

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WISCONSIN**

Jury Plan

(Revised January 2017)

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 divided into the Milwaukee and Green Bay Divisions pursuant to 28 U.S.C. § 1869(e).

The Milwaukee Division consists of: Dodge, Fond du Lac, Green Lake, Kenosha, Marquette, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington and Waukesha counties.

The Green Bay Division consist of: Brown, Calumet, Door, Florence, Forest, Kewaunee, Langlade, Manitowoc, Marinette, Menominee, Oconto, Outagamie, Shawano, Waupaca, Waushara and Winnebago counties.

The provisions of this plan apply with equal force and effect to both the Milwaukee and Green Bay Divisions in this district. Separate master jury wheels are established for each division.

2. PURPOSE AND POLICY

It is the purpose of this plan to implement the policies declared in 28 U.S.C. § 1861 to ensure that all litigants entitled to trial by jury will 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 will have the opportunity to be considered for jury service, and will have an obligation to serve as jurors when summoned for that purpose.

It is further the purpose of this plan to implement the prohibition against discrimination contained in 28 U.S.C. § 1862, which provides that no citizen will 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, with the assistance of the jury administrator or any authorized deputy, will manage the jury selection process under the supervision and control of the chief judge of the district or the designee of the chief judge. 28 U.S.C. § 1863(b)(1).

4. SOURCE LISTS

The court finds that, in accordance with the Jury Act, voter records will be used as the primary source of names. Sources of names other than voter lists may be used to supplement, but not to replace, voter lists. The Jury Act provides that courts should supplement "where necessary to foster the policy and protect the rights secured by 28 U.S.C. §1862." The legislative history to the Jury Act makes clear that Congress intended to allow some variation from an exact demographic reflection of the community and that only "substantial percentage deviations must be corrected by the use of supplemental sources." H.R. Rep. No.1076, supra.

When necessary and for the purposes of improving representation of racial minorities, young persons, or other potentially underrepresented groups the court may supplement the voter records, as permitted by 28 U.S.C. §1863(b)(2). The supplemental source list may be a combination of data maintained or collected by Wisconsin Department of Transportation, which includes driver's license records and state issued identification cards. The selection of names from such lists will be done in a manner consistent with the selection procedures described in this plan.

If the court, pursuant to 28 U.S.C. § 1863(b)(4) should find it necessary, it may authorize the clerk to draw additional names from the voter lists for each division

5. SELECTION OF NAMES FROM THE SOURCE FOR THE MASTER JURY WHEEL

At the clerk's option, and after consultation with the court, the selection of names may be accomplished by a purely randomized process through a properly programmed electronic data processing system. The court should provide detailed instructions to any non-court personnel involved in the random selection of names and require any non-court personnel to certify, under penalty of perjury, that the random selection procedures have been followed as directed.

In accordance with 28 U.S.C. § 1863(b)(3), such selections of names must ensure that each county within the division is substantially proportionally represented and will reflect a fair cross section of the persons residing in each county. This plan's reference to random selection means that in any selection procedure only the name of the first person selected will 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. A mathematical format for random selections, known as an algorithm method, may also be used. This random selection procedure hereinafter described ensures 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.

The number of names selected from each county should 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.

6. MAINTAINING MASTER JURY WHEELS

The clerk will electronically maintain a Master Jury Wheel for each division within the district. The names and addresses of all persons randomly selected from the source list will be placed into a properly programmed electronic data processing system. Pursuant to 28 U.S.C. § 1863(b)(4) the minimum number of names to be placed in the Master Jury Wheel should be at least one half of one percent of the total number of persons on the source lists.

The minimum number of names to be deposited initially should be 3,000 names for the Green Bay Division and 10,000 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. The chief judge, or designee, may order a larger or smaller number of names, than specified above, for the refilling of any Master Jury Wheel when necessary.

The chief judge, or designee, may order additional names to be placed in any Master Jury Wheel from time to time as necessary.

Each Master Jury Wheel will be emptied and refilled every two years. The emptying and refilling task should be completed no later than six to nine months of the year following the general election held in the fall of even-numbered years.

7. DRAWING OF NAMES FROM A MASTER JURY WHEEL AND COMPLETION OF JUROR QUALIFICATION QUESTIONNAIRES

At periodic intervals, names will be randomly drawn from the Master Jury Wheel using a properly programmed electronic data processing system for the purpose of summoning persons to serve as grand or petit jurors. The number of names to be drawn will be determined by the clerk, or designee, based upon anticipated jury demands by the court.

Every person whose name is so drawn will be mailed a Juror Qualification Summons/Questionnaire or an instructional letter directing them to complete the questionnaire electronically. The Juror Qualification Summons/Questionnaire form must be returned, duly signed and sworn, to the clerk of court by mail or through the court's internet website within ten days in accordance with 28 U.S.C. § 1864(a).

The clerk, or designee, will prepare an alphabetical list of names drawn. The list will not be exhibited or disclosed to any person except as provided herein and in 28 U.S.C. § 1867 and 28 U.S.C. § 1868.

8. PERSONS DISQUALIFIED FOR JURY SERVICE

Pursuant to 28 U.S.C. §1865(b) an individual is not qualified for jury service if he or she:

- (1) is not a citizen of the United States at least 18 years old who has resided for a period of one year within the judicial district; (*Notice of persons who identify themselves as non-citizens through the juror qualifications process will be provided to appropriate election officials for verifying voter registration eligibility.*)
- (2) is unable to read, write and understand the English language with a degree of proficiency sufficient to fill out a qualification questionnaire;

- (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 year and his civil rights have not been restored.

Prospective jurors who are found to be ineligible may not serve even if they indicate a desire to do so.

9. 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. § 1861 and § 1862. Accordingly, the court may 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;
- (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 service; or
- (6) serves without compensation as a volunteer safety personnel, such as a firefighter or a member of a rescue squad or ambulance crew for a federal, state or local government agency.

10. EXEMPTION FROM JURY SERVICE

Pursuant to 28 U.S.C. § 1863(b)(6) members of the following groups or classes who are employed on a full time basis are barred from jury service and may not serve even if they indicate a desire to do so 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.

11. DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES

According to the Federal Courts Improvement Act of 2000, section 305 amends 28 U.S.C. § 1865 (a) and (b) of the Jury Act to permit the chief judge to authorize the clerk of court, under supervision of the court, to determine whether persons are qualified, unqualified, exempt, or excused from jury service. Accordingly, the Jury Act now gives clerks and deputy clerks the authority to make all status decisions of prospective jurors. This authority is similar to 28 U.S.C. § 1866(c) which provides that clerks and deputy clerks may grant temporary excuses or deferrals

to jurors when necessary. Written requests for excuses on the grounds of undue hardship or extreme inconvenience will be reviewed by the clerk of court or deputy clerk for determination.

12. MAINTAINING QUALIFIED JURY POOLS AND SUMMONING JURORS

12.1 Qualified Jury Pools

The clerk of court, or designee, will maintain separate qualified jury pools for each division. The names of all persons who are periodically drawn from the respective Master Jury Wheel, who are not disqualified, exempt, or excused pursuant to this plan, will be placed in the appropriate division's qualified jury pool.

12.2 Summoning Petit Jurors

The clerk of court, or designee, should ensure that at all times an adequate number of names are contained in each qualified jury pool.

As petit jury arrays are required a sufficient number of names will be randomly drawn from the appropriate qualified jury pool. The draw will take place by using a properly programmed electronic data processing system or from time to time, a random manual draw, to ensure that all qualified jurors have an equal opportunity to be summoned to appear.

A Summons or Notice to Appear will be prepared for each name selected and sent to the juror by electronic means or by U.S. mail. Requests in advance by a member of the array to be excused for good reason may be honored by the clerk or designee. Requests to be excused for good reason by a member of the panel summoned for a scheduled trial may be granted by the clerk, deputy clerk or referred to the presiding judge. Individuals temporarily excused may be returned to the qualified pool.

12.3 Terms of Service

Each qualified jury pool will remain in an "on-call" status for such term of service as the court may direct. No person should be required to serve on more than one trial, or on more than one grand jury, or serve as both a petit and grand juror in any two-year period. Pursuant to 28 U.S.C. § 1866(e), no person should 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.

12.4 Summoning Grand Jurors

When the court orders a grand jury to be empaneled, a random selection of names will be proportionately drawn from each division's qualified jury pools using a pro-rata share. According to the Guide to Judiciary Policy, a permissible alternative is to have a single district-wide grand jury drawn from one jury division in the district. A grand jury may be selected from just one division of a multi-division district, and may return indictments for the entire district. To avoid inconsistencies with 28 U.S.C. § 1861(a), which provides that "all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts," the Office of the General Counsel of the Administrative Office has suggested that the court draw an occasional grand jury panel from all divisions (e.g., one

district-wide grand jury panel every couple of years) to allow all citizens in the district the opportunity to serve.

12.5 Disclosure of Petit Juror's Names and Information

The profile lists of randomly selected petit jury arrays, for both civil and criminal trials will be available in electronic format seven to ten days prior to a trial date. The lists are compiled with limited information and available only upon request and only to counsel of record. From time to time, requested copies of the juror qualification questionnaires may be provided in a redacted format as directed by the presiding judge or when the interest of justice so requires. Any requested juror information will be destroyed no later than at the conclusion of the trial. The names and information of prospective and sitting jurors will not be disclosed to the public or the media outside open court except upon court order.

12.6 Disclosure of Grand Juror's Names and Information

Information regarding grand jurors, including names and questionnaires, will not be disclosed to anyone except upon special order of the presiding judge.

12.7 Communication with Jurors

Pursuant to General Local Rule 40(c), parties, attorneys and the agents or employees of parties or attorneys may not approach, interview, or communicate with a venire member or juror, before, during or after trial, except on leave of court granted upon notice to opposing counsel and upon good cause shown. Good cause may include a trial attorney's request for permission to contact one or more jurors after trial for the trial attorney's educational benefit. The juror(s) must be advised at the outset of any communication that the juror's participation is voluntary. Any juror contact permitted by the court under this rule is subject to the court's control.

13. PUBLIC INFORMATION

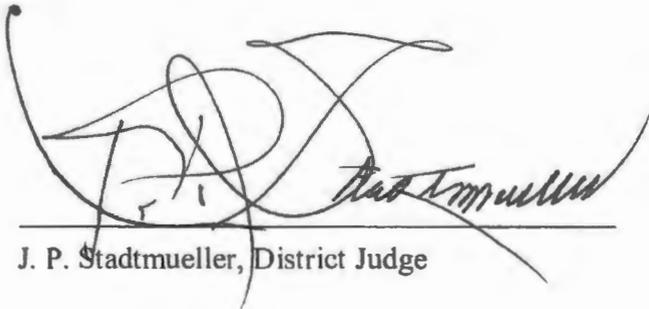
One general notice is to be posted in the Clerk's Office and on the court's website that explains the process by which names are randomly and periodically drawn from the Master Jury Wheels. The clerk of court will retain and, when requested, provide public access to the court's Jury Plan.

14. MAINTENANCE OF RECORDS

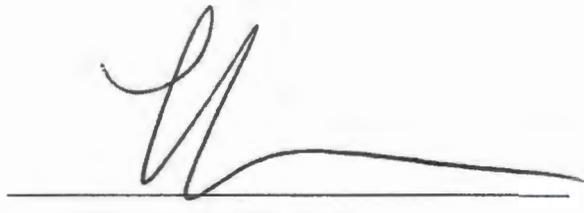
All juror records and documents compiled in connection with the jury selection process will be maintained by the Clerk's Office. Said records will be preserved for four years after the Master Jury Wheel has been emptied and refilled as required by 28 U.S.C. § 1868. All records can then be destroyed.

15. EFFECTIVE DATE

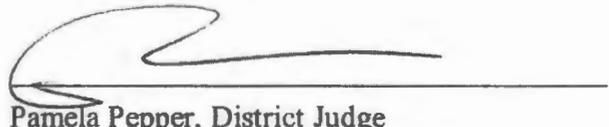
This plan for juror selection will be placed in operation after approval by the reviewing panel as provided in 28 U.S.C. § 1863(a) as amended by the Jury Selection and Service Act of 1968. This plan will remain in force and effect until approval of one or more modifications of this plan by the reviewing panel. Modifications of this plan may be initiated by the court and submitted to the reviewing panel for approval; and this plan will be modified as directed by the reviewing panel.



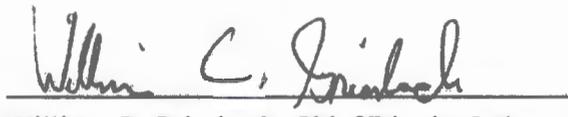
J. P. Stadtmueller, District Judge



Lynn Adelman, District Judge



Pamela Pepper, District Judge



William C. Griesbach, Chief District Judge

Approved by the Full Court on January 5, 2019.

Approved by Judicial Council of the Seventh Circuit on _____.