

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

FILED
DEC 12 2016
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

IN THE MATTER OF

JURY SELECTION PLAN


ORDER

Public Administrative Order

No. 16-AO-10-P

Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861 *et seq.*, the Southern District of Iowa hereby adopts the Jury Selection Plan dated December 12, 2016, subject to approval by the Eighth Circuit Council and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States. The current Jury Plan dated December 12, 2016, replaces the prior Jury Selection Plan, including all subsequent amendments, in its entirety.

DATED this 12th day of December, 2016.



JOHN A. JARVEY, Chief Judge
United States District Court
Southern District of Iowa

JURY SELECTION PLAN
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
DECEMBER 12, 2016

This Jury Selection Plan (the “Plan”) is adopted by the United States District Court for the Southern District of Iowa (the “Court”) in accordance with the Jury Selection and Service Act of 1968, as amended, Title 28 United States Code (U.S.C.) § 1861, *et seq.*

1. Purpose of the Plan

- a. It is the purpose of this Plan to satisfy the requirements and to implement the policies declared in 28 U.S.C. § 1861, *et seq.* This Plan is designed to ensure that:
 - (1) all litigants in the Court 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 each jury division where the Court convenes;
 - (2) all citizens shall have the opportunity to be considered for service on grand and petit juries; and
 - (3) all citizens have an obligation to serve as jurors when summoned for that purpose.
- b. 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 shall be excluded from the opportunity to serve as a grand or petit juror in the U.S. District Courts because of race, color, religion, sex, national origin, or economic status.

2. Management of Jury Selection Process and the Plan

The Clerk of Court or Clerk’s designee (the “Clerk”) will manage the jury selection process and the Plan under the supervision of the Chief Judge of the Court or other active district judge designated by the Chief Judge (the “Chief Judge”). In the event the Chief Judge is unable to perform duties required by the Plan, those duties will be performed by the judge specified in 28 U.S.C. § 136(e).

3. Jury Divisions

- a. The United States District Court for the Southern District of Iowa (the “District”) includes forty-seven (47) counties, which are grouped into six (6) statutory divisions (28 U.S.C. § 95(b)). The rescission of Federal Rule of Criminal Procedure 19 has terminated any foreseeable need to impanel a Federal jury in all six (6) statutory divisions. The Court finds that establishing three (3) jury divisions within the District, composed of counties from which grand and petit jurors will be drawn for each place of holding court, will result in impartial trials, will avoid unnecessary expense, and will reduce burdens on persons reporting for jury service. The Court, therefore, establishes three (3) jury divisions:
 - (1) The Western (Council Bluffs) Division includes: Audubon, Cass, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, and Shelby counties; and
 - (2) The Central (Des Moines) Division includes: Adair, Adams, Appanoose, Boone, Clarke, Dallas, Davis, Decatur, Greene, Guthrie, Jasper, Jefferson, Keokuk, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Ringgold, Story, Taylor, Union, Wapello, Warren, and Wayne counties; and

- (3) The Eastern (Davenport) Division includes: Clinton, Des Moines, Henry, Johnson, Lee, Louisa, Muscatine, Scott, Van Buren, and Washington counties.
- b. This Plan applies to all jury divisions in the District.

4. *Electronic Data Processing and Method for Random Selection*

- a. The Clerk may direct the use of electronic data processing programs to implement the Plan.
- b. A pure random selection of names is made by a properly programmed electronic data processing system which ensures that the mathematical odds of any single name being picked are substantially equal.
- c. A systematic random selection of names is used to ensure that each county is substantially proportionately represented in the Master Wheel. The total number of prospective jurors on the combined source lists is divided by the number of names needed for the division. The result is the interval at which names will be selected from each county. For example, if the total number of names on the source lists in the division is 100,000 and the number to be selected for the Master Wheel is 2,000, the computation will be: $100,000/2,000 = 50$. Every fiftieth (50th) name will be selected.
- d. These random selection processes are used for selecting names from the:
 - (1) source lists for inclusion in the Master Wheel;
 - (2) Master Wheel for the purpose of determining qualification for jury service; and
 - (3) Qualified Wheel for summoning persons to serve as grand or petit jurors.
- e. The Court shall 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.

5. *Master Jury Wheel*

- a. **Formation.** For each jury division, names of prospective jurors will be placed on a list known as the master jury wheel (the "Master Wheel").
- b. **Duration.** The Master Wheel shall be refilled every two years in odd-numbered years. No later than August 1, the Clerk shall begin selecting names for filling grand and petit jury panels from the newly filled Master Wheel and will cease selecting names from the prior Master Wheel. Upon order of the Chief Judge, the time to refill the Master Wheel may be extended for good cause.
- c. **Source Lists.** Names for the Master Wheel shall be selected at random from the following source lists (the "Lists"):
 - (1) State of Iowa lists of registered voters maintained by each county; and
 - (2) Iowa Department of Transportation list of motor vehicle operators and non-driver identification card holders.
- d. **Numbers of Names Selected and Supplementation.** The Clerk, under supervision of the Chief Judge, shall determine the number of names randomly selected for the Master Wheel based upon historical and projected juror usage in each jury division. The minimum number of names initially placed in the Master Wheel shall be at least one half of one percent of the total number of names on the Lists for each division, or one thousand (1,000), whichever is greater. The Chief Judge may order additional names to be added to the Master Wheel from time to time as necessary or desirable to assure an adequate number of names. Such additional names shall be selected at random and in such proportions as provided herein.

6. **Qualified Jury Wheel**

- a. **Formation.** A list of qualified jurors (the "Qualified Wheel") will be formed for each jury division by including the names of persons whom the Clerk has not disqualified, exempted, or excused as outlined below.
- b. **Source and Number of Names.** From time to time the Clerk shall draw at random from the Master Wheel for each jury division the names of as many persons as may be required for jury service.
- c. **Juror Qualification Forms.** In accordance with 28 U.S.C. § 1864(a), the Clerk will mail to each person whose name is drawn from the Master Wheel for the purpose of forming a qualified jury list, a juror qualification form and instructions. All persons receiving a juror qualification form must either:

- (1) fill out and return the juror qualification form, duly signed and sworn, to the Clerk by mail within ten (10) days; or
- (2) complete the juror qualification form electronically within ten (10) days via the Court's website as noted in the instructions.

If a person is unable to fill out the form, he or she is obligated to have the form filled out by another who shall indicate by whom the form is filled out and the reason.

- d. **Failure to Reply to Juror Qualification Form.** A person who fails to reply timely to a juror qualification form or who submits a reply requiring further investigation may, if necessary, be summoned for a personal interview by the Clerk in accordance with 28 U.S.C. § 1864(a). A person summoned to appear by the Clerk because of failure to return a completed juror qualification form, and who personally appears and executes a juror qualification form before the Clerk shall be entitled to receive the same fees and allowances under 28 U.S.C. § 1871, except where the prior failure to properly execute and complete such form was willful in the judgment of the Court. Any person summoned by the Clerk for failure to return a completed juror qualification form and who fails to appear as directed may be ordered by the Chief Judge to appear and show cause for failure to comply with the summons. Any person who fails to appear pursuant to such order, or who fails to show good cause for noncompliance with the summons of the Clerk shall be subject to penalties provided in 28 U.S.C. § 1864(b).
- e. **Determination of Persons to be Included in the Qualified Wheel.** The Clerk is authorized and directed under supervision of the Court, pursuant to 18 U.S.C. § 1865(a), to determine which persons should be included in the Qualified Wheel.
 - (1) **Disqualified.** Pursuant to 18 U.S.C. § 1865(b), any person shall be deemed qualified to serve on a grand or petit jury in the district court unless he or she:
 - (a) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;
 - (b) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
 - (c) is unable to speak the English language;
 - (d) is incapable by reason of mental or physical infirmity, to render satisfactory jury service; or
 - (e) 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.

- (2) **Exempt.** The following persons are barred from jury service on the ground that they are exempt under 28 U.S.C. § 1863(b)(6):
- (a) members in active service in the Armed Forces of the United States;
 - (b) members of the fire or police department of any municipality or political subdivision of this district; or
 - (c) public officers in the executive, legislative, or judicial branch of the United States or the State of Iowa who are actively engaged in the performance of official duties as defined in 28 U.S.C. § 1869(i).
- (3) **Excuses for Special Reasons.** In accordance with 28 U.S.C. § 1863(b)(5)(A), the Court finds that jury service by a member of the following groups of persons would entail “undue hardship or extreme inconvenience” as defined in 28 U.S.C. § 1869(j), and an excuse from jury service would not be inconsistent with 28 U.S.C. § 1861 and 1862. Upon request, the Clerk must excuse from jury service any member of these groups:
- (a) persons over 70 years of age;
 - (b) persons who have served as a grand or petit juror in any federal or state court within the last two years;
 - (c) any full time student in any public, parochial, or private school or college; or
 - (d) volunteer safety personnel defined as individuals serving a public agency in an official capacity with minimal compensation as firefighters or members of a rescue squad or ambulance crew.

7. *Jury Pool*

- a. **Formation.** The names of prospective jurors for a designated term of service will be placed in grand or petit jury pools (the “Pool”) for each jury division.
- b. **Source and Number of Names.** From time to time the Clerk shall draw at random from the Qualified Wheel for each jury division the names of as many persons as may be required for jury service in that division.
- c. **Summons.** The Clerk shall prepare and mail to every person in a Pool a summons for jury service, a juror questionnaire, and an informational letter.
- d. **Notification.** Each member of a Pool is instructed to call the automated phone messaging system for specific information about service on a jury panel.

8. *Jury Service*

- a. **Jury Panel.** The Clerk shall draw from the respective Pool names of persons as may be required for assignment to grand or petit jury panels (the “Jury Panel”).
- b. **Failure to Appear.** Prospective jurors summoned for jury service who fail to appear may be ordered by the Court to show cause for failure to comply with the summons. If cause is not shown in response to such order, the juror or prospective juror shall be subject to penalties provided in 28 U.S.C. § 1866(g).
- c. **Temporary Excuse.** Pursuant to 28 U.S.C. § 1866(c), any person summoned for jury service may be excused by the Court or the Clerk under supervision of the Court, upon a showing of “undue hardship or extreme inconvenience” as defined in 28 U.S.C. § 1869(j). The period for which such prospective juror may be excused shall be the period which the Court or the Clerk deems necessary under the circumstances. Upon expiration of the period, such person shall be summoned again or their name shall be reinserted into the Qualified Wheel.

- d. Court Exclusions.** In accordance with 28 U.S.C. § 1866(c), any person summoned for jury service may be excluded by the Court on the following grounds:
- (1) that such person may be unable to render impartial jury service;
 - (2) that the service of such person as a juror would be likely to disrupt the proceedings;
 - (3) that such person be peremptorily challenged as provided by law;
 - (4) upon a challenge by any party for good cause shown, pursuant to the procedure specified by law; or
 - (5) upon determination that the service of such person as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations.
- Any person excluded under subparagraph 1, 2, 3, or 4 of this section shall be eligible to serve on other juries if the basis for the initial exclusion would not be relevant to the person's ability to serve on other juries. The period for which such prospective juror may be excused shall be the period which the Court deems necessary under the circumstances. Upon expiration of the period, such person shall be summoned again or their name shall be reinserted into the Qualified Wheel.
- e. Fees and Allowances.** Fees and allowances shall be paid as authorized by law under 28 U.S.C. § 1871.

9. Records and Information Disclosure

- a. Petit Juror Information Disclosure.** The names of prospective and sitting petit jurors shall not be disclosed to the public outside open court except upon order of the Court. Redacted juror questionnaires are provided to the lead attorneys of record in each case approximately three (3) days prior to trial unless otherwise ordered by the Court. The questionnaires shall be viewed only by counsel and shall be destroyed within ten (10) days of the trial's conclusion.
- b. Grand Juror Information Disclosure.** The names of grand jurors shall not be disclosed to the public or maintained in a public record, unless the Chief Judge orders disclosure for a demonstrated need based on a showing of exceptional circumstances.
- c. List of Names Drawn.** In accordance with 28 U.S.C. § 1864(a), the Clerk shall, upon order of the Court, prepare an alphabetical list of the names of persons drawn from the Master Wheel. Except by order of the Chief Judge, or as required by statute, the list of names drawn will not be disclosed to anyone other than the judges of the Court, the Clerk, and any other person authorized by the Court to assist the Clerk in management of the jury selection process.
- d. Record Retention.** The Clerk will maintain electronic or paper records related to each Master Wheel, Qualified Wheel, Jury Pool, and Jury Panel, documents submitted in paper form will be maintained for a period of one (1) year, as provided in 28 U.S.C. § 1868, unless otherwise ordered by the Court. Upon order of the Court, the Clerk shall make available for public inspection any records for the purpose of determining the validity of the selection of any jury.
- e. Non-court Process Certification.** The Clerk shall keep for four (4) years:
- (1) a copy of written instructions for the random selection of names given to any computer service provider, and
 - (2) the computer service provider's sworn declaration of compliance with the instructions.

10. *Challenging Compliance with Selection Procedures*

The exclusive methods of challenging compliance with the selection procedures in this Plan shall be those provided by any existing statute or rule of criminal or civil procedure, including but not limited to 28 U.S.C. § 1867.

11. *Effective Date*

The effective date for this Plan is December 12, 2016.

APPROVAL BY JUDICIAL COUNCIL

This Jury Selection Plan replaces all previous jury selection plans for The United States District Court for the Southern District of Iowa, and was approved by the Judicial Council of the Eighth Circuit, pursuant to 28 U.S.C. § 1863(a) on December 12, 2016.