

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI

Revised December 2008

AMENDED PLAN FOR THE RANDOM SELECTION AND SERVICE OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, (28 U.S.C. § 1861, *et seq.*), Public Law 90-274, as amended, the United States District Court for the Western District of Missouri, en banc, by unanimous vote of all judges does hereby adopt the following Amended Plan For The Random Selection And Service Of Grand And Petit Jurors, subject to such rules and regulations as may be adopted from time to time.

A. Effective Date and Duration

This plan for jury selection shall be placed in operation after approval by the reviewing panel as provided in 28 U.S.C. § 1863 (a). This plan shall remain in force and effect until approval of one or more modifications of this plan by said reviewing panel.

Modifications of this plan may be initiated by the court and submitted to the reviewing panel for approval; and this plan shall be modified as and when directed by the said reviewing panel.

B. Policy Declarations

It is the purpose of this plan to implement the policies of the United States declared in 28 U.S.C. § 1861 and 28 U.S.C. § 1862:

1. that all litigants in this Court entitled to 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 of the Court and shall have an obligation to serve as jurors when summoned for that purpose.
3. that no citizen shall be excluded from service as grand or petit juror in this Court on account of race, color, religion, sex, national origin, or economic status.

C. Applicability of Plan

Pursuant to 28 U.S.C. §105, the Western District of Missouri is divided into five divisions as follows:

Western Division

Bates	Carroll	Cass	Clay
Henry	Jackson	Johnson	Lafayette
Ray	St. Clair	Saline	

St. Joseph Division

Andrew	Atchison	Buchanan	Caldwell
Clinton	Daviess	DeKalb	Gentry
Grundy	Harrison	Holt	Livingston
Mercer	Nodaway	Platte	Putnam
Sullivan	Worth		

Central Division

Benton	Boone	Callaway	Camden
Cole	Cooper	Hickory	Howard
Miller	Moniteau	Morgan	Osage
Pettis			

Southern Division

Cedar	Christian	Dade	Dallas
Douglas	Greene	Howell	Laclede
Oregon	Ozark	Polk	Pulaski
Taney	Texas	Webster	Wright

Southwestern Division

Barry	Barton	Jasper	Lawrence
McDonald	Newton	Stone	Vernon

The provisions of this plan apply to each and every division of this district, unless specifically indicated to the contrary.

D. Management and Supervision of Jury Selection Process

Pursuant to 28 U.S.C. § 1863 (b) (1), the Clerk of the Court is hereby authorized to manage the jury selection process in the Western District of Missouri. In the management of the jury selection process, the Clerk shall act under the general supervision and control of the Chief Judge of the Court, or in the absence of the Chief Judge, the Clerk shall act under the general supervision and control of the regular active district judge who is present in the district and has been in service the greatest length of time. In the absence of all regular active judges from the district, the Clerk shall act under the general supervision and control of the senior district judge who is present in the district and has been in service the greatest number of years.

E. Sources of Names of Prospective Jurors

As allowed by 28 U.S.C. § 1863 (b) (2), the Court finds that the source from which the names of prospective petit and grand jurors shall be selected at random, shall be the merged lists of general election voter registration, and licensed drivers after the elimination of known duplicates from all the counties within the relevant division, and does further find that such lists, as described above, represent a fair cross section of the community within the district.

Accordingly, names of grand and petit jurors serving in this Court shall be selected by randomized procedures from the merged lists of licensed drivers and registered voters. The names of registered voters will be obtained from the most recent federal general election as maintained in the books, lists, or automated voter registration systems of each county, and certified as being the correct number by the Secretary of State. The names of licensed drivers list will be obtained from the lists or automated systems from the Department of Motor Vehicles. This merged list of registered voters and licensed drivers shall hereinafter, be known as the source list.

This plan's reference to random selection shall mean that in any selection procedure, all names shall be chosen by a purely random method. This randomized selection procedure which is described hereinafter, ensures (a) that names chosen will represent all segments of the source file from which drawn, (b) that the mathematical odds of any single name being picked are substantially equalized, and (c) that the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

F. Initial Selection of Names for the Master Jury Wheel

The Judges of this Court find that the initial selection of persons to be considered for service as grand and petit jurors from the source list, after the elimination of known duplicates, shall be made at random in such a total number as may be deemed sufficient for a two (2) year period.

To assure proportional representation of prospective jurors to be selected at random from each county in each division and placed in the divisional master jury wheel when the master jury wheel is filled or refilled, the following formula will be used to determine the number to be selected from each county.

The number of names drawn from the source list of each county in a division, shall be divided by the total number of names from the source list of that division. The quotient so secured shall be multiplied by the total number to be selected for the divisional master jury wheel. The product shall be the number to be selected from the county. The Clerk shall now proceed to make the initial selection of names from the source list of each county.

G. Method and Manner of Random Selection

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 selection of names from the source list, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

H. Master Jury Wheel

A master jury wheel shall be maintained for each division of the court. Any or all of the master jury wheels may, at the option of the Clerk and with the approval of the Chief Judge, be maintained through use of a properly programmed electronic data processing system. Into each of these wheels there shall be placed the names of prospective jurors or numbered counters for the drawing by equal chance the names or serial numbers assigned to each of the names, which have been selected at random from the source list in accordance with this plan.

On each occasion that these wheels are filled or refilled under this plan, the minimum number of names or numbered counters to be placed in each divisional master jury wheel shall be at least one percent of the total number of persons on the lists used as a source of names of prospective jurors for the division but not less than 1,000. The Chief Judge of this Court, or in his absence, the regular active district judge who is present and who has been in service the greatest length of time, may order additional names to be placed in any divisional master jury wheel from time to time as he may determine to be necessary or desirable. Such additional names shall be selected at random and in such proportions as provided herein.

The master jury wheel for each division shall be emptied and refilled following each general election at which an electoral college for choosing a President of the United States is elected, and again two (2) years later. The refilling of each divisional master jury wheel shall be accomplished within 270 days after each such election unless, for a good cause, the time shall be further extended or shortened by order of the Chief Judge, or in his absence, the regular active district judge who is present and who has been in service the greatest length of time.

I. Drawing of Names from the Master Jury Wheel and Completion of Qualification Form

At periodic intervals, as directed by the Chief Judge, or in his absence, the regular active district judge who is present and who has been in service the greatest length of time, the Clerk shall draw at random from each divisional master jury wheel, the names of as many persons as may be required for jury service. 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 shall be determined by the Clerk based upon anticipated juror demands by the Court plus a margin of extra names sufficient to compensate for the estimated number that will turn out to be unavailable or ineligible.

The Clerk shall prepare or cause to be prepared an alphabetical list of the names drawn, which lists shall not be disclosed to any person except upon order of a regular active district judge, a senior judge, or a visiting district judge sitting in the district by assignment and except as required by 28 U.S.C. § 1867 and 28 U.S.C. § 1868. Upon drawing names or numbers from a divisional master jury wheel, the Clerk shall mail to every person whose name or number is drawn from said wheel, a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the Clerk by mail within ten (10) days. The Court shall utilize the juror qualification forms prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States for this purpose.

The instructions shall advise the person receiving the qualification form that if he or she is unable to fill out the form, he or she is obligated to have the form filled out by another person who shall indicate by whom the form is filled out and the reason therefor. If it appears that there is an omission, ambiguity or error in a filled out and returned qualification form, the Clerk shall return the form with instructions to the person to make such additions and corrections as may be necessary and to return the form to the Clerk within ten (10) days. Any person who fails to return a completed juror qualification form as instructed in accordance with this plan, may be summoned by the Clerk forthwith to appear before the Clerk to fill out a juror qualification form.

A person summoned to appear by the Clerk because of failure to return a juror qualification form as instructed and who personally appears and executes a juror qualification form before the Clerk shall be entitled to receive for such appearance the same fees and allowance paid to jurors under 28 U.S.C. § 1871, except where prior failure to properly execute and mail such form was willful in the judgment of the court.

J. Qualified Jury Wheel

A qualified jury wheel shall be maintained for each division of the court. Into each divisional qualified jury wheel, the Clerk shall place the names for drawing by equal chance from it all persons previously drawn from the divisional master jury wheel in accordance with section I of this plan, who have been determined to be qualified as jurors and not exempt, excluded, or excused pursuant to the provisions of this plan.

From time to time, at the direction of any active or senior judge of this district, the Clerk shall draw at random from a divisional qualified jury wheel, by use of a properly

programmed data system, as many names or numbers of persons as may be required for assignment to grand and petit jury panels. **The Clerk or jury commission 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.**

When a regular active district judge, a senior judge, a visiting district judge, a bankruptcy judge, or a US Magistrate orders or requests a grand or petit jury to be drawn, the Clerk shall issue summons, by first-class mail, for the required number of jurors. The summons shall be addressed to each summoned juror at his usual residence or business address. If a person does not appear in accordance with the original summons, the Clerk shall issue a second summons by either certified or registered mail.

In assigning prospective jurors to petit jury panels, or to panels to be assigned to the bankruptcy court, the names of available petit jurors drawn from the divisional qualified jury wheel, as provided in this plan, and who are not excused, shall be drawn at random by the Clerk, and assigned to particular panels for each jury case as directed by the court

K. Disclosure of Juror Information

The names of prospective jurors drawn from the Qualified Jury Wheel or summoned for any session of court, or for a specific case, shall not be disclosed prior to their reporting for service except when ordered by the Court

The Clerk shall make available to counsel for the parties, or to any party appearing pro se, a jury list which sets forth the name, general address and occupation of each person assigned to individual petit jury panels in both civil and criminal cases at the time of voir dire proceedings.

Disclosure of any list of prospective jurors or persons assigned to individual petit jury panels will be made to the public or the media only upon request and only when ordered by the Court.

The list of names of persons summoned to any court in this District for prospective grand juror service shall remain confidential. The names of persons chosen to serve as grand jurors in this District shall remain confidential in the interest of justice until otherwise ordered by the Court.

The names drawn from the qualified jury wheel shall be disclosed to the parties, the public or the press; provided; however, that the Chief Judge of this court, or in his absence, the regular active district judge who is present and who has been in service the greatest length of time, any senior judge, any visiting judge, bankruptcy judge, or US Magistrate before whom a case is pending in which any of the prospective jurors concerned are expected to serve, may by special order require that the Clerk keep these names confidential where the interests of justice so require.

L. Disqualification or Exemption from Jury Service

For the district grand and petit juries, the Chief Judge of the Court, or in his absence, the regular active district judge who is present and who has been in service the greatest length of time, or, as delegated, the Clerk of Court, pursuant to 28 U.S.C. § 1865 (a), shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a prospective juror is unqualified for or exempt for jury service. The Clerk shall enter such determination in the space provided on the juror qualification form or on the alphabetical list of names drawn from a divisional master jury wheel.

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

1. is not a citizen of the United States eighteen (18) years of age who has resided for a period of one (1) year within the judicial district;
2. is unable to read, write, and understand the English language with a degree of proficiency, sufficient to fill out satisfactorily 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 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 (1) year and his civil rights have not been restored.

Pursuant to 28 U.S.C. § 1863 (b), the following persons shall be 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, district, territory, possession, or subdivision thereof; and
3. public officers in the executive, legislative, or judicial branch of the Government of the United States, or any state, district, territory, possession or subdivision thereof, who are actively engaged in the performance of official duties.

M. Exclusion from Jury Service

Pursuant to 28 U.S.C. § 1866 (c), any prospective juror who has been summoned for jury service may be excluded by the Chief Judge of this court or the district judge, bankruptcy judge, or US Magistrate upon whose order the summons was issued 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 be likely to disrupt the proceedings;
3. that such person would be peremptorily challenged as provided by law;
4. that such person would be excluded pursuant to the procedure specified

- by law upon a challenge by any party for good cause shown;
5. that the court has determined that the service of such person as a juror would likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations; provided; however, that no person shall be excluded upon the grounds of this subparagraph (5) unless the judge in open court determines that such exclusion is warranted and that the exclusion of the person will not be inconsistent with 28 U.S.C. § 1861 and § 1862; and further provided that the number of persons excluded under this subparagraph (5) shall not exceed one percent of the number of persons who return executed jury qualification forms during the period of approximately four (4) years intervening between two (2) consecutive fillings of a divisional master jury wheel under this plan; and provided further, that the names of persons excluded under this subparagraph (5), together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the circuit, for its disposition under 28 U.S.C. § 1866 (c).
 6. that any person excluded from a particular jury under subparagraphs (1), (2), (3) or (4) of this section of this plan shall be eligible to serve 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 excluded from jury service, the Clerk shall note in the space provided on the juror qualification form or on the alphabetical list of names drawn from the divisional qualified jury wheel, the specific reason therefor.

N. Individual Excuse from Jury Service

Pursuant to 28 U.S.C. § 1863, (b) (5), and by the adoption of this plan, it is hereby found that jury service by the following groups of persons and occupational classes of persons would entail undue hardship or extreme inconvenience to the members thereof and that the excuse from jury service of the members thereof on request would not be inconsistent with 28 U.S.C. § 1861 and § 1862:

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 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;
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 in professional categories and occupations such as doctors, lawyers, dentists, and registered nurses; or
6. persons who are members of the clergy or a member of a religious order.

In addition to the members of groups and classes subject to excuse from jury service on

request as provided in this plan, any person summoned for jury service may be excused by a district judge, bankruptcy judge, or US Magistrate upon a showing of undue hardship or extreme inconvenience or both pursuant to 28 U.S.C. § 1866 (c). The period for which such prospective juror may be excused shall be the period which the district judge, bankruptcy judge, or US Magistrate deems necessary under the circumstances which shall be fixed, such person shall be summoned again for jury service within a reasonable time.

Whenever a person is excused for reason of undue hardship or extreme inconvenience, the Clerk shall note the reason for the excuse in the space provided on the jury qualification form or on the alphabetical list of names drawn from the divisional qualified jury wheel.

O. Obligation to Serve and Period of Service

When summoned to serve as a juror, every person shall be obligated to serve unless determined to be disqualified, exempt, excluded, or entitled to be excused. No person shall be summoned or required to serve as a juror or to attend court for prospective service as a petit juror after he or she has served either as a juror in one trial or has attended court for prospective service as a petit juror for a total of three (3) days; nor shall any person be required to serve upon more than one (1) grand jury or to serve both as a grand and petit juror in any two (2) year period.

Jurors and prospective jurors, including those summoned because of failure to return a juror qualification form as required, shall be obligated to appear when summoned. A person summoned pursuant to this plan as a juror or a prospective juror because of failure to return a juror qualification form as required shall be obligated to appear at the time and place fixed in the summons. Any person failing to appear as summoned shall be ordered by any regular judge, or by any senior or assigned judge of this court to show cause for failure to comply with the summons. If cause is not shown in response to such order, the juror or prospective juror may be punished as provided in 28 U.S.C. § 1864 (b), and 28 U.S.C. § 1866 (g).

P. Selection of Jurors in the Event of Unanticipated Shortage

When there is an unanticipated shortage of available petit jurors drawn from any qualified jury wheel, the district judge, bankruptcy judge, or US Magistrate before whom a case is pending requiring additional jurors may by order of the court, require the Clerk or Marshal to summon a sufficient number of additional petit jurors selected at random from the source list in a manner fixed by order of court from the division in which court is held consistent with 28 U.S.C. § 1861 and § 1862.

Q. Maintenance and Inspection of Records

After any master jury wheel is emptied and refilled as provided in this plan, and after all

persons selected to serve as jurors before the master jury wheel was emptied, have completed such service, all papers and records compiled and maintained by the Clerk before the master jury wheel was emptied, shall be preserved in the custody of the Clerk for four (4) years or for such longer period as may be ordered by this or any other court having jurisdiction to make such order, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury or of the history of the operation of this plan.

R. Grand Juries for the District and the Division and Their Powers

Grand juries may be drawn for and from the entire district, or for and from any separate division or combination of divisions. Grand juries drawn for and from the entire district may indict for any offense in which venue originally is in any division of the district. Grand juries drawn for and from a division or a combination of divisions may indict for any offense in which venue originally is in the division or combination of divisions for and from which the grand jury is drawn. Grand juries drawn for and from the entire district shall be drawn from the divisional qualified jury wheels in substantially the proportion that the number of names in the divisional master jury wheel bears to the total number of names in all master jury wheels in the district. Grand juries drawn for and from a combination of divisions shall be drawn in substantially the proportion that the number of names in the divisional master jury wheels bears to the sum of the total number of names in the master jury wheels of divisions in the combination. After a grand jury has been obtained and sworn, the names and addresses of those on such grand jury should not be maintained in any public record or publicly disclosed except for good cause and on the order of the Chief Judge or the district court judge at whose request the grand jury was ordered.

S. Fees and Allowances of Grand and Petit Jurors

Grand jurors and petit jurors, including prospective jurors summoned for failure to return a juror qualification form when authorized by a district judge, shall be paid fees and allowances as authorized by law under 28 U.S.C. § 1871.

T. Time and Method of Challenging Compliance with this Plan and with the Law

In civil cases and in criminal cases the exclusive method of challenging compliance with the selection of this plan shall be provided by any existing statute and rule of criminal and civil procedure, including but not limited to 28 USC § 1867.

