

FILED

MAY 23 1985

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY CLERK

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

IN RE:

ADOPTION OF AMENDED
JURY SELECTION PLAN)
_____)

GENERAL ORDER NO. 183

Pursuant to the Jury Selection and Service Act of 1968, Public Law 90-274, and the Jury System Improvements Act of 1978, Public Law 95-572, codified in 28 U.S.C. §§1861-1875, the attached Amended Plan, having been approved by the Judicial Council of the Ninth Circuit, is hereby adopted by the Court.

DATED: May 23, 1985

[Signature]
RAUL A. RAMIREZ
U.S. DISTRICT COURT JUDGE

[Signature]
LAWRENCE K. KARLTON, Chief
JUDGE, U.S. DISTRICT COURT

[Signature]
ROBERT E. COYLE
U.S. DISTRICT COURT JUDGE

[Signature]
MILTON L. SCHWARTZ
U.S. DISTRICT COURT JUDGE

[Signature]
EDWARD J. GARCIA
U.S. DISTRICT COURT JUDGE

[Signature]
EDWARD DEAN PRICE
U.S. DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, Public Law 90-274, and the Jury System Improvements Act of 1978, Public Law 95-572, codified in 28 U.S.C. §§1861-1875, the following Amended Plan is hereby adopted by the Court, subject to approval by the Reviewing Panel of the Judicial Council of the Ninth Circuit, and to such rules and regulations as may be adopted from time to time by the Judicial Conference. When approved, this Amended Plan will supersede the plan now in effect in this District.

APPLICABILITY OF PLAN

The Eastern District of California is hereby divided, for jury selection purposes, pursuant to Section 1869(e) of the Act, as follows:

SACRAMENTO DIVISION, consisting of the counties of Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Glenn, Butte, Colusa, Sutter, Yuba, Sierra, Nevada, Yolo, Placer, El Dorado, Solano, Sacramento, Amador, Alpine, San Joaquin, and Mono.

FRESNO DIVISION, consisting of the counties of Merced, Mariposa, Madera, Fresno, Inyo, Kings, Tulare, Kern, Calaveras, Stanislaus, and Tuolumne.

The provisions of this plan apply to both divisions in the District, unless specifically indicated to the contrary.

DECLARATION OF POLICY

It is the policy of the Court that 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 the district or division wherein the Court convenes. It is further the policy of the Court that all citizens shall have the opportunity to be considered for service on Grand and Petit Juries in the District Court, and shall have an obligation to serve as jurors when summoned for that purpose.

DISCRIMINATION PROHIBITED

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

MANAGEMENT OF THE PLAN

This Plan shall be managed by the Clerk of the Court under the supervision and control of the Chief Judge or such other judge as may be designated to perform these duties.

The Court finds that the electronic data processing methods can be advantageously used for managing this Plan. Therefore, a properly programmed electronic data processing system, or a combination system employing both manual and electronic machine methods, will be used to eliminate duplicated names (if necessary), select master wheel names,

select names of persons to be sent questionnaires, select names of persons in the qualified wheel to be summoned and to perform other clerical and record-keeping functions as the Court deems necessary.

In the event of computer malfunction or any overt and/or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Chief Judge or such other judge as may be designated, shall manually proceed from the last step correctly implemented.

JURY SELECTION SOURCES

The Court finds that the source from which the names of petit and grand jurors shall be selected, at random, shall be the General Election Voter Registration Lists from all counties within the relevant division.

Should the Court find it necessary, pursuant to Title 28, United States Code, Section 1863(b)2, it may direct the Clerk to draw names of prospective jurors from other supplemental source lists.

The selection of names from such additional lists shall be done in a manner consistent with the selection procedures described within this Plan.

The Court takes notice that in the event two or more source lists are used, one person's name may appear more than once. A system will be developed, before any selection procedures begin, to eliminate as reasonably as possible such duplications. The list or lists used to select names for the master wheel shall hereafter be referred to as the "source list". Accordingly, names of petit and grand jurors serving in this district shall be selected by randomized procedure from the aforementioned source list or lists.

INITIAL SELECTION OF NAMES FOR THE MASTER WHEEL

The Court finds that the initial selection of persons to be considered for service as petit and grand jurors from the source list shall be made at random in such a total number as may be deemed sufficient for a period of four years.

The number of names to be drawn from each county shall be substantially in the same proportion to the total number drawn from all counties within the division as the number of names on that county's voter registration list bears to the total number of names on the voter registration list for all counties within that division.

For the purpose of calculating from the voter registration list the total number of registered voters within a respective division within the district, the Clerk shall add together the totals obtained from each county. The number taken as the total for each county may be based, at the Clerk's option, upon either a manual or a mechanized count of the names on the voter registration list.

After first determining the total number of names needed for the master wheel and then the proportionate share of names to be drawn from the source list of each particular county, the Clerk shall proceed, either manually or through a combination of manual and computer methods, to make the initial selection of names from the source list of each county.

METHOD AND MANNER OF RANDOM SELECTION

(a) Determining a "quotient". For each division, the Clerk shall make the randomized selection by taking the total number of voters from the lists of voters of the counties in the division of the Court and dividing that number by the minimum number of names to be placed in the master jury wheel, and the number obtained will be the "quotient". The quotient is the ratio of selected to unselected names. For example, if the Clerk should determine that to supply court jury requirements for four (4) years he will need 10,000 names in the master wheel, and if there are a total of 1,000,000 names on all county voter lists, the "quotient" to be used would be 1,000,000 divided by 10,000 or 100, and the Clerk would therefore take every 100th name from the lists of voters for the master wheel.

(b) Determining a "Starting Number". After determining the "quotient" the Clerk shall establish a starting number. This number will locate on the voter list(s), or on the data computer's tape, disc, or punched card record of such voter lists, the first name to be selected. The starting number will be manually drawn by lot from numbered cards placed in a jury wheel, drum or box. Cards used for

this drawing should begin with a card containing number one and end with a card containing the same number as the "quotient". In other words, the range of numbers from which a starting number is drawn is exactly the same as the range between number one and whatever the "quotient" number happens to be. As an example of how both the starting number and quotient are used, if we suppose the quotient to be 100 and the starting number drawn is 12, the first name chosen for each county would be the 12th name on its list of voters, the second name would be the 112th, the third the 212th, etc. and continued thusly to the end of the list.

MASTER JURY WHEELS

The Clerk shall maintain a master jury wheel or a device similar in purpose and function for each of the divisions within the district. The master jury wheels for each division, and the qualified jury wheels for each division shall be physically retained in the Clerk's Office or at a designated Automated Data Processing Center.

The names of all persons randomly selected from the source lists of the counties in a division shall be placed in the master jury wheel for that division.

Pursuant to Section 1863(b)(4) of the Act, the minimum number of names to be placed in the master jury wheels shall be at least $1/2$ of 1% of the total number of names on all county voter lists.

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

DRAWING OF NAMES FROM THE MASTER JURY WHEELS
COMPLETION OF JUROR QUALIFICATION FORMS

The Clerk, either all at one time or at periodic intervals, shall draw at random from the master jury wheels the names of as many persons as may be required to maintain an adequate number of names in the qualified jury wheels. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror needs by the Court plus a margin of extra names sufficient to compensate for the estimated number that will turn out to be unavailable or ineligible.

The Clerk shall have alphabetized lists prepared for the names drawn. These lists shall not be exhibited to any person except as provided herein and in Sections 1867 and 1863 of Title 28, as amended. The Clerk shall prepare and have mailed to every person whose name is so drawn, a juror qualification questionnaire form, accompanied by instructions to execute and return the questionnaire duly signed and sworn, to the Clerk by mail within ten (10) days, in accordance with Section 1864 of the Act, as amended.

JUROR QUALIFICATION FORM

The Juror Qualification Form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States shall be used.

The Court finds that jury service would not entail an undue hardship or extreme inconvenience to the members of any group of persons or occupational classes.

EXEMPTIONS FROM JURY SERVICE

The Court hereby finds that the following groups of persons or occupational classes are expressly required to be exempted by 28 U.S.C. §1863(b)(6), and accordingly such groups are exempt from jury service under this plan.

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, possession or subdivision thereof.
3. Public officers in the executive, legislative or judicial branches of the Government of the United States, or any state, district, territory or possession or subdivision thereof, who are actively engaged in the performance of official duties. Public officer shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

DETERMINATION OF QUALIFICATIONS, EXCUSES AND EXEMPTIONS

The Chief Judge or a judge designated to pass on juror's request for excuses on his initiative, or 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, or 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 alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

In making such determination, the Chief Judge or designated judge shall deem any person qualified to serve on grand and petit juries in the District Court unless he--

- (1) is not a citizen of the United States, eighteen years of age who has resided within the judicial district for a period of one year;
- (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 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.

Except as provided herein, no person, or class of persons, shall be disqualified, excluded, excused, or exempt from service as jurors; PROVIDED, that any person

summoned for jury service may be (a) excused by the Court, upon a showing of undue hardship or extreme inconvenience, for such period as the Court deems necessary, at the conclusion of which such person shall be summoned again for jury service, or (b) excluded by the Court on the ground 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, or (c) excluded upon peremptory challenge as provided by law, or (d) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (e) excluded upon determination by the Court that his service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (e) of this section unless the Judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with Sections 1861 and 1862 of Public Law 90-274, hereinafter referred to as "The Jury Selection and Service Act of 1968", as amended. The number of persons excluded under this clause (e) shall not exceed one per centum of the number of persons who returned executed jury qualification forms during the period, specified in this plan, between two consecutive fillings of the Master Jury Wheel. The names of persons excluded under this clause (e), together with detailed explanations for the exclusions, shall be forwarded immediately to the Judicial Council of the Circuit, which shall have the power to make any appropriate order, prospective or

retroactive, to redress any misapplication of this clause (e), but otherwise exclusions effectuated under such clause shall not be subject to challenge under the provisions of "The Jury Selection and Service Act of 1968", as amended. Any person excluded from a particular jury under clause (b), (c), or (d) of this section shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

QUALIFIED JURY WHEEL

The Clerk shall maintain a separate qualified jury wheel or a device similar in purpose and function for each division, and shall place in such wheel the names of all persons drawn from the master wheel and not disqualified, exempt or excused pursuant to this Plan. The Clerk shall insure that at all times an adequate number of names are maintained in each such wheel. The Clerk may maintain these wheels through the use of a properly programmed data computer.

SUMMONING OF JURORS

Upon Court Order the Clerk shall randomly select from the designated qualified jury wheel the designated number of persons to be summoned for a specific date. The Clerk shall have prepared an alphabetical list of all persons summoned. Names drawn from the qualified jury wheel shall not be made public until the panel of jurors have been summoned and have appeared at the courthouse, provided that the Chief Judge or designated judge may order that the names be made public at an earlier date or to be kept confidential in a case or in cases when the interests of justice so require.

**PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME OF AUTOMATED
SELECTION OF NAMES BY COMPUTER CENTER**

Random drawings of starting numbers shall be publicly made in the Office of the Clerk of the Court at times to be publicly announced on the bulletin board in the Office of the Clerk.

Drawing of names of prospective jurors by automated selection methods shall be publicly made at the designated computer center. The location and approximate time of such drawings shall be publicly announced in a public place such as the bulletin board in the Office of the Clerk.

The Clerk shall retain and, when requested, provide public access to the following documents:

1. The Juror Selection Plan.
2. A verbal or graphically charted description of the procedure employed in the automated selection system.
3. A copy of the Court's authorization and instruction order to the person or computer service organization which carries out automated name selection tasks for the Court.

IMPANELLING JURORS

The panel of jurors summoned as petit jurors shall, when directed to do so, report to the Jury Assembly Room of their division. Names of persons summoned and not excused by the Chief Judge or designated judge may be inserted in

a total jury panel wheel from which the jury pool for a given day and/or week may be selected.

GRAND JURY PANEL

From time to time as grand juries are required the Court shall order the drawing from each division's qualified wheel, a pro-rata share of the total number of grand jurors to be summoned. The pro-rata share shall be based on the total number of persons on the Voter Registration List of each division as compared to the total number of persons on the Voter Registration List of all divisions. The Clerk shall prepare a separate list of names of persons assigned to each grand jury.

UNANTICIPATED SHORTAGE OF JURORS

When there is an unanticipated shortage of available petit jurors drawn from the qualified jury wheel, the Chief Judge or designated judge may require the United States Marshal to summon a sufficient number of petit jurors selected at random from the Voter Registration Lists, lists of actual voters, or other lists specified in the Plan, in a manner ordered by the Court consistent with the Sections 1861 and 1862 of the Act, as amended.

FREQUENCY OF SERVICE

In any two-year period, no person shall be required to (1) 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

(2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

PLAN TO BE FILED AS GENERAL ORDER OF COURT

Upon approval, this amended plan shall be filed by the Clerk of this District Court in the General Order Book of the District and a copy thereof shall be filed in the book of copies of General Orders of this District maintained in Fresno.