

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
JUDICIAL COUNCIL**

In the Matter of the Review of the	*	
Amended Plan for the Random	*	
Selection of Grand and Petit Jurors	*	
Submitted by the United States District	*	No. 173
Court, Eastern District of Virginia	*	

ORDER

The Plan for the Random Selection of Grand and Petit Jurors in the United States District Court for the Eastern District of Virginia is hereby amended by the District Court and so recorded on the 6th day of February 2003, a copy of which Plan and certification are attached hereto, and it is so ORDERED.

FOR THE COUNCIL:

/S/

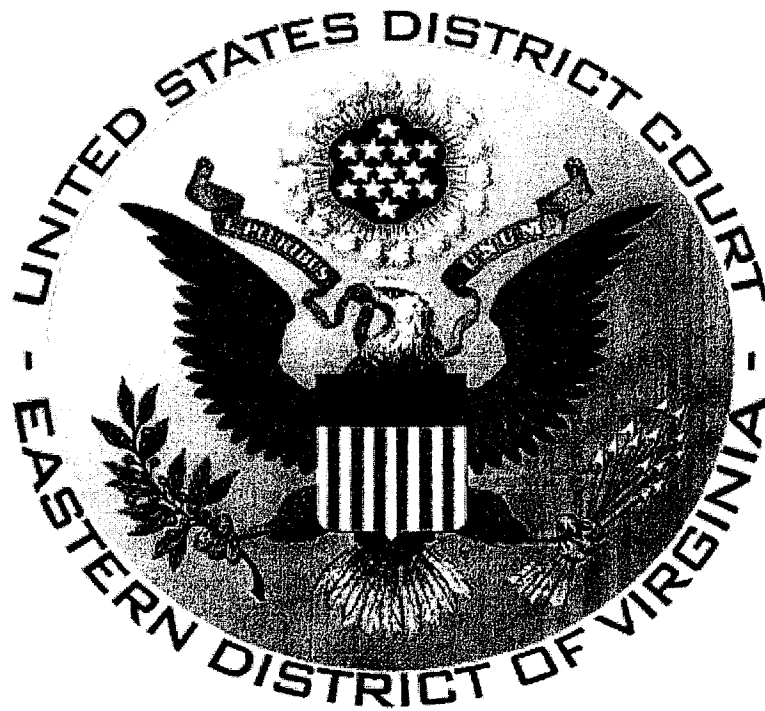
William W. Wilkins
Chief Judge, Fourth Circuit

Date: March 11, 2003

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Fourth Circuit

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

PLAN FOR THE RANDOM SELECTION OF
GRAND AND PETIT JURORS



February 2003

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

PLAN FOR THE RANDOM SELECTION
OF GRAND AND PETIT JURORS

Pursuant to the provisions of the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861, *et seq.*, it is ORDERED that the following revised plan for the random selection of grand and petit jurors for service in this district is hereby adopted by the United States District Court for the Eastern District of Virginia, subject to approval of a reviewing panel prescribed by 28 U.S.C. § 1863(a) and to such rules and regulations as may from time to time be adopted by the Judicial Conference of the United States. This revised plan replaces and supersedes the entire Jury Plan of this court originally adopted on July 1, 1968, and amended thereafter.

Applicability of Plan

The Eastern District of Virginia is comprised of four divisions: Alexandria, Richmond, Norfolk, and Newport News. The provisions of this plan shall apply to all four divisions of this district.

Declaration of Policy

It is the policy of this court that all litigants entitled to trial by jury in this district shall have the right to grand and petit juries selected at random from a fair cross-section of the community in the area surrounding the location where court is convened; that all qualified citizens shall have the opportunity to be considered for service on grand and petit juries in this court; and that all qualified citizens shall have the obligation to serve as jurors when summoned for that purpose.

The use of the word "court" in this plan shall contemplate the full court or any judges thereof. The phrase "location where court is convened" shall embrace the cities and counties within the separate divisions as now or hereafter established by local rule.

Discrimination Policy

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

Management of Jury Selection Process

The clerk of court shall manage the jury selection process in this district under the supervision and control of the chief judge or such other judge as may be designated to perform those duties. Wherever used in this plan, the terms “clerk” and “clerk of court” shall mean the Clerk of the United States District Court for the Eastern District of Virginia, any authorized deputy clerk, and any other person, agency, or data processing center authorized by the court to assist the clerk in the performance of the functions required by the Jury Selection and Service Act of 1968, as amended.

The court finds that electronic data processing methods can be advantageously used for managing this plan. 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 of persons to be qualified and summoned and to perform other clerical and record-keeping functions as may be prescribed by the court. In the event of computer malfunction, or any overt or obvious deviation from this plan caused by automation, the clerk, with the approval of the court, shall manually proceed from the last step correctly implemented.

Jury Selection Source List

The names of grand and petit jurors shall be drawn at random from the voter registration list, which represents a fair cross-section of the community in the Eastern District of Virginia.

Accordingly, the names of grand and petit jurors serving in this court shall be selected by randomized procedures from the voter registration lists. The names of registered voters, as maintained in the books, lists, or automated voter registration systems of each county and city, shall be obtained from the State Board of Elections.

Method and Manner of Random Selection from the Source List

The random selection procedures used by the court shall ensure that the names chosen will represent all segments of the voter registration lists from which the names are drawn, that the

mathematical odds of a single name being picked are substantially equalized, and that the possibility of human discretion or choice affecting the selection of any individual name is eliminated.

The selection of names from paper voter registration lists shall be by systematic randomization. After determining the total number of registered voters for all counties and cities in a division, the clerk will divide that number by the number of names needed for the master jury wheel. The result shall be referred to as the "quotient." The quotient is the ratio of selected to unselected names. After determining the quotient, the clerk shall establish a starting number. The starting number shall be drawn randomly by lot from a range of numbers beginning with the number one and ending with the same number as the quotient. The starting number shall be used to locate the first name to be selected from the voter registration lists.

The selection of names from voter lists in an electronic format shall be by a purely randomized process through a properly programmed electronic data processing system. Such random selection of names from the source list for inclusion in the master jury wheel by data computer personnel must ensure that all counties and cities within each division are 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 must also ensure that the mathematical odds of any single name being picked are substantially equal.

Master Jury Wheel

The clerk shall maintain a master jury wheel of all the names and addresses of those randomly selected from voter registration lists from each county and city within the respective divisions of this district. The master jury wheel shall be maintained in an appropriate record-keeping system as determined by the clerk in consultation with the court. The number of names to be placed in each division's master jury wheel shall be an amount sufficient for a two (2) year period of time but in no event less than one-half of one percent of the total number of registered voters for the designated cities and counties. The court may order additional names to be added to the master jury wheel, as needed.

Drawing Names from the Master Jury Wheel

From time to time, as directed by the court, the clerk shall publicly draw at random from the master jury wheel the names and addresses of persons to whom qualification questionnaires will be sent. A properly programmed electronic data processing system for pure randomized selection may be used to select names from the master jury wheel to determine qualification for jury service. Such a random selection of names from the master jury wheel must ensure that the mathematical odds of any single name being selected are substantially equal.

Juror Qualification Questionnaire

The clerk shall mail to every person whose name is selected a juror qualification questionnaire with instructions to complete and return the form duly signed and sworn to the clerk within ten (10) days. If the person is unable to fill out the questionnaire, another person shall do it for the prospective juror and shall so indicate the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in the responses on the questionnaire, the clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and return the questionnaire to the clerk within ten (10) days.

Any person who fails to return a juror qualification questionnaire as instructed may be summoned by the court to report to the courthouse to complete the jury qualification form. Any person who fails to appear as directed or who appears to have willfully misrepresented a material fact on a juror qualification questionnaire for the purpose of avoiding service shall be ordered to appear in court to show cause for failure to comply.

At the time of jury service, any person may be required by the clerk to fill out another juror qualification questionnaire, at which time, if warranted, the person may be questioned by the clerk, but only with regard to responses on the form. Any information thus acquired by the clerk shall be noted on the juror qualification questionnaire and transmitted to the court.

Determination of Qualification to Serve As a Juror

Using the criteria set forth in 28 U.S.C. § 1865, any person shall be deemed qualified to serve on grand and petit juries in this court. Except as provided herein and pursuant to 28 U.S.C. § 1866(c), no person or class of persons shall be excused, exempted, or excluded from service as a juror. Whenever a person is exempted, excused, or excluded from jury service, the clerk shall note in the jury records the specific grounds for exemption, excuse, or exclusion pursuant to 28 U.S.C. § 1866(d).

The court, the clerk, or the authorized designees of the clerk shall determine solely on the basis of information provided on the juror qualification form whether a person is unqualified for, exempted, or to be excused from jury service as set forth in 28 U.S.C. § 1865. The clerk shall enter such determination in the space provided on the juror qualification form and enter the information into the automated jury management system. If a person did not respond, such fact shall be noted by the clerk.

Grounds for Disqualification from Jury Service

The following classes of persons shall be disqualified from grand and petit jury service pursuant to 28 U.S.C. § 1865(b):

1. persons who are not citizens of the United States;
2. persons who are not at least eighteen years old;
3. persons who have not resided within this district for a period of at least one year;
4. persons unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
5. persons unable to speak the English language;
6. persons incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
7. persons who have a charge pending against them for the commission, or who have been convicted in a state or federal court of record, of a crime punishable by imprisonment for more than one year and whose civil rights have not been restored.

Grounds for Exemption from Jury Service

The following occupational classes or groups of persons shall be exempt from grand and petit jury service, if it is found that such exemptions are in the public interest and consistent with 28 U.S.C. § 1863(b)(6):

1. members in active service in the Armed Forces of the United States;
2. members of the fire and police departments of any state, the District of Columbia, any territory or possession of the United States, or any subdivision thereof; and
3. public officers in the executive, legislative, or judicial branches of the government of the United States, or of any state, the District of Columbia, any territory, or possession of the United States, or any subdivision thereof, who are actively engaged in the performance of official duties. "Public officer" shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

Grounds for Excuse from Jury Service

Grand and petit jury service by members of the following occupational classes or groups of persons may entail undue hardship or extreme inconvenience. Excusing these persons from jury service, if requested, is in the public interest and consistent with 28 U.S.C. § 1863(b)(5).

Accordingly, members of these classes or groups shall be excused from jury service upon individual request if they are:

1. persons over 70 years of age;
2. persons who have served as a grand or petit juror in a state or federal court within the preceding two (2) years; or
3. persons who serve without compensation as volunteer firefighters or members of a rescue squad or ambulance crew for a federal, state, or local government agency.

Qualified Jury Wheel

The clerk shall place in the qualified jury wheel for each division the names of all persons drawn at random from the master jury wheel who are deemed to be qualified as jurors and are not exempt or excused from such service. The qualified jury wheel shall be maintained by the use of a properly programmed electronic data processing system. Unless ordered by the court, the clerk

shall at all times maintain at least 300 names in the qualified jury wheel. The names of persons placed in the qualified jury wheel shall not be disclosed to any person, except pursuant to 28 U.S.C. §§ 1867 and 1868, unless the court shall otherwise direct.

Selection and Summoning of Jury Panels

As ordered by the court, the clerk shall draw from the qualified jury wheel the names of as many persons as may be required for assignment to grand and petit jury panels for each division. A properly programmed electronic data processing system for purely randomized selection shall be used to select the names from the qualified jury wheel for summoning persons to serve as grand or petit jurors. The selection of names from the qualified jury wheel must ensure that the mathematical odds of any single name being selected are substantially equal.

The clerk shall prepare a separate list of the names of persons drawn for assignment to each grand and petit jury panel for the period of their service and issue summonses directed to the persons whose names are so drawn. The clerk shall mail the summonses to these persons by registered, certified, or first-class mail addressed to their usual residence or business address. Nothing herein shall be construed as requiring the issuance or service of any summons other than for the first day of any specified period of service, which date may be continued by order of court. Jurors serving on individual days may be excused by the court or clerk to a specified date in the future, as needed.

Grounds for Temporary Excuse, Deferral, and Exclusion from Jury Service

Except as provided in this plan, no person or class of persons shall be disqualified, excluded, excused, or exempted from grand and petit jury service in this district. However, pursuant to 28 U.S.C. § 1866(c) any person summoned for jury service may be:

1. temporarily excused upon individual request if such person has a planned vacation, an important meeting or appointment, or other similar event that would cause undue hardship or extreme inconvenience if required to report for jury service on a particular date or dates during the term of service;

2. deferred to another term of service upon individual request if such person has active care and custody of a child or children whose health or safety or both would be jeopardized by reporting for jury service;
3. deferred upon individual request if such person has active care and custody of an aged or infirm person whose health or safety or both would be jeopardized by reporting for jury service;
4. excluded by the court on the ground that such person may be unable to render impartial jury service or that the person's service as a juror would be likely to disrupt the proceedings;
5. excluded upon peremptory challenge as provided by law;
6. excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or
7. excluded upon determination by the court that the person's service as a juror would be likely to threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberation.

No person shall be excluded under item 7 except in accordance with the provisions of 28 U.S.C. § 1866(c). Any person excluded from a particular jury under items 4, 5, and 6 shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to the person's ability to serve on another jury.

Those persons temporarily excused or deferred shall be ordered by the clerk to report for jury service at another time during their current term or another term in the future. The deferral of persons to future terms of service shall be done in a manner to ensure approximately equal distribution of deferred jurors so as not to compromise the random nature of the qualified jury wheels for any future term.

Whenever a person is temporarily excused, deferred, or excluded from service under this plan and pursuant to 28 U.S.C. § 1866(c), the clerk of court shall note in the jury records the specific grounds for the temporary excuse, deferral, or exclusion as required by 28 U.S.C. § 1866(d).

Disclosure of Juror Information

Once jurors have been qualified, the entire list of names drawn from the qualified jury wheel for any term of service may be disclosed to counsel for the parties or to any party acting *pro se*, unless the court directs otherwise. For petit jurors assigned for service on particular cases or particular days, disclosure of information contained in the qualification questionnaire and summons may be made available to counsel for the parties or to any party acting *pro se*, but, unless otherwise ordered by the court, shall not be disclosed until three (3) business days prior to the trial date. The court may, in any case, order such names be kept confidential for a period of time as the interest of justice may require. For grand jurors, juror information is confidential, except by order of the court.

Public Announcement of the Place and Time of Automated Selection of Names

Random drawings of names of prospective jurors by automated selection methods shall be made by the appropriate personnel. The location and approximate time of such drawings shall be publicly announced by posting such information on the bulletin board in the clerk's office. Upon request, the clerk shall provide public access to copies of the following documents:

1. the court's Plan for the Random Selection of Grand and Petit Jurors; and
2. the Court Authorization and Affidavit of Non-Court Official involving the person or computer service organization who performs the automated name selection functions for the court.

Term of Service

Pursuant to 28 U.S.C. § 1866(e), in any two (2) year period, no person shall be required to:

1. serve or attend court for prospective service as a petit juror for a total of more than two (2) weeks, except when necessary to complete service in a particular case;
2. serve on more than one grand jury; or
3. serve as both a grand and petit juror.

Emptying and Refilling the Master and Qualified Jury Wheels

The clerk shall empty and refill both the master and qualified jury wheels provided in this plan for each division of this district every other year commencing in 1999.

Maintenance of Records

Pursuant to 28 U.S.C. § 1868, the contents of the master jury wheel and the qualified jury wheel that have become inactive and all related records concerning the qualification, selection, and use of jurors shall be preserved by the clerk for a period of four (4) years from the date of inactivity and shall be available for public inspection in the clerk's office during regular business hours for the purpose of determining the validity of any selection.

Distribution and Availability of Plan

The clerk shall submit a copy of the court's Plan for the Random Selection of Grand and Petit Jurors the Circuit Council, the Administrative Office of the United States Courts, and the Attorney General of the United States. Upon approval by a reviewing panel, copies of the plan shall be filed in the clerk's office of each division, and the plan shall become effective upon its being filed with the clerk of this court.

February 6, 2003
Date