The list of names may not be disclosed to any person except pursuant to this plan or pursuant to 28 U.S.C. §§ 1867 or 1868.

9. Master Jury Wheels - Selection, Completion of Juror Qualification Questionnaire, and Summoning of Jury Panels.

- (a) When the court orders that a grand or petit jury be drawn, the clerk or a commercial mailing service designated by the clerk will mail a summons to the required number of jurors. If a mailing service is used, the clerk will instruct the mailing service that all jury documents are confidential and may not be exhibited to or viewed by anyone.
- (b) The summons will instruct the juror to complete the questionnaire online and submit it via the court's Internet Web site within fourteen days. The clerk will mail a juror qualification questionnaire and summons to jurors who have not completed the questionnaire online by the deadline, instructing the juror to complete, sign, and return the questionnaire immediately upon receipt.

- (c) If an omission, ambiguity, or error appears in a completed questionnaire, the clerk will return the questionnaire with instructions to the person to make the required additions or corrections and to return the questionnaire to the clerk within ten days.
- (d) The clerk may summon any person who fails to return a completed juror qualification questionnaire, as instructed, to appear before the clerk to complete the questionnaire. At the discretion of the district court, a person summoned to appear because of failure to return a juror qualification questionnaire, who later personally appears and executes a juror qualification questionnaire before the clerk, may be entitled to receive the same fees and travel allowances paid to jurors under 28 U.S.C. § 1871, except where the court finds that his or her prior failure to either execute and mail the questionnaire or submit the questionnaire via the court's Internet Web site was willful.
- (e) A person appearing for jury service may be required to fill out another juror qualification questionnaire in the presence of the clerk. The person may be questioned if necessary, but only with regard to his or her responses to questions contained on the form. Any information the clerk obtains may be noted on the juror qualification questionnaire and transmitted to the chief judge.
- (f) Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his or her usual residence or business address. If service is made personally, the clerk will deliver the juror qualification questionnaire and summons to the marshal, who will serve the forms. If service is made by registered or certified mail, the marshal or clerk will serve the juror qualification questionnaire and summons and make an affidavit of service. Any receipt from the addressee will be attached to the affidavit.



10. Assignment to Petit Jury Panels.

- (a) Persons will be summoned, qualified, and assigned for petit jury service in the city where their names are drawn from the master jury wheel. However, if after summoning, it appears that a juror has changed residence to a county designated for another place of holding court, the juror will be excused and his or her name placed into the appropriate master jury wheel.
- (b) In an emergency, persons who are summoned, qualified, and assigned for petit jury service in one city may be reassigned for jury service to any other city in which the court is authorized to conduct judicial business. Similarly, in an emergency, jurors who are summoned, qualified, and assigned for petit jury service in one city may be reassigned to hear cases moved to that city from any other city in which the court is authorized to conduct judicial business.

11. Grand Juries.

- (a) When grand juries are required, the clerk will order the drawing from the master jury wheel for each place of holding court at a pro rata share of the total number of grand jurors needed to be qualified and summoned. The clerk will send grand juror summonses to these persons as indicated in Paragraph 9(b) above.
- (b) When the grand jurors appear before the court, the clerk will draw names at random until a total of 23 members are empaneled as provided by law. An additional 20 members will be selected as alternates. The names of those not empaneled or not selected as alternates will be returned to their respective master jury wheels for subsequent jury drawings in accordance with this plan.
- (c) Grand juries are drawn from the entire district, but are empaneled only at Omaha, unless otherwise ordered by the court.

12. Qualifications for Jury Service.

- (a) The chief judge of the district court, or any other judge presiding over a jury trial, or the clerk under supervision of the court, will determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is disqualified, excluded, exempt, or excused from jury service. The clerk will enter a determination in the court's computer system. The clerk will also note in the computer system a person's failure to appear in response to a summons.
- (b) In making such determination, the chief judge of the district court, or any such presiding judge, or the clerk under supervision of the court, will deem any person qualified to serve on grand and petit juries in the district court unless the person:
  - (1) Is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;
  - (2) Is unable to read, write, and understand the English language with a degree of proficiency necessary to fill out the juror qualification form;
  - (3) Is unable to speak the English language;
  - (4) Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
  - (5) Has a charge pending against him or her 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 or her civil rights have not been restored.
- (c) Persons Exempted From Jury Service. Pursuant to the provisions of 28 U.S.C. § 1863(b)(6) and the juror qualification questionnaire, the following persons engaged in full-time employment are barred from jury service on the ground that they are exempt:

- (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 subdivision of a state, the District of Columbia, or such territory or possession; or
  - (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, any territory or possession of the United States, or any subdivision of a state, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.
- (d) Persons Excluded From Jury Service. Pursuant to the provisions of 28 U.S.C. § 1866(c), any prospective juror who has been summoned for jury service may be excluded by the court upon the following grounds:
- (1) that such person may be unable to render impartial jury service;
  - (2) that the service of such person as a juror would likely disrupt the proceedings;
  - (3) that such person is peremptorily challenged as provided by law;
  - (4) that such person should be excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or
  - (5) that the court has determined that the service of such person as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations.
- (e) Persons Excused From Jury Service. Pursuant to 28 U.S.C. § 1863(b)(5), the court finds that jury service by the following groups and occupational

classes would entail undue hardship or extreme inconvenience to their members. Excusing them from jury service will not be inconsistent with 28 U.S.C. §§ 1861 and 1862. The court will excuse the following persons at their request:

- (1) Persons over 70 years of age;
  - (2) Volunteer safety personnel; or
    - (A) For purposes of this subparagraph, “volunteer safety personnel” means individuals serving a public agency, as defined in section 1203(6) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.
  - (3) Persons having active care and custody of a child or children under ten years of age whose health and/or safety would be jeopardized by their absence for jury service, or persons who are essential to the care of aged or infirm persons.
- (f) Temporary Excuse for Jury Service. In addition to the members of classes or groups excused from jury service on request as provided in (e), the chief judge of the district court, or any other judge presiding over a jury trial, or the clerk under the supervision of the court will determine if any person summoned for jury service may be temporarily excused upon a showing of undue hardship or extreme inconvenience. At the conclusion of a juror’s temporary excuse period, he or she will either be summoned again for jury service or his or her name will be reinserted into the master jury wheel for possible re-summoning.
- (g) Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk will note the specific reason in the court’s computer system.

13. Public Announcement of Place and Time of Automated Selection of Names.

- (a) The location and approximate time of the automated selection of names of prospective jurors will be announced in a public place such as the court's bulletin board and Internet site.
- (b) The clerk will retain and, when requested, provide public access to the following documents:
  - (1) The court's "Plan for Random Jury Selection;" and
  - (2) A copy of the court's authorization and written instructions to the person or computer service organization designated to build the master jury wheels; and
  - (3) A certificate of compliance from this person or organization.

14. Disclosure of Names Drawn from Master Jury Wheels.

- (a) The names of prospective and sitting petit jurors will not be disclosed to the public or media outside open court, except upon order of the court. A request for disclosure of petit juror names to the media or public must be made to the presiding judge.
- (b) The names of grand jurors drawn from the master jury wheels will not be disclosed to anyone other than the United States Attorney, except upon order of the court.

15. Nondisclosure of Records. The contents of records and papers used in connection with the jury selection process will not be disclosed except as provided in this plan and by the provisions of 28 U.S.C. § 1867(f) and 28 U.S.C. §1863(b)(7).

16. Maintenance of Records. The clerk must maintain all records and papers compiled and used in the jury selection process. The clerk will preserve these records as required by 28 U.S.C. § 1868, and then destroy them unless otherwise ordered by the court.

17. Declaration of Emergency. The clerk will maintain a list of qualified jurors who did not serve on a trial for a period of six months following the conclusion of their term of service. In an emergency, the chief judge may order that these qualified jurors be selected for service. The clerk will advise prospective jurors that they may be contacted to report for service in a month other than their designated term of service in the event of an emergency.

18. Unanticipated Shortage of Jurors. When there is an unanticipated shortage of available petit or grand jurors, the court may order the United States Marshal to summons a sufficient number of jurors selected at random from the voter registration lists, licensed motor vehicle operator lists, and holders of state identification card lists in a manner ordered by the court pursuant to 28 U.S.C. § 1866(f).

19. Modification. This plan may be modified only in the manner provided for in 28 U.S.C. § 1863(a) and (c).

20. Effective Date. This plan is an amendment to the Plan for Random Jury Selection, as approved by the Judicial Council of the Eighth Circuit on June 21, 2016, and will become effective upon its approval by the review panel of the Judicial Council of the Eighth Circuit.

Dated this 17th day of October, 2019.

BY THE COURT:

*s/ John M. Gerrard*  
Chief Judge  
United States District Judge

## REVISION CONTROL LOG

<b>Date</b>	<b>Comments</b>	<b>By</b>
01/22/10	Amended plan approved by the court on January 22, 2010.	
03/03/10	Amended plan approved by the Eighth Circuit Judicial Council on March 3, 2010.	Eighth Circuit
12/13/11	Editorial edits made.	Clerk and CDC
08/2012	Jury plan reviewed August of 2012.	Clerk and CDC
06/04/13	Converted plan to Word.	
10/10/13	Amended plan approved by the court on October 10, 2013.	
11/04/13	Amended plan approved by the Eighth Circuit Judicial Council on November 4, 2013	Eighth Circuit
06/05/14	Jury plan amended to correct clerical error in 7(a) that happened at the time the plan was converted from WordPerfect to Word: Inadvertent omission of Omaha counties Cedar, Douglas, Pierce, and Wayne.	
06/05/14	Amended plan approve by the court on June 5, 2014.	
06/19/14	Amended plan approved by the Eighth Circuit Judicial Council on June 19, 2014.	Eighth Circuit
11/20/15	Jury plan amended to reflect the changes made in the service of the summons.	
11/20/15	Amended plan approved by the court on November 20, 2015.	
12/23/15	Amended plan approved by the Eighth Circuit Judicial Council on December 23, 2015.	Eighth Circuit
05/27/16	Jury plan amended to reflect recent changes made to the Guide to Judiciary Policy. See Guide Transmittal 04-013.	
05/27/16	Amended plan approved by the court on May 27, 2016.	
06/21/16	Amended plan approved by the Eighth Circuit Judicial Council on June 21, 2016.	Eighth Circuit
10/17/19	Jury plan amended in paragraph 11(a) to reflect changes made in summons to grand jurors.	
10/17/19	Amended plan approved by the court on October 17, 2019.	

<b>Date</b>	<b>Comments</b>	<b>By</b>
10/31/19	Amended plan approved by the Eighth Circuit Judicial Council on October 31, 2019.	Eighth Circuit