


THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

REVIEWING PANEL --- JURY SELECTION PLAN

The foregoing and attached order, amending the Jury Selection Plan for the Middle District of Louisiana, having been reviewed by the Reviewing Panel of this Circuit, is approved.

Entered for the Reviewing Panel at New Orleans, Louisiana, this 22nd day of October, 1998.



Gregory A. Nussel
Secretary to the Judicial Council
of the Fifth Circuit

The following judges comprised and acted as the Reviewing Panel:

(a) The Judicial Council of the Fifth Circuit:

Henry A. Politz
Carolyn D. King
Patrick E. Higginbotham
Edith H. Jones
John M. Duhé, Jr.
Jacques L. Wiener, Jr.
Rhesa H. Barksdale
Emilio M. Garza
Harold R. DeMoss, Jr.
James L. Dennis
Martin L.C. Feldman
John V. Parker
Richard T. Haik
Neal B. Biggers, Jr.
William H. Barbour, Jr.
Jerry L. Buchmeyer
George P. Kazen
Paul N. Brown
Walter S. Smith, Jr.

(b) United States District Judge:


Frank J. Polozola
Chief United States District Judge
Middle District of Louisiana

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF LOUISIANA

FILED
U.S. DIST. COURT
MIDDLE DIST. OF LA.
50 SEP -3 PM 12:01

SIG. Richard L. Martin
RICHARD L. MARTIN

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

The United States District Court for the Middle District of Louisiana hereby adopts, subject to the approval of the Reviewing Panel for the Fifth Circuit, the following Plan for the random selection of grand and petit jurors pursuant to the Jury Selection and Service Act of 1968, 28 U.S.C. 1861, et seq., (The Act), as amended. The Plan heretofore adopted by this court and all amendments and supplementals thereto are, subject to the approval of the following Plan, hereby revoked and rescinded.

1.

EFFECTIVE DATE AND DURATION

This Plan for jury selection shall be placed in operation after approval by the reviewing panel as provided in Section 1863 (a) of the Act, and shall remain in force and effect until modified by the court with the approval of said reviewing panel.

2.

POLICY

The purpose of this Plan is to implement the policies of the United States declared in Section 1861:

- (1) 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 wherein the court convenes;

- (2) 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
- (3) All citizens shall have an obligation to serve as jurors when summoned for that purpose.

A further purpose of this Plan is to implement the prohibition against discrimination contained in Section 1862, which provides that 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, sex, religion, national origin, or economic status.

3.

MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The clerk of court and his authorized deputies will manage the Plan under the supervision and control of the chief judge. "Clerk" and "Clerk of Court" shall mean the clerk of the United States District Court, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of his functions of jury selection.

4.

RANDOM SELECTION FROM VOTER REGISTRATION LISTS

Voter registration lists represent a fair cross section of the community in the Middle District of Louisiana. Such lists constitute accurate and comprehensive compiled lists of all citizens, 18 years and older, who are duly active registered and qualified voters in each of the said parishes in this District. This court is of the opinion that the rights of all citizens are substantially protected by the use of such lists as the source of selection of prospective jurors, therefore no other source is

proposed. Accordingly, the names of all prospective grand and petit jurors serving in this court on or after the effective date of this Plan shall be selected at random from the active registered voter lists maintained by the Department of Elections of the State of Louisiana of all active registered voters of all of the parishes within this district.

5.

SELECTION PROCEDURE

A master jury wheel shall be maintained for this district. The names of prospective jurors to be placed in the master jury wheel shall be randomly selected as hereinafter provided for from the active voter registration lists of all the parishes in this district. This Plan's reference to random selection from a source list, shall mean that only the first selected name shall be chosen by a purely random method. Each subsequent name for the drawing may be systematically taken at regular intervals throughout the remainder of the source list(s).

Random selection from a source list, whenever required under this Plan, shall be in accordance with the method and manner as follows:

"Determining an interval or quotient." The clerk or deputy clerk, shall make the randomized selection by taking the total number of names on the source list and dividing that number by the minimum number of names to be selected. The number obtained will be the "quotient," provided however, that where a remainder occurs, the quotient will be rounded to the lower whole number. For example, if the quotient is 12.15, the decimal will be dropped and the number will be 12.

"Determining a starting number." A properly programmed electronic data processing system will be used to randomly select the starting number. This number will locate on the source list the first name to be selected. The numbers used to select the starting number will begin with the number one and end with the same number as the quotient. Should the electronic system be unavailable for

any reason, the starting number may be drawn manually by lot in a purely random fashion.

“Selecting the names by machine method.” The judges of this court find that electronic data processing methods can be advantageously used for selecting and copying names from active voter registration lists and to assist in performing clerical work connected with juror selection. Accordingly, a properly programmed electronic data processing system or a combination system employing both electronic and manual methods may, at the clerk’s option and after consultation with the chief judge, be used to select names from source lists, as directed by this Plan to create the master wheel from which all prospective jurors shall be chosen during the life of that wheel. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each parish within the jury district is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. 1863 (b)(3).

A properly programmed electronic data processing system for pure randomized selection may also be used to select names from the master wheel for the purpose of summoning persons to serve as grand or petit jurors. The selection of names from the source list and the master wheel must insure that the mathematical odds of any single name being picked are substantially equal.

“Selecting the names by manual methods.” When selection from a source list is made manually, the choosing of names shall be by counting names down the list, either in numerical sequence or any other logical consistent sequence. For this counting and selection process the entire list must be covered and the specific names picked will be underlined or checked according to the established “quotient” and “starting number” formula described above.

Further, in the event of computer malfunction or any overt deviation from this Plan caused by automation, the clerk, with the approval of the court, shall manually proceed from the last step

correctly implemented to complete the activity then in process.

6.

MASTER JURY WHEEL

The clerk and his authorized deputy shall maintain a master jury wheel, into which the names of those randomly selected from the active voter registration lists shall be placed. The physical form of records on which names for the master jury wheel are kept may include such electronic data storage devices as magnetic tapes or magnetic disc files.

The minimum number of names to be contained on the master jury wheel at any time during its four year existence shall be at least one-half of one percent of the total number of names reflected on all parish active voter lists used to comprise that master wheel. The clerk shall ensure that at all times a sufficient number of names remain on the master wheel to meet this requirement, and shall notify the court immediately should the number of names on the master wheel fall below the minimum specified above.

The chief judge may order the placing of additional names in the master jury wheel as necessary.

The master jury wheel shall be emptied and refilled every four years immediately following the presidential election. The master jury wheel may be emptied and refilled every two years immediately following federal elections if it is deemed necessary by the court in order to obtain more current data pertaining to prospective jurors. The refilling shall be completed by September 1 following the aforementioned elections.

Upon completion of the random selection of names for the master jury wheel, the individual(s) who perform the task of randomly selecting the names pursuant to this Plan shall prepare and execute a certificate acknowledging their compliance and completion of the assignment

and transmit the same to the court. Additionally, a breakdown of the age, race, sex and parish of residence of the prospective jurors contained in the master jury wheel shall be attached to the certification.

Public notices shall be posted announcing the random selection of names for the master jury wheel as well as for the random selection of jurors from the master jury wheel for qualification for individual jury panels.

As required by the Judicial Conference of the United States, a report shall be prepared on a form or forms approved by this Court after each periodic refilling of the master jury wheel giving general data relating to the master jury wheel.

7.

DRAWING OF NAMES FROM MASTER JURY WHEEL FOR SELECTION, SUMMONING AND ASSIGNMENT TO PETIT OR GRAND JURY PANELS

A properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may also be used to select names of persons to be sent questionnaires, to select names of persons to be summoned for grand and petit jury service and to perform other clerical and record keeping functions as the court deems necessary. All selections of potential grand or petit jurors shall be made in purely random fashion, using the properly programmed automated system when possible. In the event of any failure in the automated system such names may be randomly selected manually by the clerk with a record maintained of the method used for such manual selection and the reason why manual, rather than automated, selection was used.

Every four months, or at such earlier time as may be ordered by the court, the clerk shall

publicly draw at random from the master jury wheel a sufficient number of names, determined by the clerk after consultation with the chief judge, to be sufficient to provide for all grand or petit jury service within the next four month period. Qualification questionnaires will be generated from the automated system and mailed to jurors in the manner as provided for in this Plan. These questionnaires shall be returned by the individual to the clerk and shall be used by the court to determine if the individual qualifies to be a juror under this Plan. All individuals so qualified will be placed into a pool which shall be known as the "qualified juror pool". Individuals who will be summonsed for service as either grand or petit jurors during this period will be randomly selected from this qualified juror pool. Upon termination of the four month period for which the qualified juror pool was selected, or at such earlier time as the court may order, all individuals constituting said pool, whether previously selected for service or not, shall be excused from further service for the remainder of the period during which that master wheel remains effective.

GRAND JURIES

Upon notification by the court of the intention to impanel a new grand jury the clerk shall cause summons to be sent to the number of prospective jurors which the Court believes to be required. The names of those to receive summons will be randomly selected from the qualified juror pool.

On the day fixed for the impaneling of the grand jury, the presiding judge shall select, by lot, from the persons appearing in answer to the summons, twenty-three persons to constitute the grand jury. From among the twenty-three persons, the presiding judge shall appoint a foreman and deputy foreman, who shall be sworn first. The balance of the grand jurors selected shall then be sworn and the judge shall charge the grand jury as to its rights, powers, obligations and duties. At this time the

court may also determine to select alternate jurors in this same manner.

The names of all individuals who were summonsed to appear, but who were not among those randomly selected for grand jury service, shall be returned to the qualified juror pool for possible future selection as either a grand or petit juror.

PETIT JURIES

Whenever jurors are needed for petit jury service, the court shall notify the clerk of the need for such jurors, and of the number of prospective jurors which the court believes to be required to properly allow for selection of the jury in the particular case. Upon such notice by the court, the clerk or deputy clerk shall make the randomized selection of names from the qualified juror list, and shall issue summons to such individuals to appear on the specified date for petit jury service.

The names of all individuals who were summonsed to appear, but who were not among those selected by the parties for service on the petit jury shall be returned to the qualified juror pool for possible future selection as either a grand or petit juror.

EXCUSE FROM FURTHER SERVICE

Any individual who has been selected for service as either a grand or petit juror shall, upon the completion of such service, be excused from all further service for the remainder of the period during which the master wheel then in use remains effective.

8.

EXCUSES ON INDIVIDUAL REQUEST

This court hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the objectives and purposes of the Act, and shall be granted by the court upon individual request:

(1) Any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise, that said enterprise must temporarily close if such person were required to perform jury duty;

(2) Any person having active care and custody of a child or children under 10 years of age whose health or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirmed persons;

(3) Attorneys at law, physicians, registered nurses and dentists actively engaged in the practice of their profession, and ministers of the gospel actively and regularly engaged in the discharge of their ministerial duties;

(4) All persons over seventy years of age at the time of executing the juror qualification form;

(5) Voluntary safety personnel, described as those persons who serve without compensation as firefighters or persons who are members of a rescue squad or ambulance crew for a public agency;

(6) Federal Law Enforcement Officers such as members of the Federal Bureau of Investigation, Postal Inspectors, Customs Agents, members of the United States Border Patrol, United States and Deputy United States Marshals, etc.;

(7) Persons who have served as grand or petit jurors in a state or federal court within the past two years;

Temporary excuses will be granted upon the court's finding that the individual would otherwise suffer undue hardship or extreme inconvenience. In the event an individual is granted a temporary excuse for a reason that does not encompass the entire remaining period during which the qualified juror pool of which he is a member is to remain in effect, the name of the individual so

excused will be returned to the qualified juror pool for possible future jury service at such time as the reason for the temporary excuse no longer exists.

9.

EXEMPTIONS FROM JURY SERVICE

The following persons are excused from jury service on the ground 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 the State or any subdivision thereof;
- (3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or the State or any subdivision thereof, who are actively engaged in the performance of official duties. Public Officials as used herein shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

10.

DETERMINATION OF QUALIFICATIONS

The qualification for jury service, and the procedure with reference to same, shall be as follows:

Any judicial officer of this district, on his own initiative or upon recommendation of the clerk or deputy clerk, shall determine whether a person is unqualified for, exempt from, or should be excused from jury service. Only judicial officers of this court may rule on disqualifications, exemptions, exclusions or excuses from jury service.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk or deputy clerk shall note in the space provided on his juror qualification form, and/or the automated jury system, the specific reason therefor, and the name of the judicial officer ruling thereon.

In making such determination the judicial officer shall deem any person qualified to serve

as a grand or petit juror in the district court unless:

- (1) He is not a citizen of the United States, at least eighteen years old who has resided for a period of one year within the judicial district;
- (2) He 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) He is unable to speak the English language;
- (4) He is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- (5) He has a charge pending against him for the commission of, or has been convicted in a State or Federal court of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored by a pardon or amnesty.

11.

DISCLOSURE OF RECORDS

Unless otherwise ordered by the trial judge or magistrate judge, the names of petit jurors drawn for service may be disclosed to the parties of the case the day of the trial. The names of grand jurors drawn from the qualified juror pool shall not be disclosed to anyone other than the United States Attorney and his/her staff, except upon specific order of the court as provided for below.

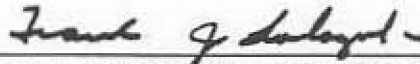
12.

NON-DISCLOSURE OF RECORDS

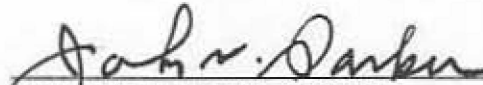
The contents of records or papers used by the clerk or deputy clerk in connection with the jury selection process, including juror qualification questionnaires, shall not be disclosed to anyone other than court personnel except as provided in 28 U.S.C. Section 1867(f) and in this Plan.

This Plan supersedes any and all Plans heretofore adopted and shall constitute the rule of this court until amended or replaced.

ADOPTED this 8th day of September, 1998.



FRANK J. POLOZOLA, CHIEF JUDGE
UNITED STATES DISTRICT COURT



JOHN V. PARKER, JUDGE
UNITED STATES DISTRICT COURT



RALPH E. TYSON, JUDGE
UNITED STATES DISTRICT COURT