

Jury Selection Plan



United States District Court for the Northern Mariana Islands

Office of the Clerk
3rd Floor, U.S. Courthouse
1671 Gualo Rai Road, Gualo Rai
P.O. Box 500687
Saipan, MP 96950

Tel: (670) 237-1200 • Fax: (670) 237-1201
Website: <http://www.nmid.uscourts.gov>

Amended effective September 19, 2018

CHAPTER ONE

General Matters

Section 1.01 Authority

This Jury Plan is adopted by the District Court for the Northern Mariana Islands in accordance with the provisions of the Jury Selection and Service Act of 1968 (Public Law 90-274), as amended and codified in 28 U.S.C. § 1861 *et seq.*

Section 1.02 Application

This Jury Plan will take effect after approval by a reviewing panel of the United States Court of Appeals for the Ninth Circuit pursuant to 28 U.S.C. § 1863(a). The prior Jury Plan will be superseded as of the effective date of this revised Plan. A copy of the revised Plan, as approved by the reviewing panel, will be provided to the Administrative Office of the United States Courts and the Attorney General of the United States, and posted on the Court's website.

Section 1.03 Definitions

For purposes of this Plan:

- (a) "Jury Selection Process" will be deemed to include all activities associated with the master and qualified jury wheels relating to the random selection, qualification, summoning, and service of grand and petit jurors.
- (b) "Chief Judge" means the Chief Judge of this District, or any supervising judge appointed by the Chief Judge.
- (c) "Clerk" and "Clerk of Court" means the Clerk of this District Court, any authorized deputy clerk, or any other person authorized by the Chief Judge or by this Plan to assist the Clerk in the performance of duties under this Plan.

Section 1.04 Policy

It is the policy of the Court that all litigants in this Court, entitled to trial by jury, have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the Court convenes. It is also the policy of the Court that all citizens in the district have the opportunity to be considered for service on grand and petit juries, and have an obligation to serve as jurors when summoned for that purpose.

Section 1.05

Discrimination Prohibited

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

Section 1.06

Management Responsibilities

In accordance with 28 U.S.C. § 1863(b)(1), the Clerk of Court will manage the Jury Selection Process under the supervision and control of the Chief Judge.

The Court finds that electronic data processing methods can be advantageously used for managing this Plan. At the Clerk's option, after consultation with the Chief Judge, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods, may be used for all randomized drawings and to perform other clerical and record-keeping jury functions.

In the event of an emergency, computer malfunction, or any overt or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Chief Judge, will manually, or by alternative electronic methods, proceed from the last step correctly implemented to manage the Plan.

Section 1.07

Delegation of the Clerk's Management Responsibilities

In accordance with 28 U.S.C. §§ 1863(b)(1) and 1869(a), the Clerk of Court may delegate responsibility for the day-to-day operation of the Jury Selection Process to any authorized deputy clerk, or to any authorized non-court personnel or agency.

The Clerk may use the services of non-court personnel to assist in the Jury Selection Process. For purposes of this plan, the phrase "non-court personnel" may include, but is not limited to:

- (a) Commonwealth officials, and their employees or agents, who are responsible for custody and maintenance of the source lists identified in Section 2.01 of this Plan.
- (b) Owners, employees, operators and/or agents of computer or data processing centers, bar-coding facilities, mail handling centers, document reproduction facilities, and optical scanning facilities, and similar facilities whose services are requested or employed by the Clerk to support the Jury Selection Process.
- (c) Other non-court administrative or clerical persons whose services are requested or employed by the Clerk to select, process, and/or mail the various documents and records involved in the Jury Selection Process.

Section 1.08

Emptying and Refilling the District Master Jury Wheels

The Clerk of Court will create and maintain a master jury wheel for this Court. In accordance with 28 U.S.C. § 1863(b)(4), the Clerk is directed to empty and refill the master jury wheels following the most recent General Election, approximately every two years but no longer than four years since the Master Jury Wheel was last filled. When the Master Jury Wheel is emptied, the existing Qualified Jury Wheel will continue to be used until the Clerk determines that an adequate number of persons from the new master jury wheel have been qualified. At that time, the old qualified jury wheel will be emptied and new qualified jury wheels created. Jurors from unexpired jury pools may serve at the same time with jurors selected from later qualified jury wheels. If additional time is needed to empty and refill the master jury wheels, permission must be obtained from the Chief Judge of the Circuit.

Section 1.09

Method and Manner of the Random Selection of Jurors

- (a) The randomized selection procedures set forth in this Plan must ensure that the names chosen will represent all segments of the source lists from which drawn, and that the mathematical odds of any single name being picked are substantially equal.
- (b) The selection of names from the complete source list databases in electronic media for the master jury wheels may be accomplished by a purely randomized process through a properly programmed electronic data processing system. This Court finds that the U.S. Courts "Jury Management System" (JMS) is a properly programmed electronic data processing system for randomized selection purposes, and will be used for creation of jury wheels and for selecting names of jurors for jury service.
- (c) To ensure substantial proportional representation of registered voters throughout the Northern Mariana Islands, the entire CNMI Voter Registration List will be loaded into the Master Jury Wheel as described in Section 2.02, without reduction or random sub-selection.
- (d) **Manual Randomized Selection of Jury Panels**

After the jurors have been summoned, the Clerk has the option, after consultation with the presiding judge, to randomly select jurors manually for petit or grand jury panels and for petit juries for specific cases by:

 - (1) preserving the computer-prepared random sequence of the names of jurors summoned and assigning jurors to panels in the order listed; or preserving the computer-prepared random sequence of the names of jurors impaneled and assigning jurors to petit juries in the order listed; or

(2) drawing names at random from a box, jury wheel, or similar container containing the names of the present pool or panel of jurors.

(e) **Multiple Petit or 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 may order that two or more existing petit jury panels be merged, and may set a new term of service for the merged panel.

Section 1.10 General Notice

In accordance with 28 U.S.C. § 1864(a), the Clerk will post a general notice for public review in the Clerk’s Office and on the Court’s public website explaining the process by which names are periodically and randomly drawn from the source list and the master and qualified wheels.

Section 1.11 Protection of Jurors’ Employment

No employer can discharge, threaten to discharge, intimidate, or coerce any permanent employee over such employee’s jury service, or the attendance or scheduled attendance in connection with such jury service. Any employer who violates the provisions of this section will be subject to penalties specified by 28 U.S.C. § 1875.

Section 1.12 Modifications

Modifications to this Plan may be made from time to time by this Court, upon approval of the Ninth Circuit Reviewing Panel of the Judicial Council and must be made when so directed by the Reviewing Panel.

CHAPTER TWO

Source Lists, Initial Random Selection, and the Master Jury Wheel

Section 2.01 Source Lists (See 28 U.S.C. §§ 1861 and 1863(b)(2) and (3))

The Court finds that the voter registration list for the Commonwealth of the Northern Mariana Islands, represents a fair cross section of the citizens residing within the Commonwealth. Accordingly, names of grand and petit jurors selected for this district will originate from the voter registration list of the Commonwealth of the Northern Mariana Islands.

The voter registration list referred to throughout this Plan will mean the voter registration list (VRL) for a Commonwealth general election as provided to the Court by the CNMIElection Commission pursuant to 28 U.S.C. §1863(d), either manually or in electronic format, which may be the official pre-election list of registered voters or post-election actual voters, at the option of the CNMI Election Commission.

Section 2.02

Size of the Master Jury Wheels (See 28 U.S.C. § 1863(b)(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 VRL will 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 must be not less than one thousand (1,000).

The Chief Judge may order additional names to be placed in the master jury wheels from time to time as necessary.

CHAPTER THREE

Drawing Names from the Master Jury Wheel, Juror Qualification, and the Qualified Jury Wheel

Section 3.01

Drawing Names from the Master Jury Wheel

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

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."

Section 3.02

Juror Qualification Questionnaires

The Clerk will mail a juror qualification questionnaire notice to every person randomly selected pursuant to Section 3.01 of this plan. 28 U.S.C. § 1864(a). The notice will direct the juror to complete a juror qualification questionnaire through the Court's internet website within ten days. If a juror does not complete the juror qualification questionnaire online, a paper copy of the questionnaire will be mailed with instructions to complete and return the questionnaire to the Clerk by mail within ten days of receipt.

If the person is unable to fill out the form, another must do it for him or her, and must indicate that he or she 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 will 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.

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 3.03

Failure to Submit a Juror Qualification Questionnaire or Appear

If a person fails to submit a completed juror qualification questionnaire, the Clerk may issue a summons to the person directing him or her to appear in the Clerk's Office to complete the qualification questionnaire. No juror fees or costs for this appearance will be paid, unless otherwise ordered by the Court. Any person summoned who fails to appear will 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 (28 U.S.C. § 1864).

Section 3.04

Determining Juror Qualification Status

The Clerk or designee, under the supervision of the Court, will determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is unqualified for, exempt, or to be excused from jury service (28 U.S.C. § 1865(a)). The Clerk must enter such determination on the questionnaire or in the jury management database.

(a) Disqualification from Jury Service

In accordance with 28 U.S.C. § 1865(b), any person will be deemed qualified to serve on grand and petit juries in this district unless such person:

- (1) is not a citizen of the United States, is less than 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 satisfactorily fill out the juror qualification questionnaire;
- (3) is unable to speak the English language;
- (4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- (5) has a charge pending against him 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 civil rights have not been restored.

(b) Exemption from Jury Service

In accordance with 28 U.S.C. § 1863(b)(6), the following persons are barred from jury service on the grounds that they are exempt:

- (1) full-time members in active service in the Armed Forces of the

United States;

- (2) full-time members of the fire or police departments of any state, district, territory, possession, or subdivision thereof; and
- (3) public officers in the executive, legislative, or judicial branches of the Government of the United States, or any state, district, territory, possession or subdivision thereof, who are actively engaged in the performance of their official duties. A “public officer” means a person who is elected to public office or who is directly appointed by a person elected to public office, usually persons with law or policy-making functions.

(c) **Excuses from Jury Service on Individual Request**

(1) **Permanent Excuse.**

In accordance with 28 U.S.C. § 1863(b)(5)(A) and (B), the Court 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 would not be inconsistent with §§ 1861 and 1862 of 28 U.S.C., and will be granted upon individual written request to those:

- (A) persons age 70 years or older;
- (B) persons who have served as grand or petit jurors in a state, federal, territorial, or commonwealth court within the past two years; or
- (C) persons who serve a public agency without compensation as volunteer safety personnel (such as firefighters or members of a rescue squad or ambulance crew).

(2) **Temporary Excuse.**

Upon application showing undue hardship or extreme inconvenience, any qualified juror may be temporarily excused from jury service for such period as the Clerk deems necessary. Unless otherwise directed by the Court, those individuals temporarily excused from jury service should either be summoned again for jury service with their pool if it is deferred, or their names should be reinserted into their respective qualified jury wheel for possible future selection.

Section 3.05

Qualified Jury Wheel

The Clerk must maintain a Qualified Jury Wheel and will place in such wheels the names of all persons randomly selected from the Master Jury Wheel who are determined to be qualified to serve as jurors and are not exempt or excused from service pursuant to this Plan.

The Qualified Jury Wheel will 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.

Currently established juror pools may be used for terms of service up until the Court- ordered expiration date, even if the date is beyond the Qualified Jury Wheel emptying date.

CHAPTER FOUR

Selection of Grand and Petit Jurors

Section 4.01 Selection and Empanelment of Grand and Petit Jurors (See 28 U.S.C. § 1866(a))

The Clerk will draw at random from the Qualified Jury Wheel the names of as many persons as may be required for assignment to grand and petit jury panels in the District. The Court may refer to jury “panels” as jury “pools.”

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 will order the Clerk to select entire panel(s) and/or randomly select a reduced number of juror names from a panel.

Section 4.02 Summoning Grand and/or Petit Jurors (See 28 U.S.C. § 1866(b))

Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address. If such service is made by mail, an affidavit of service will be prepared.

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).

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 4.03 Term of a Petit Jury

Persons whose names were selected for a petit jury panel will be called to appear as prospective jurors for jury trials held in the district for a period of up to twelve (12) months. The term of any petit jury may be shortened or extended by order of the Chief Judge or trial judge.

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 will remain unexpired until the session or the jury trial and deliberation is completed.

Section 4.04

Disclosure of Petit Juror Information

- (a) **To Attorneys and Parties:** When the Clerk has assigned a venire panel to a particular trial, the list of names so assigned may be furnished to the attorneys for the parties and any parties appearing *pro se* in said trial three (3) working days prior to the date of trial, unless otherwise directed by the judge assigned to try the case, and that the names of prospective and sitting petit jurors must 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.
- (b) **To the Public and the Media:** The names of prospective and sitting petit jurors will be disclosed to the public or media only upon order of the Court. A request for disclosure of petit juror names to the media or public must be made in writing to the presiding judge.

Section 4.05

Grand Jury Impanelment (See 28 U.S.C. § 1863(b)(8))

One or more grand juries will be impaneled for this district in accordance with Court orders. The impanelment of every regular or special grand jury will not be conducted in open court or within public view. The Clerk will draw at random from the Qualified Wheel such number of prospective grand jurors as the Court may direct.

Section 4.06

Term of Regular Grand Jury

Each grand jury will serve until discharged by the Court, but no regular grand jury will serve more than 12 months unless the Court extends the service of the grand jury upon a determination that such extension is in the public interest, in accordance with Rule 6(g) of the Federal Rules of Criminal Procedure.

Section 4.07

Term of Special Grand Jury

Each Special Grand Jury as defined in 18 U.S.C. § 3331, will serve for a term of 18 months unless an order for its discharge or an extension of its term is entered by the Court in accordance with 18 U.S.C. §§ 3331, 3333.

Section 4.08

Alternate Grand Jurors

The Court may direct that alternate grand jurors be selected at the same time a grand jury is selected. Alternate grand jurors, in the order in which they were selected, may thereafter be impaneled to replace excused grand jurors. Alternate

grand jurors will be drawn in the same manner and must have the same qualifications as the regular grand jurors, and if impaneled, must be subject to the same challenges, will take the same oath and have the same authority as the regular grand jurors.

Section 4.09

Disclosure of Grand Juror Information (See 28 U.S.C. § 1863(b)(7))

Except as authorized by written order of the Court, the names and information relating to any summoned or serving grand juror or grand jury panel will be confidential and not disclosed to any litigant or member of the public. Accordingly, the grand jury will be selected in a closed session with only necessary Court personnel and government attorneys. Applications for disclosure of grand juror information must be made by motion and must set forth why disclosure should be allowed.

CHAPTER FIVE

Exclusion or Excuse from Jury Service

Section 5.01

Exclusion or Excuse from Jury Service

Except as provided elsewhere in this Plan, no person or class of persons will be disqualified, excluded, excused, or exempted from service as jurors; provided, however, that any person summoned for jury service may be:

- (a) excluded by the Court on the grounds that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings;
- (b) excluded upon peremptory challenge as provided by law;
- (c) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown;
- (d) excluded upon determination of the Court, after hearing in open court, that 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.

Section 5.02

Requests for Excuse from Jury Service

- (a) Requests to be excused from jury service must 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 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 must 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) the person will be out of the Commonwealth during the time of service;
 - (B) the Court is a distance greater than 100 miles from the person's residence to the place of holding court and reliable transportation is not available;
 - (C) the person is obligated 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.
- (2) The Clerk will not excuse a person for employment, business or financial reasons.
 - (3) All other determinations of hardship or extreme inconvenience or of other excuses must be made by the Chief Judge, or the trial judge during the *voir dire* process.
- (b) If an excuse is granted, the person summoned may be excused:
 - (1) temporarily for such period as the Court deems necessary, at the conclusion of which such person will be summoned again for the next required service for that jury panel, or;
 - (2) deferred from the panel and the name of such person will be reinserted into the Qualified Jury Wheel in the same status as other unselected names in the Qualified Jury Wheel, or;
 - (3) permanently excused from jury service and not returned to the Qualified Jury Wheel.
 - (c) 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.

Section 5.03

Jury Service Limit

In any two (2) year period, no person will be required to:

- (a) serve or attend Court for prospective service as a petit juror for a total of

more than thirty (30) days, except when necessary to complete service in a particular case, or

- (b) serve on more than one grand jury, or
- (c) serve as both a grand and petit juror.

Section 5.04 Permanent Exclusion or Excuse from Jury Service

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

CHAPTER SIX

Disclosure and Retention of Jury Selection Records

Section 6.01 Release of Jury Plan Information

The Clerk is authorized to provide a copy of this Jury Plan to any person requesting information about the jury selection process, and may post the Plan to the Court's public website. All other requests for information about the Jury Selection Process must be submitted in writing to the Clerk of Court, who will confer with the Chief Judge prior to releasing any information.

Section 6.02 Release of Juror Records (See 28 U.S.C. § 1867(f))

The contents of records and papers used in the Jury Selection Process will not be disclosed, except upon written order of the Court. Applications for disclosure of records related to the Jury Selection Process must be made by motion to the Chief Judge and must set forth why disclosure should be allowed.

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.

Section 6.03 Retention of Juror Records

In accordance with 28 U.S.C. § 1868, the Clerk will keep all records and papers relating to the Jury Selection Process for four years following the emptying and refilling of the master jury wheels and the completion of service of all jurors selected from those master jury wheels, or for such longer periods of time as the Court may require. Such records may then be destroyed, providing the means used ensures the privacy of their contents.

Section 6.04 Request to Inspect Juror Records (See 28 U.S.C. § 1868)

Applications to inspect Jury Selection Process records to determine the validity

of the selection of any jury must be made by motion to the Chief Judge and must set forth why disclosure should be allowed.

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 must 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.