

UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF WISCONSIN

**PLAN FOR THE RANDOM SELECTION OF
GRAND AND PETIT JURORS**

(Amended Juror Selection Plan - 1985)

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C. 1861 et. seq.), the following plan is hereby adopted by this Court, subject to the approval by the reviewing panel for the Seventh Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

1. APPLICABILITY OF THE PLAN

The Eastern District of Wisconsin is hereby divided into Divisions for jury selection purposes pursuant to 28 U.S.C., Sec. 1869(e) as follows:

Milwaukee Division Counties:

Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha.

Green Bay Division Counties:

Brown, Calumet, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Kewaunee, Langlade, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara and Winnebago.

The provisions of this plan apply to all Divisions in this District, unless specifically indicated to the contrary.

2. POLICY

It is the policy of this Court that all litigants entitled to trial by jury shall have the right to juries selected at random from a fair cross section of the community in the Division where the Court convenes. The Court may, on its own motion or motion of the parties, select a petit jury venire from any other Division of the District. It is further a policy of this Court that all qualified citizens within the District shall have the opportunity to be considered for service on the juries of this Court, and shall have an obligation to serve as jurors when summoned for that purpose.

No citizens shall be excluded from service as a grand or petit juror in this Court on account of sex, race, color, national origin or economic status.

3. MANAGEMENT OF THE JURY SELECTION PROCEDURES

The Clerk of Court shall manage the jury selection process under the supervision and control of the Chief Judge of the District or the designee of the Chief Judge.

4. METHOD AND MANNER OF RANDOM SELECTION

4.1 Supplementation of the Master Jury Wheel

If the Court, pursuant to 28 U.S.C. Sec. 1863(b)(2), should find it necessary, it may authorize the Clerk to draw names of prospective jurors from supplementary lists in addition to voter lists, or to draw additional names from the voter lists for the Division. For example, the Court might find that when names for the Master Jury Wheel are drawn in equal percentages from each county and/or election district, it cannot, because of demographic distribution of population, obtain the names of certain racial minorities in substantially the same proportion as such persons are represented in the general population. When and if the Court determines such a condition exists, it may, in order to insure proportionate representation of such races in the Master Jury Wheel, authorize the Clerk to draw additional names from the Master Jury Wheel from the voter records of election districts known to contain greater numbers of such racial minorities than the general population.

This plan's reference to random selection shall mean that in any selection procedure only the name of the first person selected shall be chosen by a purely random method and subsequent names for that drawing may be systematically taken at regular intervals throughout the remainder of the source lists. This random selection procedure hereinafter described insures that:

- (a) names chosen will represent all parts of the source list from which drawn;
- (b) the mathematical odds of any single name being picked are substantially equalized;
and
- (c) the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

4.2 Selection of Names for the Master Jury Wheel

The Judges of the Court find that the initial selection of persons to be considered for service as grand or petit jurors from the voter or voter registration lists shall be made at random in such a total number as is sufficient for a two (2) year period. The number of names selected from each county shall be substantially in the same proportion to the total number selected from the Division as the number of voters in the Division. For example, if 48,000 votes were cast in County "A" and 240,000 votes were cast in the entire Division, then the number of names selected from County "A" should be substantially 20 percent of the number of names selected from the entire Division, since 48,000 is 20 percent of 240,000.

For the purpose of calculating the total number of voters in the respective Divisions within the District, the Clerk will add the total votes cast in each county within the District as obtained by manual or mechanized count of the votes or as obtained from the County Clerk in each county, the officials of the Election Division of the Wisconsin Department of State, or any officials authorized to provide such information. The method of determining the total number of votes in the counties in the respective Divisions shall be at the option of the Clerk.

Having determined the total number of names needed for the Master Jury Wheel in each Division and the number of names to be selected from each county in each Division, the Clerk shall proceed either manually or through the use of a properly programmed data computer, or through a combination of manual and computer methods, to make the initial selection of names from the source lists described in Section 4.1.

The sequence in which the voters' lists and registration lists from the various counties are to be processed for the purposes of selecting names will, at the option of the Clerk, be any administratively convenient order such as the chronological order in which the lists are obtained, in alphabetical sequence by county name, or in a simple random sequence.

4.3 Determining a "Quotient"

For each of the two (2) Divisions, the Clerk will proceed as follows:

In those counties with uniform permanent registration, the Clerk shall make the random selection by taking the total number of registered voters in those counties and dividing that number of names by the number of names to be placed in the Master Jury Wheel as allocated pursuant to Section 4.2. The number obtained will be the quotient which is the ratio of selected to unselected names. In those counties which have a "mixed" system, i.e., some Districts with only voter lists and some with permanent registration, a separate quotient will be determined by taking the total number of actual voters in the last general election and dividing that number by the number of names to be placed in the Master Jury Wheel from those counties as allocated pursuant to Section 4.2. For example, if the Clerk has determined that 4,000 names are needed to supply the Court requirements for the Milwaukee Division for two years, 2,000 of those 4,000 names will be allocated from Milwaukee pursuant to Section 4.2. Since Milwaukee County is the only county in the Division with uniform permanent registration and the number of registered voters on the most current registration list is 400,000, the quotient will be 200 and the Clerk will select every 200th name to place in the Master Jury Wheel.

The other 6 counties have a "mixed" system and the number allocated from all 6 counties pursuant to Section 4.2 is 2,000. If the total number of actual votes from those 6 counties is 200,000, then the quotient will be 100 and the Clerk will select every 100th name from those 6 counties to place in the Master Jury Wheel.

4.4 Determining a "Starting Number"

The Clerk shall establish (after determining the quotient, or quotients, if necessary) a starting number for each Division. This number will locate on the voter list(s), or on the

data computer's tape, disc, or punched card record of such lists, the first name to be selected for the Master Jury Wheel. The starting number will be manually drawn by lot from numbered plastic chips placed in a jury wheel drum or box. The plastic chips used for this drawing should begin with the number one and end with the same number as the "quotient". In other words, the range of numbers from which a starting number is drawn is exactly the same as the range between number one and whatever the "quotient" number happens to be. As an example of how both the starting number and quotient are used, if we suppose the "quotient" to be 100 and the starting number drawn is 12, the first name chosen for each county would be the 12th name on the list of voters, the second name would be the 112th, the third, the 212th, etc., and continued to the end of the list.

4.5 Selecting Names by Manual Methods

When selection from any county's list of voters is made manually, the choosing of names shall be by counting names down the list, either in a 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 must be covered and the specific names picked will be according to the established "quotient" and "starting number" formula described above. In lieu of making an actual physical count of names, a measuring device that expresses name intervals in terms of inches of space on a page may be used providing it substantially approximates the desired "quotient" intervals between selected names that an actual name count would produce.

4.6 Selecting Names by Machine Methods

The Judges of this Court find that electronic data processing methods can be advantageously used for selecting and copying names from voter lists of those larger counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes, or magnetic discs. It is further found that in smaller counties currently maintaining their voter lists in handwritten or printed form, it may be advantageous to employ a combination of methods whereby names are initially selected from the voter lists manually and then recorded in punched cards and tapes for subsequent handling and copying of these names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination of systems employing both manual and electronic methods may, at the Clerk's option and after consulting with the Chief Judge, be used to select Master Jury Wheel names from voter lists of any or all counties in the District, provided that the required proportions of names from each county are maintained and the above described "quotient: and "starting number" formula is followed.

Similarly, the Judges of this Court find that an electronic and manual system may, at the option of the Clerk and the Chief Judge, be used to select names from the Qualified Jury Wheel of persons to be summoned to serve as grand or petit jurors, and for the recording of names of prospective jurors or any papers and records needed by the Court to administer the selection and payment of jurors.

If the Court elects to use electronic machine methods in connection with any or all of the District's voter records, source lists, Master Jury Wheels, or Qualified Jury Wheels, the

name selection system shall be planned and programmed according to a "start number" and "quotient" formula. If the Court uses a manual system for drawing names from any Division's Master or Qualified Jury Wheel(s), the names shall be randomly drawn by lot.

5. MAINTAINING MASTER JURY WHEELS

The Clerk shall maintain a Master Jury Wheel for each of the Divisions within the District. The names and addresses of all persons randomly selected from the lists of voters at the last general election shall be placed in the Master Jury Wheel for the Division.

The minimum number of names to be deposited initially shall be 2,000 names for the Green Bay Division and 13,000 names for the Milwaukee Division. However, for the refilling of any Divisional Master Jury Wheel, the Court may determine that the Division's practical need for jurors requires either a smaller or larger number of names and the Court may by order specify such larger or smaller numbers than specified above for the refilling of any Master Jury Wheel.

The Chief Judge of this District or the designee of the Chief Judge may order additional names to be placed in any Master Jury Wheel from time to time as necessary.

Each Master Jury Wheel shall be emptied and refilled every two years, and the emptying and refilling task shall be completed no later than the 15th day of October of the year following the General Election held in the fall of even-numbered years.

The physical form of record on which names for the Master Jury Wheel are kept may include such electronic data storage devices as punched cards, magnetic tapes, or magnetic disc files. Pursuant to Section 1863(b)(4) of the Act, the minimum number of names to be placed in the Master Jury Wheel(s) shall be at least one half of one percent of the total number of names of all county voters and voter registration lists.

6. DRAWING OF NAMES FROM MASTER JURY WHEELS AND COMPLETION OF JUROR QUALIFICATION QUESTIONNAIRES

The Clerk, either all at one time or at periodic intervals, shall publicly draw at random from the Master Jury Wheels by electronic or manual methods the names of as many persons as may be required to maintain an adequate number of names in the Qualified Jury Wheels. 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 have prepared, by manual or computer means, alphabetized lists of names drawn. These lists shall not be exhibited to any person except as provided herein and in Sections 1867 and 1868 of the Act as amended. The Clerk shall, by manual or computer means, prepare and have mailed to every person whose name is so drawn, a Juror Qualification Questionnaire. The Juror Qualification Questionnaire form must be returned, duly signed and sworn, to the Clerk by mail within ten days, in accordance with Section 1864(a) of the Act, as amended.

7. PERSONS QUALIFIED FOR JURY SERVICE

Any prospective juror shall be deemed qualified to serve on Grand and Petit juries in this District 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 sufficient to fill out satisfactorily the Juror Qualification Questionnaire;
- (3) is unable to speak the English language;
- (4) is incapable, by reason of mental or physical infirmity, to render satisfactorily 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 year and his civil rights have not been restored.

8. EXCUSES OF INDIVIDUAL REQUEST

The District Court finds that jury service by the following groups of persons or occupational classes would entail undue hardship or extreme inconvenience to the members thereof, and that the excuse of members thereof would not be inconsistent with 28 U.S.C. Section 1861 and 1862. Accordingly, the Court shall grant excuses upon individual request from anyone who:

- (1) is over 70 years of age;
- (2) is an actively practicing attorney, medical doctor or dentist;
- (3) has 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) has served as a grand or petit juror in State or Federal Court within the last two years;
or
- (5) 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.

9. EXEMPTION FROM JURY SERVICE

The District Court finds that exemption from jury service of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with 28 U.S.C. Section 1861 and 1862. Therefore, members of the following groups or classes shall be barred from jury service on the grounds 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, district, territory, possession or subdivision thereof; or
- (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 directly appointed by a person elected to public office.

10. DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES

The Chief Judge or the designee of the Chief Judge upon recommendation of the Clerk shall determine solely on the basis of information provided on the Juror Qualification Questionnaire and the alphabetical list of names prescribed by Section 6 whether an individual is qualified for, exempt, or may be excused from Federal Jury Service.

11. MAINTAINING QUALIFIED JURY WHEELS AND SUMMONING JURORS

11.1 Filling the Jury Wheel

The Clerk shall maintain separate Qualified Jury Wheels for each Division and shall place in such Qualified Jury Wheels the names of all persons, drawn from the Master Jury Wheel who are not disqualified, exempt, or excused pursuant to this plan.

Each Qualified Jury Wheel shall be emptied and refilled every two years no later than two months after the corresponding Master Jury Wheel is emptied and refilled, i.e. by the 15th of December.

11.2 Summoning Petit Jurors

The Clerk shall insure that at all times an adequate number of names are contained in each Qualified Jury Wheel. The Clerk, may, at the Clerk's option and after consultation with the Chief Judge, maintain any or all of the Qualified Jury Wheels through use of manual methods. Whenever a Qualified Jury Wheel is maintained on a data computer, the persons to be summoned for a particular jury array will be selected by a quotient arrived at by dividing persons needed on the array into the number of names in the Qualified Wheel. The computer center will be instructed to follow the starting number and quotient formula in the machine selection of those persons and in the recording of their names and addresses on the summons form. The computer center will also be instructed to prepare an alphabetized list of persons summoned. These lists shall not be exhibited to any persons except as provided herein and in Sections 1867 and 1868 of Title 28. Whenever a Qualified Jury Wheel is maintained in manual record forms, names of the persons summoned will be manually drawn by lot.

From time to time, as jurors are required, the Clerk shall order the drawing at random from the appropriate Qualified Jury Wheel as many persons as may be required for petit jury arrays.

Completed summons forms may be mailed to jurors by the Clerk's Office at the option of the Clerk, by the computer center or by a commercial mailing service.

11.3 Terms of Service; Granting Excuses

Persons summoned to constitute the petit jury array shall serve on jury panels for such term of service as the Court may direct.

Written requests for excuses on the grounds of undue hardship or extreme inconvenience will be submitted to the Chief Judge or the designee of the Chief Judge for determination. The Court shall either deny the excuse or indicate the length of time the juror may be excused. The Clerk shall retain the juror on the array and call such person for services at the expiration of the period for which excused. During the term of service, no person shall be required to serve or attend Court for prospective service as a petit juror for a total of more than 30 days except when necessary to complete service in a particular case.

11.4 Selection of Jury Panels for Trials

In selecting a jury panel from the array for trials, the Clerk or the designee of the Clerk shall proceed alphabetically as far as practicable but shall take into account the number of days already served by any juror. Requests in advance by a member of the array for excuse for good reason shall be honored by the Clerk. Requests for excuse by a member of the panel called for a scheduled trial may be granted by the Clerk for good reason, or referred to the presiding Judge.

11.5 Summoning Grand Jurors

From time to time, as Grand Jurors are required, the Clerk shall order the drawing from each Division's Qualified Jury Wheel a pro-rata share of the total number of Grand Jurors needed for the Grand Jury array.

11.6 Disclosure of Juror's Names and Questionnaires

The lists of current petit jury arrays and the Juror Questionnaires shall be available for inspection at the Clerk's Office to the parties and public, provided that the Court may order the names and addresses to be kept confidential in a case or cases when the interest of justice so requires.

11.7 Disclosure of Grand Juror's Names and Questionnaires

Lists of Grand Jurors and Grand Juror Questionnaires shall not be disclosed or made available for inspections at the Clerk's Office except upon special order of the presiding Judge per District Court Local Rule 21.

11.8 Communication with Jurors

No attorneys appearing in this Court, or any of their agents or employees, shall approach, interview, or communicate with any member of the jury except on leave of Court granted

upon notice to opposing counsel and upon good cause shown. This rule applies to any communication before trial with members of the venire from which the jury will be selected, as well as any communication with members of the jury during trial, deliberations, and after the return of a verdict. Any juror contact permitted by the Court shall be subject to the control of the presiding Judge per District Court Local Rule 8.06.

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

Random drawings of the starting number shall be publicly made in the Office of the Clerk of Court at times to be publicly announced on the Court bulletin board.

Drawing of names of prospective jurors by automated selection methods shall be publicly made at the designated computer center. The location and approximate time of such drawings shall be publicly announced in a public place, such as the Court's bulletin board.

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

- (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
- (2) a verbal or graphically charted description of the procedure employed in the automated selection system.

13. DEFINITIONS

"Chief Judge" where used in this plan shall refer to the Chief Judge of this District Court or such District Judge as the Chief Judge designates to act in his stead.

"Clerk" where used in this plan shall refer to the Clerk of the District Court or such Deputy Clerk as the Clerk designates to act in his stead.

"Presiding Judge" where used in this plan shall refer to the District Judge, or United States Magistrate designated by the District Judge, assigned to the civil or criminal case wherein the request for jury information has been made.