

Jury Selection Plan

United States District Court for the Northern Mariana Islands



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Amended effective May 4, 2010



**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS**

JURY SELECTION PLAN

Pursuant to the Jury Selection and Service Act, 28 U.S.C. §§ 1861, et seq., the following plan is hereby adopted by this Court, subject to approval by a reviewing panel for the Ninth Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

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INTRODUCTION

Jury Selection Plan

This plan for random selection of grand and petit jurors for the United States District Court of the Northern Mariana Islands is required by 28 U.S.C. §1863 and implements requirements of the Jury Selection and Service Act, 28 U.S.C. §§ 1861, et seq. This Plan also establishes policies specific to this court. This plan shall become effective on the date approved in accordance with 28 U.S.C. §1863 (a) & (c). A copy of this Plan shall be posted for public review in the clerk's office and on the court's public website.

SECTION 1

**Declaration of Policy
28 U.S.C. §1861**

It is the policy of the court that all litigants in this 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 where the court convenes, and that all U. S. Citizens who reside within the district shall have the opportunity to be considered for service on grand or petit juries in this Court and shall have an obligation to serve as jurors when summoned for that purpose.

SECTION 2

**Discrimination Prohibited
28 U.S.C. 1862**

No U. S. 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.

SECTION 3

**Management And Supervision Of Jury
Selection Process
28 U.S.C. §1863(b)(1), §1869(a)**

The Clerk of Court shall manage the jury selection process under the supervision and control of the Chief Judge of the United States District Court of the Northern Mariana Islands but, in the absence or disability of the Chief Judge, or other emergency, any other Judge designated to sit for the United States District Court of the Northern Mariana Islands may so act.

References in this Plan to “clerk” shall mean the Clerk of Court of the United States District Court of the Northern Mariana Islands, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this Jury Selection Plan.

SECTION 4

**Source List for Jury Selection
28 U.S.C. 1863(b)(2) & (d)**

The voter registration list represents a fair cross-section of the U. S. Citizens in the District of the Northern Mariana Islands. Accordingly, names of grand and petit jurors selected on or after the effective date of this Plan shall originate from the voter registration list of the Commonwealth of the Northern Mariana Islands.

The voter registration list referred to throughout this Plan shall mean the voter registration list (VRL) for a Commonwealth general election as provided to the court by the CNMI Election Commission pursuant to 28 U.S.C. §1863(d), either manually or in electronic format.

SECTION 5

**Random Selection Method
28 U.S.C. §1863(b)**

This Plan's reference to random selection shall mean that in any selection procedure where one or more names are selected as a subset from any list of names, all names selected shall be chosen by a purely random method that ensures the mathematical odds of any single name being picked are substantially equal.

The court finds that the U.S. Courts "Jury Management System" (JMS) is a properly programmed electronic data processing system for randomized selection purposes, and shall be used for creation of jury wheels and for selecting names of jurors for jury service.

SECTION 6

**Master Jury Wheel
28 U.S.C. §1863(b)(3) & (4)**

This court finds that its JMS electronic data processing system has sufficient capacity for the entire number of names from the CNMI Voter Registration List. Therefore, all names from the Voter Registration List shall be loaded into the court's electronic data processing system. The court will refer to this set of names as the "Master Jury Wheel". The Master Jury Wheel is the master list of names that can be randomly selected using the court's JMS 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 shall be not less than one thousand (1,000).

The Master Jury Wheel shall be emptied and refilled with names from the Voter Registration List of the most recent Commonwealth general election, after the most recent general election but no sooner than twelve months and no longer than four years

since the Master Jury Wheel was last refilled.

SECTION 7

**Two-Step Selection Process
28 U.S.C. §1878**

The court uses a "two-step" process to select jurors from the Master Jury Wheel. A limited number of persons are randomly selected from the Master Jury Wheel and reviewed for their qualification to serve as jurors. Names of those persons qualified for potential service as jurors comprise the "Qualified Jury Wheel".

When new jurors are needed for actual jury service, names are randomly drawn from the Qualified Jury Wheel and summonses are issued for persons to serve in a jury panel.

SECTION 8

**Drawing of Names from the Master Jury Wheel; Completion of Jury Qualification Questionnaires
28 U.S.C. §§1863(b)(7), 1864(a), 1868 and 1869(k)**

From time to time as directed by the court, the clerk shall draw at random from the Master Jury Wheel as many names as required for juror qualification. The number of names to be drawn shall be determined by the clerk based upon anticipated need for actual jurors, plus a margin to allow for truly randomized selection.

The clerk shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn.

The clerk will, upon order of the court, prepare an alphabetical list of the names drawn from the Master Jury Wheel. This list shall not be disclosed to any person except as provided in Section 16 of this Plan.

The clerk shall mail to every person whose name is so drawn a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk by mail within ten (10) days, or by online response with indication of the person's sworn affirmation, through the court's JMS webpage.

If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk within ten days.

If any person fails to return a completed juror qualification form as instructed, the clerk may summon the person to fill out a juror qualification form. Any person summoned who fails to appear shall be ordered to show cause for failure to comply with the summons, and may be fined not more than \$1000, imprisoned not more than 3 days, ordered to perform community service or any combination thereof.

SECTION 9
Qualification for Jury Service
28 U.S.C. 1865(b)

(a) The Chief Judge of the District Court or other Judges designated to sit, acting under Section 3 of this Plan, upon recommendation of the clerk, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and the list of names drawn from the Master Jury Wheel. If a person did not appear in response to a juror qualification summons, such fact shall be noted on said list(s).

(b) In making such determination, the Court shall deem any person qualified to serve on grand or petit juries in the district unless he or she:

(1) is not a citizen of the United States, is less than eighteen (18) years old, or has not resided for a period of one year within the judicial district;

(2) 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) is unable to speak the English language;

(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service;

(5) has a charge pending against him or her for the commission of a crime, or has been convicted in a State, Federal, Territorial or Commonwealth Court of record, of a crime punishable by imprisonment for more than one (1) year, and his or her civil rights have not been restored.

Notice of persons who identify themselves as non-U.S. citizens through the juror qualification process will be provided to the Commonwealth Election Commission for verifying voter registration eligibility.

SECTION 10

**Excuses on Individual Request
28 U.S.C. §§1863(b)(5)(A) & (B); 1866(e);
1869(j)**

The judges of this Court find that jury service will entail undue hardship or extreme inconvenience to the members of the following groups and that excuse of members of those groups upon request would not be inconsistent with the provisions of 28 U.S.C. §§1861 and 1862:

(1) Persons over 70 years of age.

(2) Persons who have served as a grand or petit juror in the State or Federal Court within the past 2 years.

(3) Volunteer safety personnel, upon individual request, shall be excused from jury service. "Volunteer safety personnel" means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

SECTION 11

**Exemptions from Jury Service
28 U.S.C. §1863(b)(6) & §1869(I)**

Pursuant to 28 U.S.C. §1863(b)(6) and §1869(I), the following persons are barred 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 any state, district, territory, commonwealth or possession or subdivision thereof (not including volunteer or

commercial departments); and

(3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or any state, district, territory, commonwealth or possession or subdivision thereof, who are actively engaged in the performance of official duties, and who are elected to public office or directly appointed by one elected to public office.

SECTION 12

**Qualified Jury Wheel
28 U.S.C. §1866 (a)**

The clerk shall maintain a Qualified Jury Wheel and shall place in such wheel names of all persons drawn from the Master Jury Wheel who are determined to be qualified as jurors.

The Qualified Jury Wheel shall be emptied and refilled by order of the court, on a date later than the refilling of the Master Jury Wheel, but no later than the expiration of the refilled Master Jury Wheel.

Jurors put under summons before the Qualified Jury Wheel emptying date, with or without a summons reporting date, may be used for terms of service extended beyond the Qualified Jury Wheel emptying date.

SECTION 13

**Creation of Jury Panels
28 U.S.C. §1866 (a) & (b)**

From time to time, the clerk, as directed by an order of the court, shall draw at random from the Qualified Jury Wheel such number of names of persons as may be required for assignment to grand and petit jury panels. The District Court may also

refer to jury “panels” as jury “pools”.

The clerk shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn.

The clerk shall issue summonses for the required number of jurors, served personally by the marshal, or served by registered, certified, or first-class mail addressed to such person at their usual residence or business address. If such service is made by mail, an affidavit of service shall be prepared, and any receipt from the addressee for registered or certified mail shall be attached.

After the drawing of names of persons to be summoned has been completed, the clerk will prepare an alphabetical list of the names drawn. From this list of names, the clerk, at the direction of the Judge in open court, shall select at random, by computerized or manual method the number of persons the Chief Judge or other Judges designated to sit, acting under Section 3 of this Plan, determines should be called to establish the petit jury panels and/or the grand jury panels.

Multiple petit or grand jury panels may be created from time to time as required, and they may serve concurrently. The Chief Judge or other Judges designated to sit acting under Section 3 of this Plan, may order that two or more existing petit jury panels be merged, and may set a new term of service for the merged panel.

The clerk shall prepare a separate alphabetical list of names of persons assigned to each grand and/or petit jury panel thus impaneled or merged.

This court determines that the Grand Jury Panel list shall not be disclosed except as may be directed by the Chief Judge or other Judges designated to sit acting under Section 3 of this Plan, as provided in 28 U.S.C. §1863 (b) (7).

As provided in 28 U.S.C. §1863 (b) (7), this court determines that the Petit Jury Panel list, containing the juror names only, shall be disclosed to the parties three (3) working days prior to the date of trial, unless otherwise directed by the Chief Judge or the Trial Judge assigned to try the case, and that the names of prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the court. The Chief Judge or the Trial Judge assigned to try any case may order such list to be kept confidential in any case where the interests of justice so require.

Persons whose names were selected for a petit jury panel shall be called to appear as prospective jurors for jury trials held in the district for a period of twelve (12) months. The term of any petit jury may be shortened or extended by order of the Chief Judge or other Judges designated to sit acting under Section 3 of this Plan.

If the term of a panel ends while the panel is convened in session for grand jury or for a jury trial in progress, the term shall remain unexpired until the session or the jury trial and deliberation is completed.

Persons whose names were selected for a Grand Jury Panel(s) shall serve for a period of twelve (12) months. This term is subject to extensions as may be deemed necessary by order of the Chief Judge of the District Court, or other Judges designated to sit acting under Section 3 of this Plan, but shall not exceed a cumulative total of twenty-four (24) months.

SECTION 14
Summons for Jury Service
28 U.S.C. §1866 (b) through (g)

For each scheduled jury trial or grand jury session, the court will issue summonses to existing jury panel(s), or create and summon new jury panel(s).

Summonses shall be served personally by the marshal, or served by registered, certified, or first-class mail addressed to such person at their usual residence or business address. If such service is made by mail, an affidavit of service shall be prepared, and any receipt from the addressee for registered or certified mail shall be attached.

If the current petit jury panel for the district contains fewer or more persons than reasonably needed for the selection of a jury in a specific trial, the Trial Judge shall order the clerk to select entire panel(s) and/or randomly select a reduced number of juror names from a panel.

When a person is summoned for jury service, requests to be excused from jury service shall be in writing from the juror prior to the date of service, except in emergency situations, or in court during *voir dire* or trial proceedings. Summoned jurors may be excused or excluded by order of the court under the following circumstances:

(1) The Court, or the clerk under the supervision of the Court, may excuse a person summoned for jury service upon a showing of undue hardship or extreme inconvenience. A record shall be kept, and produced if ordered, of the reason and basis for the excuse. The clerk may consider the following factors in determining whether a showing of hardship or extreme inconvenience has been made:

(a) distance greater than 100 miles from the person's residence to the place of holding court, if reliable transportation is not available;

(b) obligation to care for a dependent if the obligation of such care prevents the person from engaging in employment outside of the residence or from leaving the residence for extended periods of

time;

(c) serious health issues which prevent the person from going to work or from leaving the residence for extended periods of time.

The clerk shall not excuse a person for employment, business or financial reasons.

All other determinations of hardship or extreme inconvenience or of other excuses must be made by the Chief Judge, or a judge designated by the Chief Judge, or the trial judge during the *voir dire* process.

If an excuse is granted, the person summoned may be excused:

(a) temporarily for such period as the court deems necessary, at the conclusion of which such person shall be summoned again for the next required service for that jury panel, or;

(b) deferred from the panel and the name of such person shall be reinserted into the Qualified Jury Wheel in the same status as other unselected names in the Qualified Jury Wheel, or;

(c) permanently excused from jury service and not returned to the Qualified Jury Wheel.

(2) Excluded by the Court on the ground that such person may be unable to render impartial jury service or that his/her service as a juror would be likely to disrupt

the proceedings.

(3) Excluded upon peremptory challenge as provided by law.

(4) Excluded upon a challenge by any party for good cause shown pursuant to the procedure specified by law.

(5) Excluded upon determination of the Court, after hearing in open court, that his/her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations, and that exclusion of such person will not be inconsistent with the policy stated in 28 U.S.C. §1861 and §1862.

Jurors who do not make a request in advance to be excused, and who report for jury service and request immediate release will not be paid by the Court for their service, unless they can prove that circumstances so warranted their making the trip to the courthouse.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk shall note in the space provided on his juror qualification form or in the JMS electronic juror record the specific reason therefor.

In any two (2) year period, no person shall be required to: (1) serve as a juror for more than 30 consecutive days, except when necessary to complete service in a particular case, or (2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

Any person summoned for jury service who fails to appear as directed may be ordered by the district court to appear forthwith and show cause for failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$1,000, imprisoned for not more than three (3) days, ordered

to perform community service, or any combination thereof.

SECTION 15

Seating of Trial Jury

By order of the trial judge in open court, a randomized list of summoned Petit jurors shall be generated from the JMS electronic data processing system. Jurors shall be assigned to trial juries in the order shown on the JMS randomized list. The clerk or Courtroom Deputy will maintain a record showing the names of all jurors seated for a given trial jury.

If a juror who has been seated for a trial jury and sworn or affirmed fails to appear at any session of court at the time fixed by the Court, he or she shall be ordered by the District Court to appear forthwith and show cause why he or she did not appear. If that juror fails to show good cause and is adjudged in contempt of court, in addition to any sentence imposed by the Court, he or she shall not be paid any undisbursed juror's fees for the time served on the case.

SECTION 16

Maintenance of Records

28 U.S.C. §1863(b)(7), §1867(f) & §1868

While the current Master Jury Wheel is active, the list of names comprising the Master Jury Wheel, the list of jurors selected for qualification, the list of names comprising the currently active Qualified Jury Wheel, as well as records and papers used by the clerk in connection with the jury selection process shall not be disclosed, except pursuant to this Plan or as may be ordered by the court in the preparation or presentation of a motion challenging compliance with jury selection procedures under 28 U.S.C. §1867. Upon order of the court, the parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and

pendency of such a motion. Any person who discloses the contents of any record or paper in violation of 28 U.S.C. §1867 (f) may be fined not more than \$1,000 or imprisoned not more than one year, or both.

As provided in 28 U.S.C. §1863 (b) (7), this court determines that the Grand Jury Panel list shall not be disclosed except as may be directed by the Chief Judge or other Judges designated to sit acting under Section 3 of this Plan.

As provided in 28 U.S.C. §1863 (b) (7) and Section 13 of this Plan, this court determines that the Petit Jury Panel list, containing the juror names only, shall be disclosed to the parties three (3) working days prior to the date of trial, unless otherwise directed by the Chief Judge or the Trial Judge assigned to try the case, and that the names of prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the court. The Chief Judge or the Trial Judge assigned to try any case may order such list to be kept confidential in any case where the interests of justice so require.

Pursuant to 28 U.S.C. §1868, after the Master Jury Wheel has been emptied and refilled as provided in Section 6 of this Plan and all persons from that Master Jury Wheel who are selected to serve as jurors have completed such service, all records and papers compiled and maintained by the clerk before the Master Jury Wheel was emptied shall be preserved in the custody of the clerk for four years or for such longer period as may be ordered by the court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury, through application and order of the court.

Jury records made available for public inspection pursuant to 28 U.S.C. §1868 may have sensitive personal data redacted in conformity with guidelines from the United States Judicial Council, and shall not be used for any purpose other than

determining the validity of the selection of any jury. The voter registration list may not be inspected or copied without permission from the CNMI Board of Elections or an order of the court.

SECTION 17
Protection of Jurors' Employment
28 U.S.C. §1875

Pursuant to 28 U.S.C. §1875, no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service. Any employer who violates the provisions of 28 U.S.C. §1875 shall be subject to a civil penalty of not more than \$5,000 for each violation as to each employee, and may be ordered to perform community service.

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