

United States District Court
for the
Western District of Tennessee

Amended Plan for the Random Selection
of Grand and Petit Jurors

Effective June 1, 2005

As Modified by Administrative Order 2005-03, Filed March 17, 2005

AND Enabled by Administrative Order 2005-15, Filed July xx, 2005

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
AMENDED PLAN FOR THE RANDOM SELECTION
OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968 (28 U.S.C. Section 1861 et seq.) and the various amendments to the Act, the following amended plan is hereby adopted for this court, subject to approval by the Judicial Council of the Sixth Circuit and further subject to such rules and regulations as may be adopted by the Judicial Conference of the United States. All previous plans and amendments are hereby rescinded.

I. APPLICABILITY

This district consists of the Western and Eastern divisions, and this Plan applies to each of the said divisions [Section 1863(a)]. Civil and criminal proceedings or trials may, upon order of the Court, for the purpose of assuring compliance with the requirements of the Speedy Trial Act and for such other compelling, justiciable reasons as the Court may determine, be accordingly transferred and conducted within either of the foregoing divisions.

II. POLICY

This Plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

"Section 1861 Declaration of Policy"

It is the policy of the United States 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. It is further the policy of the United States 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.

"Section 1862 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.

III. MANAGEMENT AND SUPERVISION OF
THE JURY SELECTION PROCESS

The clerk shall manage the jury selection process, under the supervision and control of the Chief Judge, with respect to the Western Division and Eastern Division, except those aspects of the process which apply singularly to the Eastern Division shall be supervised by the Judge stationed in that division [Section 1863(b)(1)]. The use of the word "Clerk" in this Plan contemplates the Clerk of this Court and any and all of his/her deputies, including duly authorized non-court officials, who, because of their expertise or access to records or equipment, can be of assistance in the process. The Clerk will be responsible for enforcing statutes governing jury selection, and for ensuring this plan is complied with by all such persons employed to assist in the

selection process [Section 1869(a)].

The phrase "Chief Judge of this District" wherever used in this Plan means the Chief Judge of the District or, in his/her absence, disability, or inability to act, the most senior active District Court Judge who is present in the district. The Chief Judge is authorized to designate one or more other active judges of the district to supervise and control the management, selection, and impaneling process of both grand and petit jurors of this district, including the determination of whether a person is unqualified for, or exempt, or is to be excused from jury service as contemplated in Section 1865, as amended.

IV. RANDOM SELECTION FROM VOTER REGISTRATION LISTS

Voter registration lists represent a fair cross section of the community in each of the counties and divisions of the district and therefore selection of jurors from these lists will foster the policies and protect the rights secured by the Act. Accordingly, names of grand and petit jurors serving on and after January 1, 1993 in each division shall be selected at random from the voter registration lists of all the counties within each division [Section 1863(b)(2)(3)].

Further, the Judges find that electronic data processing methods can be used advantageously for selection and copying names from the voter registration lists of those counties that maintain these lists in machine readable form. Therefore, a properly programmed electronic data processing system or a combination

system employing both manual and electronic machine methods may be used to select names for the master wheel from the voter registration lists of any or all counties in the district, provided the required proportions of names from each county are maintained.

Further, the Clerk is authorized to utilize computers of whatever kind in the administration of the jury process so long as the policies and purposes of this plan and the statutes are adhered to.

The following system will be used in obtaining names from the voter registration lists. The quotient of the total number of names on the voter registration lists in a division divided by the total number of names to be placed in the master wheel of that division will be determined by the Clerk and will be the increment of names passed over for each name selected. The starting number for each county will be determined by placing in a container chips numbered consecutively from one to the quotient number referred to above and drawing a number from the container at random.

Drawing of the starting number for each county shall be done in the Clerk's office of either division but will be done in a public area. Anyone in charge of taking numbers by electronic data processing shall certify to the court that the names were taken in compliance with the system set out above. The number of registered voters in each county of the district for ascertaining the quotient referred to above shall be obtained from the Coordinator of Elections of the State of Tennessee.

V. MASTER JURY WHEELS

The Clerk shall maintain a separate master jury wheel for each division within the district. The names of all persons randomly selected from the voter registration lists of the counties in a division shall be placed in the master wheel for that division. The minimum number of names to be placed initially in these wheels and at the emptying and refilling every four years, which amount will be well in excess of one-half of one percent of the registered voters in a division, is:

Western Division	75,000
Eastern Division	25,000

The judges may order additional names to be placed in the master jury wheels from time to time as necessary.

The master jury wheels will be filled between January 1, 1993 and May 30, 1993 and refilled every fourth year thereafter. [Section 1863(b)(4)].

VI. DYERSBURG

As there are no jury cases tried in Dyersburg by local rule, there is no need for a separate master wheel at Dyersburg.

VII. ONE-STEP JUROR QUALIFICATION AND SUMMONS PROCEDURE

Pursuant to Title IV of the Federal Courts Administration Act of 1992, the Western District of Tennessee authorizes the Clerk to implement a one-step juror qualification and summoning procedure whereby jurors shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise

provided for by the Jury Selection and Service Act.

VIII. DRAWING FROM MASTER JURY WHEEL

The selection of names from the master wheel for the purpose of summoning persons to serve as grand or petit jurors will be accomplished by a purely randomized process through a properly programmed electronic data processing system. Such random selections of names must ensure 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 master wheel must also ensure the mathematical odds of any single name being selected are substantially equal.

As the jury master wheels shall be reconstituted following each general election, the Clerk shall draw, no later than May following a general election, one thousand (1,000) names at random from the master wheel in the Western Division and two hundred fifty (250) names at random from the master wheel in the Eastern Division.

The same procedure shall be followed approximately every 30 days thereafter for each successive jury month. Jury months will approximate calendar months with consideration being given for beginning each jury month on a Monday (or first day after a Monday legal holiday where adjustment from the calendar month will result in better juror utilization and reduced inconvenience in the administration of the court).

The Clerk shall mail to every person whose name is drawn a Jury Qualification and Summons form with instructions. Jurors meeting the criteria for qualification jurors shall respond to the summons as directed.

Those jurors who, according to the qualification criteria contained in the summons package, believe themselves disqualified, exempt, or excluded from service, or who desire to be excused from service shall notify the Clerk within ten days of receipt of the summons. The Clerk shall list those persons whom he believes to be exempt, excluded, disqualified and excused and shall submit his recommendations to the judges for approval.

IX. TEMPORARY EXCUSES

The Clerk may grant or refuse to grant temporary excuses to prospective jurors on the grounds of hardship subject to appeal to a judge. If a juror's name has been drawn when the excuse is given, his or her name may be retained by the Clerk until the period of excuse is over and the juror is called again or the Clerk may defer service to a time convenient to the court, consistent with the intent codified at Section 1866(c)(1). The names of those persons not exempt, disqualified, excused or excluded shall report for service as summoned.

X. EXCUSES ON INDIVIDUAL REQUEST

The Judges hereby find that jury service by members of the following groups or occupational classes would entail undue

hardship or extreme inconvenience of those required to serve, that the excuse of such members will not be inconsistent with the Act, and therefore shall be granted upon individual request of the person summoned to serve:

- (a) persons over 70 years of age;
- (b) a person having active care and custody of a child under 10 years of age whose health and/or safety would be jeopardized by his or her absence for jury service;
- (c) a person essential to the proper care or custody of any person incompetent to care for him or herself due to physical or mental disability;
- (d) a student in a college, university or trade school actively attending;
- (e) a person essential to the daily operation of a professional, commercial, agricultural, charitable or educational enterprise;
- (f) a person serving a public agency as a firefighter, member of a rescue squad or ambulance crew without compensation.

The court will consider a lack of public or private transportation as a grounds for being excused.

XI. FORMATION OF PETIT JURIES

From time to time as the formation of petit juries is required, the Clerk shall randomly call to court qualified jurors from the pool of prospective jurors on call during the month for which they have been summoned. The Clerk shall use an automatic answering device and employ the practice of instructing jurors to telephone the court for a prerecorded message the evening before selection for a jury trial so that only those jurors actually needed will be told to report.

A separate list of each panel of petit jurors shall be drawn from the pool of jurors reporting in response to the prerecorded message. The Clerk shall prepare and furnish to counsel at the beginning of voir dire examination the names of those jurors on a venire selected for voir dire. Those names shall not be made public until that time unless otherwise provided by law or directed by a judge.

XII. EMPTYING MASTER AND QUALIFIED WHEELS

The master wheel shall be emptied of all names at the end of each four-year period before being refilled.

XIII. FORMATION OF GRAND JURY

The Clerk shall draw sufficient names from the master wheel to qualify and summon grand juries, as needed. The Clerk shall also draw sufficient names to fill any vacancies in grand juries already constituted. Notice shall be given in the same manner as for petit jurors. Any names drawn but not used for a grand jury shall be used for petit juries.

The term of grand jurors may be extended for three additional terms of six months each. Before the term of any grand jury is extended, the members shall be notified of the intent to do so and shall be given an opportunity to request excuse on the basis of hardship.

The grand jury shall meet and deliberate at such times as the court directs.

XIV. EFFECTIVE DATE

The effective date of this Plan shall be established by a separate Order of this Court after this Plan has been approved by the Judicial Council of the Sixth Circuit.

The current Jury Plan of this Court, as approved by the Judicial Council on December 7, 1999 together with the Amendments thereto, shall remain effective and operative until the effective date of this revision.

Nothing in this Plan shall affect the composition or preclude the service of any juror duly summoned or empaneled on or before the date upon which this Jury Plan shall become effective.

James D. Todd
Chief United States District Judge

Date

Jon P. McCalla
United States District Judge

Date

Bernice B. Donald
United States District Judge

Date

J. Daniel Breen
United States District Judge

Date

Samuel H. Mays, Jr.
United States District Judge

Date

CERTIFICATE OF FILING

This is to certify that, in accordance with 28 U.S.C. Section 1863(a), true copies of the foregoing, United States District Court for the Western District of Tennessee "Amended Plan for the Random Selection of Grand and Petit Jurors," Effective June 1, 2005, were filed with (1) the Administrative office of the United States Courts, (Mr. William Burchill, Jr., Associate Director, & General Counsel), One Columbus Circle, N.E., Washington, DC, 20544-0001, AND (2) Alberto Gonzales, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC, 20530-0001, both via properly addressed certified United States mail deposited this _____ day of July, 2005.

Thomas M. Gould
Clerk of Court