

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**In re Amendment of the Plan for Random Selection
of Grand and Petit Jurors Pursuant to the Jury Selection
and Service Act of 1968**

GENERAL ORDER

Considering the unanimous consent of the Judges of the United States District Court for the Eastern District of Louisiana on April 21, 2021, amending and adopting the Plan for Random Selection of Grand and Petit Jurors Pursuant to the Jury Selection and Service Act of 1968, previously filed on December 3, 1980, and last amended on December 2, 2020,

IT IS ORDERED that the Plan for Random Selection of Grand and Petit Jurors Pursuant to the Jury Selection and Service Act of 1968, attached hereto, as approved by the Reviewing Panel of the Judicial Council of the Fifth Circuit, is hereby **AMENDED and ADOPTED**.

New Orleans, Louisiana, this 18th day of May, 2021.



NANNETTE JOLIVETTE BROWN
Chief United States District Judge

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

REVIEWING PANEL --- JURY SELECTION PLAN

The Eastern District of Louisiana adopted an amendment to its Jury Selection Plan. The amended Plan, having been reviewed by the Reviewing Panel of this Circuit, is approved.

Entered for the Reviewing Panel at New Orleans, Louisiana, this 17th day of May 2021.



Theodore P. Cominos
Secretary to the Judicial Council
of the Fifth Circuit

The following judges comprised and acted as the Reviewing Panel:

(a) The Judicial Council of the Fifth Circuit:

Priscilla R. Owen
Jennifer Walker Elrod
James L. Dennis
Gregg J. Costa
Don R. Willett
James C. Ho
Stuart Kyle Duncan
Kurt D. Engelhardt
Andrew S. Oldham
Cory T. Wilson
Jay C. Zainey
John W. deGravelles
Elizabeth E. Foote
Michael P. Mills
Carlton W. Reeves
Ed Kinkeade
Lee H. Rosenthal
Amos L. Mazzant, III
Alia Moses

(b) United States District Judge:



Nannette Jolivet Brown
Chief United States District Judge
Eastern District of Louisiana

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PLAN FOR RANDOM SELECTION OF GRAND AND PETIT JURORS
PURSUANT TO THE JURY SELECTION AND SERVICE ACT OF 1968

Pursuant to the Jury Selection and Service Act of 1968, Title 28 United States Code, Section 1861 et. seq., as amended, the plan heretofore adopted by this Court for the random selection of grand and petit jurors filed on December 3, 1980, last amended on December 2, 2020, is hereby amended and the following plan is hereby adopted by this Court, subject to approval by the Reviewing Panel of the United States Court of Appeals for the Fifth 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 PLAN

This plan is applicable to the Eastern District of Louisiana which comprises thirteen (13) parishes, to which twelve (12) judgeships are authorized and regularly assigned.

POLICY

It is the policy of the United States and of this Court 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 wherein the Court convenes. It is further the policy of the United States and of this Court 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 shall have an obligation to serve as jurors when summoned for that purpose.

DISCRIMINATION PROHIBITED

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.

MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The Clerk, under the supervision of the Chief Judge, is charged with the overall supervision of this plan, provided, however that the Chief Judge may, from time to time, by order duly filed in the Clerk's Office, designate a specific Judge who is assigned to supervise the day-to-day operation of this plan. The words "Chief Judge" wherever used in this plan shall mean the Chief Judge of this District, or in the event of his or her absence, disability, or inability to act, the active District Judge who is present in the District and has been in service the greatest length of time. The word "Court" as used herein, unless otherwise specifically indicated, shall mean the Chief Judge of this District or such other District Judge as the Chief Judge has, by order, in accordance with this plan, designated to supervise the operation of this plan.

The Judges of this Court find that electronic data processing methods can be advantageously used to assist in performing clerical work connected with juror selection. Accordingly, a properly programmed electronic data processing system or a combination system employing both electronic and manual methods may, at the Clerk's option and after consultation with the Chief Judge, be used to select names from the master and qualified wheels as directed by this plan, to select names of persons to be sent questionnaires, to select names of persons to be summoned, and to perform other data-processing, clerical and record-keeping functions as needed by the Court to administer the provisions of this plan.

Non-court personnel are authorized to assist the Clerk with electronic data processing and other clerical functions to comply with the random selection of prospective jurors. The Clerk, with the approval of the Chief Judge, is authorized to effect any changes in the data processing system including, but not limited to, hardware, software, forms, mailing procedures, etc., which will improve or provide a more efficient data processing and mailing system. However, any such changes shall continue to ensure that potential jurors are randomly selected from a representative

cross-section of the community and that no citizen is excluded on the basis of race, color, religion, sex, national origin, or economic status in compliance with the objectives and requirements of this plan.

To ensure proper supervision and management over the automated and clerical aspects of jury selection performed by non-court personnel, the operator of the automated and/or clerical system shall comply with the instructions for random selection of grand and petit jurors contained in this plan and with such additional instructions provided by the Court. The automated and/or clerical system operator shall certify that the work has been completed in accordance with this plan and the Court's instructions.

RANDOM SELECTION FROM SOURCE LISTS

The primary source from which the names of petit and grand jurors will be selected at random is voter registration lists, including any and all federal registrars' lists, from all parishes that comprise the Eastern District of Louisiana. Voter registration lists, including any and all federal registrars' lists, represent a fair cross-section of the community in the Eastern District of Louisiana. While such lists represent a fair cross-section of the community in this district, to foster the statutory policy of 28 U.S.C. §§ 1861 and 1862, voter registration lists may be supplemented with lists of licensed drivers and persons holding state identification cards from all parishes within the Eastern District of Louisiana using an automated system that will eliminate, as reasonably as possible, any name duplications. The Court will follow procedures to ensure that only licensed drivers and state identification card holders who are U.S. citizens are included in the pool of jurors qualified to be summoned for jury service. The list or lists used to select names for the master jury wheel will hereafter be referred to as the "source list."

AUTOMATED RANDOM SELECTION PROCEDURE

A master jury wheel and a qualified jury wheel shall be maintained for this district. The names of prospective jurors to be placed in these wheels shall be randomly selected as hereinafter

provided.

This plan's reference to random selection from a source list shall mean that only the first selected name shall be chosen by a purely random method and that each subsequent name for the drawing may be systematically taken at regular intervals throughout the entire source list. Random selection from a source list, whenever required under this plan, shall be in accordance with the method and manner as follows:

Determining a "quotient." The Clerk, who may be assisted by non-court personnel using data processing methods, shall make the randomized selection by taking the total number of names on the source list and dividing that number by the minimum number of names to be selected, then rounding up to the next whole number and the number obtained will be the "quotient".

Determining a "Starting Number." After determining the "quotient", the Clerk, who may be assisted by non-court personnel using data processing methods, shall establish a "starting number". This number will locate on the source list the first name to be selected. The starting number will be drawn in a purely random fashion. The numbers used for this drawing should begin with the number one and end with the same number as the number of names on the source list.

SELECTING THE NAMES BY MANUAL METHODS

In the event that the selection of names is required to be performed by manual methods, the selection will be made in such manner as may be approved by the Court and in compliance with the Jury Service and Selection Act's procedures for random selection summarized in 28 U.S.C. § 1863(b).

MASTER JURY WHEEL

The Clerk shall maintain a master jury wheel into which the names and addresses of all persons randomly selected from the source lists shall be placed. The minimum number of names to be placed in the master jury wheel shall be in such a total number as may be deemed sufficient

for at least a two (2) year period, but in no event less than ½ of 1% of the total number of names on all parish voter registration lists.

The number of names drawn from each parish shall be substantially in the same proportion to the total number drawn from all parishes within the District as the number of names on that parish's source list bears to the total number of names on the source lists for all parishes within the District.

The Chief Judge or the District Judge designated by the Chief Judge to supervise the operation of this plan may order additional names to be placed in the master wheel from time to time, as necessary and in accordance with the formula herein above described. The master jury wheel shall be emptied and refilled every two (2) years between the date of the November general election and the following September 1.

DRAWING OF NAMES FROM MASTER JURY WHEEL

Names shall be drawn from the master jury wheel and qualification forms mailed, processed, etc., as follows, noting that in performing the Clerk's functions, the Clerk may be assisted by non-court personnel: From time to time, as directed by the Chief Judge or by the Judge designated by order of the Chief Judge to supervise the operation of this plan, the Clerk, a Deputy Clerk, or a District Judge, after reasonable public notice, shall draw or cause to be drawn at random from the master jury wheel the names of as many persons as may be required for jury service. The Clerk shall prepare an alphabetical list of the names drawn, which list shall be disclosed only in accordance with this plan or the statute. The Clerk shall, by manual, computer, or electronic means, make available to every person whose name is drawn from a master wheel, a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the Clerk by mail or through the Court's internet website within ten days. If the person is unable to fill out the form, another shall do it for the person and shall indicate that the person completing the form has done so and the reason therefor. In any case in which it appears that there

is an omission, ambiguity, or error in the form, the Clerk shall make further inquiry of the person to resolve the omission, ambiguity, or error in the form, instructing the person to respond to the Clerk within ten days. Any person who fails to return a completed juror qualification form as instructed or to respond to the Clerk's inquiry sufficiently to complete the form satisfactorily may be summoned by the Clerk forthwith to appear before the Clerk to fill out a juror qualification form. A person summoned to appear because of failure to complete a juror qualification form as instructed who personally appears and executes a juror qualification form before the Clerk may, at the discretion of the District Court, except where his prior failure to execute and return such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under Section 1871 of Title 28 U.S. Code. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the Clerk or the Court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the Clerk may be noted on the juror qualification form and transmitted to the Chief Judge or such other District Court Judge as has been designated by order of the Chief Judge to supervise this plan.

EXCUSES ON INDIVIDUAL REQUESTS

This Court, by unanimous agreement of all of its judges, and in accordance with applicable statutes, hereby finds that jury service by members of the following occupational classes or groups 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 objects and purposes of the Act, and shall be granted upon individual request:

- (1) Persons whose services are so essential to the operation of a business, commercial, or agricultural enterprise that this enterprise must close if such person were required to perform jury duty;

- (2) Persons having active care and custody of a child or children under 10 years of age 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;
- (3) Full -time students;
- (4) All persons over seventy years of age at the time of executing the juror qualification form;
- (5) Volunteer safety personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency." "Public agency" for this purpose means the Government of the United States, the State, or any unit of local government, department, or instrumentality of any of the foregoing; or
- (6) Persons who have, within the past two years, served on a federal grand or petit jury panel.

EXEMPTIONS FROM JURY SERVICE

This Court, by unanimous agreement of all of its judges, and in accordance with 28 U.S.C. § 1863 (b) (6), and the Judicial Conference-approved juror qualification form, finds that the exemption of the following groups or occupational classes is in the public interest and would not be inconsistent with the Act, and, accordingly, members of such group, when employed in such capacity on a full-time basis, 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 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 the State, or any subdivision thereof, who are actively engaged in the performance of official duties. Public Officials as used herein shall mean a person

who is either elected to public office or who is directly appointed by a person elected to public office.

DETERMINATION OF QUALIFICATIONS

The Judges of this Court 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 at least eighteen years old who has resided for a period of at least one year within the judicial district;
- (2) Is unable to read, write, and understand the English language;
- (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 the person 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 the person's civil rights have not been restored.

QUALIFIED JURY WHEEL

The Clerk shall maintain a qualified jury wheel or box, into which shall be placed the names of at least 300 persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused under this plan. The qualified jury wheel shall be emptied and refilled every two (2) years between the date of the November general election and the following October 1. Names shall be drawn from said wheel and summonses issued and served, and proceedings had, as follows:

From time to time the Clerk shall draw or cause to be drawn at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels.

Grand jurors shall be summoned for the first day of the session and petit jurors shall be

summoned as directed by the court. Service of the summons shall be by mail or electronic means. Alternatively, when personal service is needed, the summons shall be delivered by the Clerk or his deputy to the United States Marshal, who shall make the service.

PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME OF AUTOMATED
SELECTION OF NAMES BY COMPUTER CENTER

Random drawings of starting numbers and names of prospective jurors by automated selection methods shall be made by the Clerk, who, as previously noted, may be assisted by non-court personnel, following procedures as provided in this plan. These procedures are posted for public review in the Clerk's Office and on the court's website.

The Office of the Clerk shall retain and, when requested, provide public access to the following documents:

- (1) the Court's "Juror Selection Plan," including the plan's verbatim description of the method used in determining the "quotient" and "starting number", and the selection systems.
- (2) a copy of the Court's order authorizing the Clerk to carry out automated name selection tasks for the Court.

PROCEDURE IN EXCUSING AND ASSIGNING PERSONS
TO GRAND AND/OR PETIT JURY PANELS

Persons who have been summoned for service as jurors may be excused from service as follows:

Except as provided in Section 1865 of Title 28 U.S. Code, or as provided in this plan, no person or class of persons shall be disqualified, excluded, excused, or exempt from service as jurors: PROVIDED, that any person summoned for jury service may be (1) Excused, by the Court or the Clerk as directed by the Court, upon a showing of undue hardship or extreme inconvenience, at the conclusion of which such persons may be summoned again for jury service under the preceding section of this plan, or (2) excluded by the Court on the ground that such person may be

unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the Court that his service as a juror would be likely to threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this paragraph unless the Judge, in open court, determines that such is warranted, and that exclusion of the person would not be inconsistent with Sections 1861 and 1862 of Title 28 U.S. Code. The number of persons excluded under clause (5) shall not exceed one percent of the number of persons who returned executed juror qualification forms during the period specified in this plan, between two consecutive fillings of the master jury wheel. The names of persons excluded under clause (5), together with detailed explanations for the exclusions, shall be forwarded immediately to the Judicial Council of this Circuit. Any person excluded from a particular jury under clauses (2), (3), or (4) of this paragraph shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the Clerk shall note in the space provided on the person's juror qualification form or by remarks or documentation stored in the person's electronic record, the specific reason therefor.

The names of those jurors, grand and petit, who have been excused for the session for which they have been summoned for undue hardship or extreme inconvenience reasons will be put back in the qualified jury wheel where they will be subject to subsequent random selection.

Should there occur an unanticipated shortage of available petit jurors, a sufficient number of additional jurors shall be drawn at random by the Clerk from the qualified jury wheel and such persons whose names are so drawn shall be summoned for jury service.

Requests for excuse by petit jurors who have been called for a particular day will be referred

by the Clerk to the judges in rotation, except when they have been assigned to a panel which is presided over by a specific Judge who will review their requests.

Proceedings for empaneling the grand jury shall be conducted in closed session. The Presiding Judge shall select by lot, from the persons appearing in answer to the summons, twenty-three persons and any alternates as deemed necessary by the Court to constitute the grand jury for the ensuing session of the Court. From among these twenty-three persons, the Presiding Judge shall appoint a foreman and a deputy foreman. The grand jurors and alternates selected shall then be sworn and the Judge shall charge the grand jury as to its rights, powers, obligations and duties. The names of persons selected as grand jurors shall not be disclosed, except in accordance with this plan.

When there is an excess of jurors present for empaneling a grand jury and their presence is required for only one day, the Court shall, in its discretion, upon excusing the excess jurors, inform them that their names will be placed back in the qualified jury wheel, subject to subsequent random selection.

DISCLOSURE OF RECORDS

Pursuant to 28 U.S.C. § 1867(f), the contents of records or papers used by the Clerk in connection with the jury selection process shall not be disclosed, except pursuant to district court plan or as authorized by the Chief Judge, or by the Judge designated by order of the Chief Judge to supervise the plan, or as necessary in the preparation or presentation of a motion under subsection (a), (b), or (c) of this section, until after the master jury wheel has been emptied and refilled pursuant to section 1863(b)(4) of this title and all persons selected to serve as jurors before the master wheel was emptied have completed such service. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such a motion. Any person who discloses the content of any record or paper in violation of this subsection may be fined not more than \$1,000 or imprisoned not more

than one year, or both.

The names of grand jurors, identifiable as such, shall not be disclosed to anyone other than court personnel, persons authorized to assist in performing clerical work in connection with jury selection, and the United States Attorney, except upon order of the district judge in charge of the grand jury on a showing that exceptional circumstances have created a demonstrated need for disclosure.

FORMS

The juror qualification form used in the implementation of this plan, whether in printed or electronic format, shall, in accordance with the Jury Selection and Service Act of 1968, be the form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

The foregoing plan was adopted by unanimous consent of the Judges of the United States District Court, Eastern District of Louisiana on the 21st day of April, 2021.


NANNETTE JOLIVETTE BROWN
CHIEF JUDGE