

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

P L A N

FOR

THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Effective 1985

As amended

October 1, 2005

Pursuant to the Jury Selection and Services Act of 1968

Title 28, U.S.C. 1861, *et seq.*

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

Pursuant to the Jury Selection and Service Act of 1968, Title 28, U.S.C. § 1861, *et seq.*, as amended, the Judges of the United States District Court for the Southern District of Indiana hereby adopt the following modified Plan for the random selection and service of grand and petit jurors in the Southern District of Indiana.

I.

EFFECTIVE DATE AND DURATION

This Plan for jury selection shall become effective no later than 90 days after approval by the reviewing panel as provided in Title 28, U.S.C. § 1863(a). It shall remain in force and effect until modified by the court with the approval of the reviewing panel.

II.

POLICY OF THE PLAN

A. The purpose of this Plan is to implement the policies of the United States as set forth in 28 U.S.C. § 1861:

- (1) that all litigants in Federal Courts 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 in the district or division wherein the court convenes.
- (2) that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and

- (3) that all citizens shall have an obligation to serve as jurors when summoned for that purpose.

B. It is further the purpose of this Plan to implement the prohibition against discrimination contained in Title 28, U.S.C. § 1862. That statute provides no citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status.

III.

DEFINITIONS

For purposes of this Plan:

(a) "Clerk" or "Clerk of the court" shall mean the Clerk of the United States District Court for the Southern District of Indiana, any authorized deputy clerk, and any other person authorized by the court to assist the Clerk in the performance of duties pursuant to this Plan;

(b) "Chief Judge" shall mean the Chief Judge of the United States District Court for the Southern District of Indiana;

(c) "voter registration lists" shall mean the official records maintained by state or local election officials of persons registered to vote in either the most recent state or federal general election;

(d) "master jury wheel" or "master wheel" is a figurative term designating all names selected directly from official voter registration lists in a manner described in this Plan;

(e) "juror qualification form" shall mean a form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States, which shall elicit certain information about the prospective juror, including name, address, age, race, occupation, education, length of residence within the judicial district, distance from

residence to place of holding court, prior jury service, and citizenship of a potential juror, physical or mental infirmities, and criminal record;

(f) "jury summons" shall mean a summons issued by the Clerk or the Clerk's duly designated deputies containing a preprinted or stamped seal of court, the name of the Clerk, and directions to appear for jury service, and

(g) "petit jury" shall mean a juror summoned to serve at a civil or criminal trial proceeding.

IV.

APPLICABILITY OF PLAN

The Southern District of Indiana is hereby divided for jury selection purposes into four divisions, which are identical with the statutory composition of the district. Those divisions are:

INDIANAPOLIS DIVISION - consisting of the counties of Bartholomew, Boone, Brown, Clinton, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Randolph, Rush, Shelby, Tipton, Union, and Wayne.

TERRE HAUTE DIVISION - consisting of the counties of Clay, Greene, Knox, Owen, Parke, Putnam, Sullivan, Vermillion, and Vigo.

EVANSVILLE DIVISION - consisting of the counties of Davies, Dubois, Gibson, Martin, Perry, Pike, Posey, Spencer, Vanderburgh, and Warrick.

NEW ALBANY DIVISION - consisting of the counties of Clark, Crawford, Dearborn, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland, and Washington.

The provisions of this Plan apply to all the divisions of the district unless otherwise indicated.

V.

MANAGEMENT OF THE JURY SELECTION PROCESS

The Clerk, under the supervision and control of the Judges of this court, shall manage the Jury selection process. Such management shall be consistent with this Plan.

The Clerk may use computers and other automation technologies in implementing this Plan but shall maintain a procedures manual to govern such use. The Clerk also may hire, or contract with, persons or entities to perform the duties set forth in this Plan as long as the Clerk supervise the work of such persons or entities and they certify that work has been completed pursuant to the Clerk's instructions.

VI.

INITIAL SELECTION OF NAMES FOR THE MASTER JURY WHEEL

A. Voter Registration Lists

Indiana law provides a uniform system of voter registration in all of the counties throughout the State of Indiana. The voter registration lists contain names which represent a fair cross section of the community in the Southern District of Indiana. Accordingly, the names of all grand and petit jurors shall be selected at random from the master voter registration lists maintained by the various county clerks, boards of voter registration, or State of Indiana Election Board.

Such random selections of petit and grand jurors from voter registration lists may be made by any of the following alternative methods so long as they comply in all respects with this Plan:

(1) The Clerk may obtain copies of master voter registration lists from the county clerks, boards of voter registration, or State of Indiana Election Board as needed, and from such lists, shall make the random selection of names pursuant to this Plan; or

(2) The Clerk shall proceed to the office of the county clerk, board of voter registration, or State of Indiana Election Board having custody of the master voter registration list and make the random selection of names, as hereinafter provided, directly from the original records; or

(3) The Clerk may authorize the county clerk, board of registration personnel, or State of Indiana Election Board personnel, acting in accordance with specific instructions from the Clerk, to select randomly the required number of names from the list of counties that comprise the Southern District of Indiana.

B. Master Jury Wheels

The names which are chosen through any of the three methods listed above will be used to fill the appropriate master jury wheel. The Clerk is required to maintain separate master jury wheels for each of the divisions within the District. The names and addresses of all persons randomly selected from the voter registration lists from each division shall be placed in the master jury wheel for that division.

C. Formula for the Method and Manner of Random Selection of Jurors

At the Clerk's option, and after consultation with the court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the Clerk and after consultation with the court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). The selections of names from the source list, the master wheel, and the qualified wheel must insure that the mathematical odds of any single name being picked are substantially equal.

D. Determining Numbers of Names to Draw

Following the effective date of this Plan, master jury wheels shall be emptied and refilled between January 1 and September 1 of each odd-numbered year (1999, 2001, *etc.*) unless the Chief Judge shall otherwise direct. The total number of names drawn for each division shall be no less than 1 % of the registered voters in that division. The Chief Judge may order additional names to be placed in any master wheel at any time.

E. Alternative of Selecting of Names by Manual Methods

If the need arises to select juror names manually from the source list, the choosing of names shall be by counting names down the list, either in numerical sequence if the names are numbered or, if they are not numbered, in any other logical consistent sequence. For this counting and selecting process, the entire list for each jury division must be traversed and specific names picked will be according to an established “quotient” and “starting number” formula.

To calculate the number of names to be drawn from each county, the Clerk first will add together the total number of registered voters in all counties of the jury division. Next, a quotient is obtained by dividing the total number of names of registered voters in the counties of the jury division by the number of names to be placed in the division's master wheel. The quotient, therefore, is the ratio of selected to unselected names.

For example, if the total number of registered voters in all the counties of the Indianapolis Division happened to be 1,146,051 and one percent of them were needed to fill the master wheel for that division, the quotient to be used in the refilling of that division's wheel would be 100 ($11,460/1,146,051 = 100$). The Clerk, therefore, would take every 100th name from the voter lists of each county in the Indianapolis Division.

After determining the quotient for a particular division, the Clerk shall choose randomly the starting number. The starting number will designate the first name on the voter registration lists to be selected. The starting number will be manually drawn from a jury box containing individual cards numbered from 1 through the number of the quotient. For instance, if the quotient were 100, the jury box would contain 100 cards individually numbered from 1 to 100.

In the quotient calculation given above, if the starting number is 12 (*i.e.*, randomly drawn from numbers ranging from 1 to 100), the first name selected from each county would be the 12th, the second would be the 112th, the third would be the 212th, *etc.*

Using a randomly selected starting number and a quotient is designed to ensure: (a) any group of names chosen will represent, in substantially correct proportions, the names on all voter registration lists of all counties comprising the master wheel, and (b) the mathematical odds of any single name being picked are substantially equal.

F. Records

The names within the master wheel may be kept on paper or on electronic data storage devices, including magnetic tapes and magnetic disk files. Thereafter, the names drawn may be arranged alphabetically on a list, which shall not be disclosed except as provided in Title 28, U.S.C. § 1867 and 1868, by order of this court, or as provided in section VIII (D) of this Jury Plan.

VII.

QUALIFIED JURY WHEEL

A. Separate Qualified Jury Wheels

From time to time as the need arises, the Clerk shall cause to be drawn from the master wheel by electronic data processing procedures as set forth in section VI, C above, the names and addresses of persons to whom questionnaires will be sent for the purpose of examining their qualifications for jury service, hence their inclusion in the “qualified wheel.”

The Clerk shall place in the qualified wheel for a particular division the names of all persons drawn from the master jury wheel of that division who, upon return of their questionnaires, are found not to be disqualified, exempt, or excused pursuant to this Plan. The Clerk shall insure that at all times a sufficient number of names is contained in each of the wheels so that the grand and petit jury panels may be drawn at any time required by the court. The Clerk shall maintain a separate qualified jury wheel for each division in the district.

Unless the Chief Judge shall otherwise direct, each division's qualified wheel shall be emptied during each odd-numbered year as soon as the process of qualifying jurors from the new master wheel has produced a sufficient number of qualified jurors to begin supplying the court's needs. Normally, the removal of unused names from the qualified wheels shall be accomplished by the end of the odd-numbered year during which such efforts began.

B. Questionnaires

The process of creating a qualified jury wheel begins with the mailing of a juror qualification questionnaire by the Clerk's office to each person whose name has been drawn from the master jury wheel. The questionnaire shall be executed and returned within 10 days. If the person to whom the questionnaire is sent is unable to complete it, another person shall do it and indicate on the questionnaire why such action was necessary.

Whenever an omission, ambiguity, or error in the execution of any questionnaire is apparent, the Clerk shall return the form with instructions to make such additions and corrections as may be necessary and to return the corrected form to the Clerk within 10 days. Any person who fails to return a completed questionnaire as instructed may be summoned by the Clerk to fill out a juror qualification form. 28 U.S.C. § 1864(a).

C. Determination of Qualification for Service

Judges of the district court on their own initiative or upon recommendations of the Clerk, shall determine on the basis of information provided on the juror qualification forms and other competent evidence whether a person is qualified for jury service. The Clerk shall record such determinations and the reasons underlying them. Also, the Clerk shall record a prospective juror's failure to return the qualification questionnaire or appear in response to a summons.

Pursuant to 28 U.S.C. § 1865(b), any person shall be determined to be qualified to serve on grand or petit juries in the district court unless the person:

- (1) is not a citizen of the United States;
- (2) has not resided for a period of one year within the judicial district;
- (3) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification forms;
- (4) is unable to speak the English language;
- (5) is incapable, by reason of mental or physical infirmity, of rendering satisfactory jury service;
- (6) has a charge pending against him or her for the commission of a crime punishable by imprisonment for more than one year;

- (7) has been convicted in a state or federal court of a crime punishable by imprisonment for more than one year and the person's civil rights have not been restored.

D. Exemptions from Jury Service

Pursuant to 28 U.S.C. § 1863(b)(6), the district court hereby finds exempting the following groups of persons or occupational classes from jury service is in the public interest and would not be inconsistent with the Jury Selection and Service Act of 1968, as amended:

- (1) members of the Armed Forces of the United States in active service;
- (2) full-time, employed members of the fire or police departments of any state, district, territory, possession or subdivision thereof, but not members of any voluntary organizations;
- (3) 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. 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.

E. Excusing Persons From Jury Service

Pursuant to 28 U.S.C. § 1863(b)(5), the District Court hereby finds members of the following occupational classes or groups of persons would endure undue hardship or extreme inconvenience if required to perform jury service and therefore shall be excused from such service upon individual request:

- (1) a person over 70 years of age;
- (2) a person who has served as a grand or petit juror within the last two years;

- (3) a person having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by any absence for jury service; or a person who is essential to the care of aged or infirm persons;
- (4) a person whose services are so essential to the operation of a business; commercial, or agricultural enterprise that it must close or cease to function if such person is required to perform jury duty;
- (5) volunteer safety personnel. For purposes of this Plan, "volunteer safety personnel" means individuals serving a public agency in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew for a public agency. Public agency, for this purpose, means the United States, any state of the United States, or any unit of local government, department or instrumentality of any of the foregoing.

F. Individual Excuses

Any person summoned for jury service may be excused by a Judge of the court, or temporarily excused by the Clerk under the supervision and control of the court, upon a showing of undue hardship or extreme inconvenience or both. Such excuse may be for the session for which the juror was summoned or for such a period of time during that session which the Judge or the Clerk deems necessary under the circumstances. The period during which the person is excused from jury service shall be fixed in a letter or notice to the juror granting the excuse. If the juror's service is deferred for the entire session for which the juror is summoned, that juror's name shall be reinserted into the qualified wheel.

Upon request, an individual juror summoned for service as a grand juror may be excused by a Judge if the prospective grand juror resides more than 100 miles from the courthouse where the grand jury will convene.

G. Jurors Excluded by the Court

Pursuant to 28 U.S. C. § 1866(c), any 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 or that his service as a juror likely would disrupt the proceedings;
- (2) That such person is peremptorily challenged as provided by law;
- (3) That such person should be excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown;
- (4) Upon a determination by the court that such person as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations; provided that no person shall be excluded under this sub-paragraph (4) unless the Judge, in open court, determines exclusion is warranted and will not be inconsistent with 28 U.S.C. §§ 1861 and 1862. The names of persons excluded under this paragraph, together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the circuit for disposition under the provisions of 28 U.S.C. § 1866(c). The number of persons excluded under this subparagraph shall not exceed 1 percent of the number of persons who return executed jury qualification forms during the period between two consecutive fillings of the master jury wheel.
- (5) That any person excluded from a particular jury under the provisions of subparagraphs (1), (2) or (3) of this subsection (E) of this Plan shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to the person's ability to serve on another jury.

VIII.

DRAWING OF NAMES FROM QUALIFIED WHEELS, ISSUANCE, OF SUMMONS AND DISCLOSURE OF NAMES

A. Summons of Jurors

Once the qualified wheel of a division is filled, the people whose names are contained in that wheel may be summoned for service on either a petit jury or a grand jury. No one shall be summoned to serve on both a federal petit jury and a federal grand jury within a period of two years.

B. Petit Jury Panels

Each petit jury panel will be summoned on a division-wide basis and will sit at the place where court is conducted within the division. The Clerk shall conduct, either electronically or manually, a random drawing from that qualified jury wheel. The number of names drawn shall be consistent with the number of jurors needed to serve on the petit jury panel.

These names shall be arranged alphabetically on a list, and the person's order of draw number shall be noted. Such a list shall be prepared for each petit jury panel.

No person shall 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.

C. Grand Jury Panels

Each grand jury panel will be called on a district-wide basis and may sit wherever court is conducted within the district. Thereafter, the Clerk shall randomly draw a pro-rata number of names from the qualified wheel of each division to ensure each division is proportionately represented on the grand jury panel. The number of names drawn, when pooled, shall be sufficient to fill the grand jury panel as may be directed by the court's order. As the names are drawn, they shall be arranged alphabetically on a list in the same manner as was specified above for petit jurors.

D. Disclosure of Juror Names

The lists of all names drawn from any qualified wheel to fill a civil or criminal petit jury panel or a grand jury panel shall not be disclosed or made available to the general public. However, redacted copies of petit juror questionnaires, either alphabetically or by order of draw, may be provided by the Clerk to counsel prior to trial. Redacted copies of grand juror questionnaires may be provided to the United States Attorney's Office by the Clerk prior to the convening of the grand jury. At the conclusion of jury selection during a trial or grand jury proceeding, counsel shall return all copies of juror questionnaires to the Clerk for secure and immediate disposal.

Upon request, and only after the jurors' service has concluded, the court may order the Clerk to disclose to the media or public the names of individuals who have served as jurors in a civil or criminal trial. The court may order any list of juror names to be kept confidential in a case or cases when the interest of justice so requires.

IX.

MAINTENANCE AND INSPECTION OF RECORDS

After the master jury wheel is emptied and refilled pursuant to this Plan and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, the Clerk shall preserve for a minimum of four years copies of all electronic programs utilized and all records and papers compiled and maintained by the Clerk before the master wheel was emptied. Such records shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

X.

INCORPORATION OF AMENDMENTS

Incorporated herein by reference is 28 U.S.C. §§ 1861 to 1871, together with all amendments which may hereafter be made, and all laws hereafter enacted relating to grand and petit juries and trial by jury in the United States.

This Plan, as amended October 1, 2005, supersedes any and all Plans heretofore adopted and shall constitute the rule of this court.

LARRY J. MCKINNEY, Chief Judge
United States District Court

SARAH EVANS BARKER, Judge
United States District Court

JOHN DANIEL TINDER, Judge
United States District Court

DAVID F. HAMILTON, Judge
United States District Court

RICHARD L. YOUNG, Judge
United States District Court