

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE:)
PLAN OF THE)
UNITED STATES DISTRICT COURT,)
CENTRAL DISTRICT OF CALIFORNIA)
FOR THE RANDOM SELECTION)
OF GRAND AND PETIT JURORS)

GENERAL ORDER NO. 03-12

General Order No. 99-8 is hereby rescinded and replaced by this General Order.

1. Declaration of Policy

It is the policy of the United States District Court for the Central District of California (the "Court") that all litigants in this Court entitled to trial by jury shall have the right to petit juries selected at random from a fair cross section of the community in the Division wherein the court convenes. Grand juries shall be selected by Division for the Western and Southern Divisions. Because the Eastern Division lacks suitable facilities for utilization by a grand jury, qualified residents of the Eastern Division shall be proportionally included in the grand jury draw for the Western Division.

It is further the policy of the Court 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.

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

Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861, et seq., (the "Act"), the following Jury Selection Plan (this "Plan") is hereby adopted by this Court.

2. Applicability of Plan

This Plan applies to the Central District of California (the "District"), which consists of three Divisions: (1) The Western Division is comprised of the Counties of Los Angeles, San Luis Obispo, Santa Barbara and Ventura; (2) The Southern Division is comprised of Orange County; and (3) The Eastern Division is comprised of the Counties of Riverside and San Bernardino.

3. Management and Supervision of Jury Selection Process

The Clerk of the Court, any authorized deputy clerk, or any other person authorized by the Court to assist the Clerk, shall manage the jury selection process under the supervision and control of the Chief Judge of the Court, or such other judge as the Chief Judge may designate.

4. Random Selection from Voter Lists

Registration of citizens eligible to vote is uniformly conducted throughout the District. A random selection of a fair cross section of the citizens residing in the counties of the Divisions of the District can be made from the lists of registered voters in the various counties of the Divisions which comprise the District. To foster the policy and protect the rights secured by sections 1861 and 1862 of the Act, it is not necessary to resort to sources other than the voter registration lists. Accordingly, names of petit jurors shall be selected at random from the voter registration lists of the Counties of Los Angeles, San Luis Obispo, Santa Barbara and Ventura for the Western Division; the County of Orange, for the Southern Division; and the Counties of Riverside and San Bernardino for the Eastern Division. Grand jurors shall be selected from the counties comprising each division or a combination of the divisions within the district, except that persons who reside in the Eastern Division shall be included in the Western Division pool.

5. Random Selection

The selection of names from the master jury wheel will be accomplished by a purely randomized process. This "pure random" definition is applicable throughout this plan. 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 automation personnel must ensure that each county within each Division is substantially proportionally represented in the master wheel in accordance with Title 28, United States Code, section 1863 (b)(3). The selections of the names from the source list,

the master wheel, and the qualified wheel must also ensure that the mathematical odds of any single name being picked are substantially equal. All names selected shall then be placed in the master jury wheel.

6. Master Jury Wheel

6.1 Establishment

The Clerk shall establish and maintain three Master Jury Wheels for the District. The names of petit jurors shall be selected, after reasonable public notice, at random from the voter registration lists of Los Angeles, San Luis Obispo, Santa Barbara and Ventura for the Western Division; Orange, for the Southern Division; and, Riverside and San Bernardino for the Eastern Division. "Reasonable public notice" means the posting of a written announcement of the scheduled drawing on a bulletin board to which the public has access in a Courthouse of the Court located in the Division for which jurors are being selected. The notice shall be posted for ten (10) consecutive days prior to the date of selection. A random selection of names of registered voters from each of the counties comprising the Divisions mentioned above shall be placed in the appropriate Master Jury Wheel in such numbers as to insure that each county in the Division is proportionally represented in the appropriate Master Jury Wheel.

6.2 Maintenance

The Court finds it advantageous to use an electronic data processing system ("the Master Jury Wheel") to perform all clerical duties related to the jury selection system. The Court authorizes the Clerk to take such steps as are necessary to establish the Master Jury Wheel for each Division, provided that the operator shall comply with such written instructions as may be provided by the Clerk. Upon the completion of the required data processing work, the Clerk shall require the execution of a declaration by the agency providing the computer service. Such declaration shall state under penalty of perjury that the procedures of this Plan have been fully met in the automated phase of the selection

process. The Clerk shall then receive into the permanent records of the Court the selection instructions to the computer facility and the declaration of the computer facility certifying compliance with same. The instructions provided to the operator of the computer facilities shall be available for inspection by the public. The computer facilities and electronic data processing systems shall perform in a manner that complies with the following:

- Selection of names from voter registration tape, disc, or other files for inclusion in the Master Jury Wheels;

- Selection of names from the Master Jury Wheels for automatic addressing of jury questionnaires;
- Selection of names from the Qualified Jury Wheels for issuance to jurors of letters, summonses, or other notices to appear;
- Storing of names and addresses in the Master Jury Wheels, or names and addresses in the Qualified Jury Wheels, in such physical forms as may be required;
- Preparation of lists of juror names, index cards, summonses, and other records as are needed or required by law.

7. Formula for Name Selection Procedure

Described below is a selection procedure for the Master Jury Wheels which the Court finds will result in the drawing of names representing a fair cross section of all parts of the District. According to this procedure, applicable to the initial drawing as well as such additional drawings as may from time to time be necessary, the names selected shall be from the voters' files as maintained by the Registrar of Voters in each county, according to a pure random process. Thus selected, the names from each county comprising the Division for which the Master Jury Wheel is being established shall be merged into a single, combined file, referred to as a "Master Wheel". All of the persons whose names appear on the Master Wheel shall be mailed juror qualification questionnaires, as described in Section 9. The names of persons found qualified to serve as jurors, based upon their response to the juror qualification questionnaire, shall be transferred to a "Qualified Wheel", as described in Section 10. As jurors are required, to meet the need of the Court, they shall be summoned to appear, on a pure random basis from the Qualified Wheel for the Division concerned.

8. General Requirements

State, local and federal officials having custody, possession or control of voter registration lists shall make such lists available to the Clerk for inspection, reproduction and copying at all reasonable times as the Clerk may deem necessary and proper for the performance of duties under 28 U.S.C. § 1863(d).

The minimum number of names to be placed in the Master Jury Wheels shall be at least one-half of 1% of the total number of persons on the lists used as a source of names. A smaller number of names may be fixed if the Clerk believes that the number of names required above is unduly burdensome and unnecessary, but in no event shall the number of names to be placed in any Master Jury Wheel be less than 1,000.

The Chief Judge of the Court, or such other Judge as the Chief Judge may designate, may order additional names to be placed in any Master Jury Wheel as may be necessary from time to time. Each Master Jury Wheel shall be emptied and refilled at least annually and may be supplemented with additional names selected on a random basis to assure an adequate supply of qualified jurors.

9. Drawing Names from the Master Jury Wheel

From time to time as required, the Clerk, after reasonable public notice, shall publicly draw at random from the Master Jury Wheel by electronic data processing procedures, the names and addresses of persons to whom questionnaires will be sent, for the purpose of examining their qualifications for jury service.

The Clerk shall then prepare a list of the names drawn, which list shall not be disclosed to any person except on order of court or pursuant to 28 U.S.C. §§ 1867 and 1868. The Clerk shall mail to every person whose name is drawn from the Master Jury Wheels a juror qualification questionnaire accompanied by instructions to complete and return it to the Clerk by mail within 10 days.

The juror qualification questionnaire required by 28 U.S.C. §§ 1864(a) and 1869(h) shall be in the form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

Persons who fail to reply to the questionnaire within the required 10 days, or who submit replies indicating that further investigation is needed, may be summoned for personal interviews before the Clerk, should other means of communication fail to elicit a satisfactory response. Except for extraordinary cause shown, such appearance shall be without payment of attendance fees or travel allowance.

10. Qualification of Jurors

Upon receipt of completed juror qualification questionnaires, they shall be reviewed by the Clerk and all persons found to be disqualified, or exempted or excused from service as jurors shall be excluded from the qualified jury wheels.

The Chief Judge of the Court, or such other Judge as the Chief Judge may designate, shall determine on the basis of the completed juror qualification questionnaire and other competent evidence, whether a person is disqualified or exempt, or to be excused from jury service. Any person shall presumptively be deemed qualified, unless such person is shown to be ineligible for one of the reasons enumerated in this Plan. The Clerk shall enter such determination in the space provided on that person's juror qualification questionnaire and on the list of names drawn from the Master Jury Wheels.

In accordance with the provisions of 28 U.S.C. § 1865(b), any citizen of the United States who has reached the age of 18 years and has resided for a period of one year within the District shall be deemed qualified to serve on grand or petit juries unless he or she:

- a. is unable to read, write or understand the English Language with a degree of proficiency sufficient to satisfactorily complete the juror qualification questionnaire;
- b. is unable to speak the English language;
- c. is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- d. has a charge pending against him or her 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 or her civil rights have not been restored.

11. Exemption from Jury Service

As required by the Act, 28 U.S.C. § 1863(b)(6), the following persons are exempted from jury service:

- a. members in active service in the armed forces of the United States;
- b. members of the fire or police departments of the state, or subdivision thereof;
- c. public officers in the executive, legislative, or judicial branches of the government of the United States, or the state, or 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.)

12. Individual Requests For Excuse or Deferment

Pursuant to 28 U.S.C. § 1863 (b)(1), this Plan authorizes the Clerk of the Court, and designated deputies, to manage the jury selection process. In so doing, the Clerk and the Clerk's deputies shall act under the supervision and control of the Chief Judge of the District Court.

Pursuant to 28 U.S.C. § 1863(5)(A) this Plan specifies, in Section 12, those groups of persons or occupational classes whose members shall, on individual request therefor, be excused from jury service.

The Court takes notice, pursuant to 28 U.S.C. § 1866 (c), that any person summoned for jury service may be excused by the Clerk, upon a showing of undue or extreme inconvenience, if the court's jury selection plan so authorizes.

Based upon the above sections, this Plan provides that the Clerk of the Court, and designated deputies, are authorized to excuse persons summoned for jury service for undue hardship or extreme inconvenience, or any other factor which the Court has specified in Section 12 of this Plan. The Court finds that this delegation of authority to the Clerk, and designated deputies, is consistent with the intent of 28 U.S.C. § 1869 (j), which defines undue hardship or extreme inconvenience as factors which the Court has determined warrant excuse.

The Court hereby finds that jury service by members of the following occupational classes or groups of persons may entail undue hardship or extreme inconvenience to members thereof, that excuse or deferment of such members is not inconsistent with the Act, and such persons shall be granted an excuse or deferment of service upon individual request:

- a. Persons over 70 years of age;
- b. Persons actively engaged in professional occupations, such as doctors, lawyers, active members of the clergy and full-time teachers;
- c. Persons having active care and custody of a child or children under 14 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 an aged or infirm person;

- d. Any person who has served as a grand or petit juror in a United States Federal Court within the past two years, or any person who has been selected and seated as a trial juror or an alternate juror in a state court trial, within the past two years;
- e. Any person whose services are so essential to the operation of a business, commercial or agricultural enterprise that the enterprise would suffer a severe economic hardship from the absence of the person;
- f. Any person making a showing of "undue hardship or extreme inconvenience," as defined in 28 U.S.C. § 1869(j), for such period as is deemed necessary;
- g. Students enrolled full time in a public, parochial or private school;
- h. Persons who serve without compensation as firefighters, members of a rescue squad or ambulance crew for the United States or the state, or subdivision thereof, or any unit of local government.

13. Qualified Jury Wheels

The names of those persons deemed qualified shall be placed in the appropriate Qualified Jury Wheel. Names of prospective jurors shall be drawn on a pure random basis from the appropriate Qualified Jury Wheel. The prospective jurors whose names have been drawn shall be summoned to appear for a time certain as may be designated by the Chief Judge or such other Judge of the Court as the Chief Judge may designate. The names thus drawn shall be in sufficient number to assure that there are at all times not less than 1000 names in each of the Qualified Jury Wheels. The prospective jurors will be given instructions and the Court will review requests for excuses or exemptions from service and rule thereon.

13.1 Selection of Petit Jurors

Juror selection through summons or notice from a Qualified Jury Wheel shall be continuous, as needed by the Court, through the term of the Master Jury Wheels.

The instruction of jurors in groups drawn from the Qualified Jury

Wheels will continue as necessary until an adequate number of names of qualified jurors are available for active jury service. Jurors from previous Qualified Jury Wheels may serve at the same time with jurors selected from later Qualified Jury Wheels.

Additional names shall be drawn and jurors shall be instructed from time to time as required, in order to keep an adequate number of names in the Qualified Jury Wheels to meet the need of the Court.

The Clerk shall administer the appropriate oath to those chosen for petit jury service. When the jurors are in the Jury Assembly Room, the Clerk shall forthwith draw the requisite number of petit jurors for immediate service on a pure random basis, utilizing a computer process which selects a panel from among all prospective jurors then present. The Court may then seat prospective jurors in the random order established by the computer process. After all panels have been selected, jurors not selected for service shall be dismissed until called for jury duty by the Clerk.

The names placed in the Qualified Jury Wheels shall not be made public except upon order of court for good cause shown.

Whenever required, the Clerk shall draw names from the Qualified Jury Wheel for service as petit jurors.

Names of petit jurors called but not chosen for actual service shall be held until the next call for petit jurors has been issued. The names then shall be placed back into the appropriate Qualified Jury Wheel until the termination of the jurors service term.

A petit juror who has served repeatedly or in a protracted case may request to be excused. When it appears to the Chief Judge, or such other Judge of the Court as the Chief Judge may designate, that further jury service by such juror would constitute an undue hardship, the juror may be excused from further service until such time as the Master Jury Wheel for that Division is emptied and again refilled.

13.2 Selection of Grand Jurors

The Clerk shall also draw from the appropriate Qualified Jury Wheel sufficient names to constitute a grand jury or juries as to insure that the District's needs will be met. The Clerk shall administer the appropriate oath to those chosen for grand jury service. The Court shall then give the grand jurors chosen such instruction as may be required.

The names of grand jurors chosen and sworn shall not be made public unless the interests of justice require otherwise. No name of a grand juror shall be made public unless authorized by a written order of the Court.

At such times as may be appropriate to the needs of the Court, the Chief Judge, or such other Judge as the Chief Judge may designate, may order that

additional names for grand jury service shall be drawn from the Qualified Jury Wheels and the persons so drawn and summoned to serve as grand jurors shall be instructed and sworn.

Upon the discharge of a grand jury, the persons called to serve thereon shall not again be called for jury duty until the Master Jury Wheel for that Division is emptied and again refilled.

14. Designation of Judge to Act in Place of the Chief Judge

In the event that the Chief Judge is unable to perform his or her duties under this Plan, including his or her temporary absence from the District, and has not designated another Judge to do so, the Judge of the Court who is authorized to perform the duties of the Chief Judge in case of his or her temporary inability to do so, as provided in 28 U.S.C. § 136(e), shall perform the duties of the Chief Judge under this Plan during the latter's inability or unavailability.

15. Effective Date

This Plan shall become effective after approval by the Ninth Circuit Judicial Council Reviewing Panel (the "Panel") upon such date as the Panel shall designate, or if no such designation is made, this Plan shall become effective upon the date of its approval by the Panel.

IT IS SO ORDERED.