

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA



JURY PLAN

Approved by Chief Judge Timothy M. Burgess: July 2017

Approved by the Ninth Circuit Judicial Council: August 2017

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CHAPTER ONE

General Matters

Section 1.01

Authority

This Jury Plan is adopted by the United States District Court for the District of Alaska 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 The prior Jury Plan is superseded as of the effective date of this revised Plan.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. This plan is applicable to the District of Alaska.

Section 1.03

Definitions

For purposes of this Plan:

“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.

“Chief Judge” means the Chief Judge of this District, or any supervising judge appointed by the Chief Judge.

“Presiding Judge” means the judge presiding over a particular case.

“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 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 division wherein the Court convenes. It is also the policy of the Court that all citizens of 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 based on race, color, religion, sex, 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, or of such other judge of the District Court as the Chief Judge designates.

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 person 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) County or State 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

Jury Management Divisions (*See* 28 U.S.C. § 1869(e))

In order to facilitate the Jury Selection Process, the Clerk is directed to divide the District of Alaska into the following three jury management divisions for jury selection purposes:

Anchorage Division: Includes cities within the Anchorage/Mat-Su, Gulf Coast and Southwest census designations.

Fairbanks Division: Includes cities within the Interior, and Northern census designations.

Juneau Division: Includes cities within the Southeast census designation.

Unless otherwise specifically indicated, the provisions of this plan apply to all divisions in the district. The Court has considered parts of the District from which grand and petit jurors should be selected for the places where court is held based on census information provided to the Alaska State Department of Labor 2010 Census designations. (*See* <http://live.laborstats.alaska.gov/cen/maps.cfm#cen2010>.)

A separate divisional master wheel will be maintained for each division. This Plan applies to each of the divisional master wheels, which comprise the master jury wheel for the District. Petit Jurors will be selected for service from a single division and grand jurors will be selected from all divisions unless directed otherwise by the Chief Judge.

Section 1.09

Emptying and Refilling the District Master Jury Wheels

The Clerk of Court will create and maintain a master jury wheel for each of the divisions within the District. In accordance with 28 U.S.C. § 1863(b) (4), the Clerk is directed to empty and refill the master jury wheels every two years by July 1 of every odd year. When the master jury wheels are 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 qualified. At that time, the old qualified jury wheel will be emptied and new qualified jury wheels created. Summoned jurors from previous qualified jury wheels 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 1.10

Method and Manner of the Random Selection of Jurors

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, that the mathematical odds of any single name being picked are substantially equal.

(a) 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. Similarly, at the option of the Clerk and after consultation with the Chief Judge, a properly programmed electronic data processing system for purely randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, from the qualified wheel for summoning persons to serve as grand or petit jurors, from the pool of jurors to serve as a panel, and from the panel of jurors to serve as a jury. Such random selections of names from the source lists for inclusion in the master wheels by data computer personnel must ensure that each division within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). The purely randomized selection procedure may be used for all drawings.

(b) Manual Randomized Selection of Jury Panels and Petit Juries

After the jurors have been summoned, the Clerk has the option, after consultation with the Chief 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.

Section 1.11

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 1.12

Protection of Jurors' Employment

No employer shall 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 provision of this section shall be subject to penalties specified by 28 U.S.C. § 1875.

Section 1.13

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 shall 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))

Voter Registration List: The Court finds that the voter registration list represents a fair cross section of the citizens residing within the communities in the District of Alaska.

Section 2.02

Size of the Master Jury Wheels (*See* 28 U.S.C. § 1863(b)(4))

After consultation with the Chief Judge, the Clerk has the option of using the entire source list within each jury division as the master jury

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

Section 2.03 **Substantial Proportional Representation and the Master Jury Wheels**
When selecting names from the source list, specific and detailed procedures will be followed to ensure the random selection of a fair cross section of the persons residing in the community in the division where the court convenes. Such random selection of names from the source list for inclusion in the master wheel will be designed to ensure that each voter within the division is substantially proportionately represented in the master jury wheels.

Section 2.04 **Filling the Master Jury Wheels**
Once the names for each division have been randomly selected, the Clerk will combine and randomly sort all jury division names and enter them into the master jury wheel for the appropriate jury divisions.

CHAPTER THREE

Drawing Names from the Master Jury Wheel, One-Step Summoning, 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 of each division, the names of as many persons as may be required for jury service in each division. (28 U.S.C. § 1864(a)).

Section 3.02 **Juror Summons and Qualification Questionnaires**
The Court is using a one-step procedure to qualify and summons jurors. The Clerk will mail a summons 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.

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 them to appear in the Clerk's Office to complete the qualification questionnaire (28 U.S.C. § 1864(a)). No juror fees or costs for this appearance will be paid, unless otherwise ordered by the Court. 28 U.S.C. § 1864(b) lists the penalties that may be imposed by the Court for any person who fails to appear as ordered or to show good cause for noncompliance with the summons. The potential penalties include a fine, imprisonment and community service.

Section 3.04

Determining Juror Qualification Status

The Chief Judge, upon the recommendation of the Clerk, or the Clerk of Court or designee, under the supervision of the Court, will determine solely based on 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)** members in active service in the Armed Forces of the United States;
- (2)** members of the fire or police departments of any state, the District of Columbia, territory or 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.

(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 of, 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 or federal 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 reserve or 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 a discretionary period as the Clerk deems necessary with judicial consultation and advice.

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 separate qualified jury wheel for each jury division within the District and will place in such wheels the names of all persons randomly selected from their respective 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.

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 wheels the names of as many persons as may be required for assignment to grand and petit jury panels in the District.

Section 4.02

Summoning Grand and Petit Jurors (*See* 28 U.S.C. § 1866(b))

The Clerk will issue and serve personally or send by first class mail a summons to the persons whose names are so drawn.

Section 4.03

Petit Jury Term– One Day Appearance/One Trial

It is the policy of the District of Alaska that all prospective petit jurors serve “one appearance” or “one trial” during a four week term of service. Petit jurors appearing in the United States District Court for the District of Alaska shall, upon completion of their “one appearance” or “one trial” service, be released from further jury service obligations for a period of not less than two years. The Court reserves the right to modify the provisions of this petit jury policy when the interests of justice so require.

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 that trial at a time in advance of the trial, if allowed by standing order of the Court or otherwise ordered by the trial judge.

Notwithstanding this general policy, any trial judge may order the Clerk to keep jurors names confidential until the morning of trial 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 Empanelment (*See* 28 U.S.C. § 1863(b)(8))

A centralized grand jury will be empaneled for this district in Anchorage. The empanelment of every regular or special grand jury will not be conducted in open court or within public view.

Composition of Grand Juries: A grand jury is to be empaneled for service in the entire district. The Clerk shall draw at random from the qualified wheel of each division a proportional number of prospective grand jurors as the Chief Judge may direct, in the same ratio that the number of registered voters in each division bears to the total number of registered voters in the combined divisions or in the district.

Section 4.06

Term of Regular Grand Jury

Each grand jury shall serve until discharged by the Chief Judge, but no regular grand jury shall serve more than 18 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 Sections 3331 or 3333 of 18 U.S.C.

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 shall have the

same qualifications as the regular grand jurors, and if impaneled, shall 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. Applications for disclosure of grand juror information must be made by motion to the Chief Judge 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 the person's 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 provided by law upon a challenge by any party for good cause shown; or
- (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

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 5.03

Permanent Exclusion or Excuse from Jury Service

See Section 3.04(c)(1) Whenever a person is permanently excluded or excused from jury service under this Chapter, the Clerk will note the same on the questionnaire or in the jury management database. In addition to the members of groups entitled to be excused from jury service on individual request as provided above, any person summoned for jury service may on request be temporarily excused by the Court, or by the Clerk or designee, upon a showing of undue hardship or extreme inconvenience. This temporary excuse shall be for such period as the Court deems necessary, at the conclusion of which, such person shall be summoned again for jury service, or the name of such person shall be reinserted into the qualified jury wheel of the court.

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 on 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. Motions for disclosure of records related to the Jury Selection Process in a particular case must be made to the Presiding Judge in that case and must set forth

why disclosure should be allowed. This provision does not preclude a transcript of the voir dire provided it is anonymous.

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 Presiding Judge and must set forth why disclosure should be allowed.

Section 6.05

Notice of Non-Citizens (*See* 28 U.S.C. § 1867)

Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to the appropriate elections officials for verifying voter registration eligibility.