

FILED

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CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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IN RE:)
)
ADOPTION OF AMENDED JURY SELECTION)
PLAN ADOPTED PURSUANT TO JURY)
SELECTION AND SERVICE ACT OF 1968)
AS AMENDED (28 U.S.C., § 1861 et seq.))

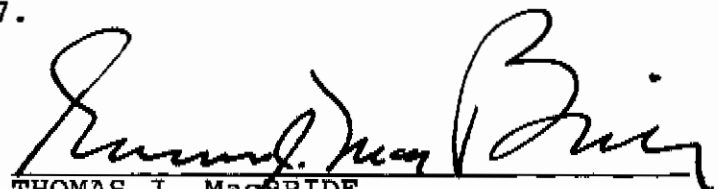
GENERAL ORDER NO. 75


The Random Jury Selection Plan of this District previously approved and adopted by the Judges of this District under General Order No. 24 on September 23, 1968, is canceled as of the effective date hereinafter set forth, and a new Juror Selection Plan for this District is adopted in its place. Said newly adopted plan is set forth hereinafter on the 15 following pages.

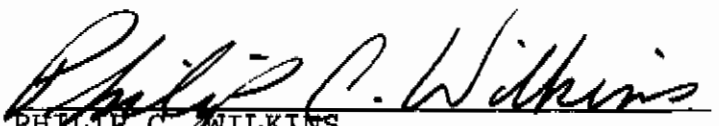
Said newly adopted plan was approved by the Ninth Circuit Judicial Council on August 25, 1977.

The plan shall become effective in this District on and after August 29, 1977.

DATED: August 26, 1977.


THOMAS J. MacBRIDE
CHIEF UNITED STATES DISTRICT JUDGE


M. D. CROCKER
UNITED STATES DISTRICT JUDGE


PHILLIP C. WILKINS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JUROR SELECTION PLAN

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C., § 1861 et seq.), the following plan is hereby adopted by this Court, subject to approval by the 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.

APPLICABILITY OF THE PLAN

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

Division "A" - SACRAMENTO, 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, Calaveras, Stanislaus, Tuolumne, and Mono.

Division "B" - FRESNO, consisting of the counties of Merced, Mariposa, Madera, Fresno, Inyo, Kings, Tulare, and Kern.

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 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 in each division wherein the Court convenes and that all citizens resident within the District shall have the

opportunity to be considered for service on grand and petit juries 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 this Court on account of race, color, religion, sex, national origin or economic status.

MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS

There is hereby established a separate Jury Commission to serve each of the divisions of this Court. The Commission for Division A shall consist of the Clerk of the Court, or one of his deputies regularly employed in Sacramento, and a Jury Commissioner. The Commission for Division B shall consist of the Clerk of the Court, or one of his deputies regularly employed in Fresno, and a Jury Commissioner. Such Commissioners shall be citizens of good standing, residing within the division in which they serve, and well-known members of the principal political party opposing that to which the Clerk or his Deputy then acting, may belong. Compensation for the Jury Commissioners for each of the two Courts of this District is hereby fixed at ^{7.13} ~~\$5.48~~ per hour for each hour necessarily employed in the performance of their duties, plus reimbursement for travel, subsistence, and other expenses incurred by them in the performance of such duties. The Jury Commissions shall act under the supervision and control of the Chief Judge of this Court.

JURY SELECTION SOURCES

The Judges of this Court find that the sources from which the names of grand and petit jurors shall be selected at random shall be from the general election voter registration lists and, in

those counties which do not maintain voter registration lists, from the lists of actual voters. The Judges do further find that such lists, as above described, represent a fair cross section of the community in this District.

Accordingly, names of grand and petit jurors serving in this Court shall be selected by randomized procedure from the lists, as aforementioned, of registered and actual voters of the counties within each division and who are of record as registered or actual voters in each presidential general election as maintained in the books or lists of the Secretary of the State of California or at the Board of Elections in each county.

This plan's references to lists of voters shall be to voter registration lists and, in those counties which do not maintain voter registration lists, to lists of actual voters.

If the Court, pursuant to Section 1863(b)(2), should find it necessary it may authorize the Clerk to draw names of prospective jurors from supplementary source lists in addition to voter lists. The selection of names from such additional lists shall be done in a manner consistent with the selection procedures described in this plan.

This plan's reference to random selection shall mean that in any selection procedure only the first name shall be chosen by a purely random method and that each subsequent name for that drawing may be systematically taken at regular intervals throughout the remainder of the source list(s). This randomized selection procedure, which is described in the next sections, insures: (a) that names chosen will represent all segments of the source file from which drawn, (b) that the mathematical odds of any single name being

picked are substantially equalized, and (c) that the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

INITIAL SELECTION OF NAMES FOR THE MASTER JURY WHEEL

The Judges of the Court find that the initial selection of persons to be considered for service as grand and petit jurors from the lists of voters shall be made at random in such a total number as may be deemed sufficient for a four (4) year period.

The number of names 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 list of voters bears to the total number of names on the lists of voters for all counties within the division.

For the purpose of calculating from the lists of voters the total number of voters in the respective divisions within the District, the Clerk will add together the totals obtained for 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 names on the county's list or upon such total number as is furnished by the Secretary of the State of California or by the Board of Election for the county.

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

SELECTING THE NAMES BY MANUAL METHODS

When selection from any county's list of voters is made manually, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered or - if they are not numbered - in any other logical consistent sequence. For this counting and selecting process the entire list must be covered and the specific names picked will be according to the established "quotient" and "starting number" formula described above. In lieu of making an actual physical count of names, a measuring device that expresses name intervals in terms of inches of space on a page may be used providing it substantially approximates the desired "quotient" intervals between selected names that an actual name count would produce.

SELECTING THE NAMES BY MACHINE METHODS

The Judges of the Court find that electronic data processing methods can be advantageously used for selecting and copying names from the voter lists of those larger counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes, or magnetic discs. It is further found that in smaller counties currently maintaining their voter lists in handwritten or printed form, it may be advantageous to employ a combination of methods whereby names are initially selected from the voter lists manually and then recorded in punched cards and tapes for subsequent handling and copying of these names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic

machine methods may, at the Clerk's option and after consultation with the Chief Judge, be used to select master names from voter lists of any or all counties in the District, provided that the required proportions of names for each county are maintained and that the above described "quotient" and "starting number" formula is followed.

Similarly, the Judges of the Court find that an electronic data processing system or a combination electronic and manual system may, at the option of the Clerk and the Chief Judge, be used to select names from the qualified wheel of persons to be summoned to serve as grand or petit jurors, and for the recording of names of prospective jurors on any papers and records needed by the Court to administer the selection, and payment of jurors.

If the Court elects to use electronic machine methods in connection with any or all of the District's voter records, source lists, master jury wheels, or qualified jury wheels, the name selection system shall be planned and programmed according to a "starting number" and "quotient" formula. If the Court uses a manual system for drawing names from any division's master or qualified wheels, the names shall be randomly drawn by lot.

MAINTAINING MASTER JURY WHEELS

The Clerk shall maintain a master jury wheel for each of the divisions within the District. The names and addresses of all persons randomly selected from the lists of voters at the last presidential general election shall be placed in the master jury wheel for that division. The physical form of record on which names for the master wheels are kept may include such electronic data storage devices as punched cards, magnetic tapes, or magnetic disc

files. 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 presiding Judge in each said division may order additional names to be placed in the master jury wheel for said division from time to time, as necessary and in accordance with the formula hereinabove described. The master jury wheels currently in full force and effect shall be emptied and refilled every four years, not later than June 1 of the year following a general presidential election year.

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 publicly 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 demands 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 prepared, by manual or computer means, alphabetized lists of the names drawn. These lists shall not be exhibited to any persons except as provided herein and in Sections 1867 and 1868 of the Act, as amended. The Clerk shall, by manual or computer means, 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 days, in accordance with Section 1864(a) of the Act, as amended.

EXCUSES ON INDIVIDUAL REQUEST

The Judges of this Court find 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 will not be inconsistent with the Act, as amended, and shall be granted upon individual request.

- (1) Over 70 years of age.
- (2) An actively engaged minister of religion or member of a religious order or practitioner who treats the sick by prayer.
- (3) An actively practicing attorney, doctor, dentist, pharmacist, mortician or registered, practical or vocational nurse.
- (4) A person with legal custody and care of a child or children under 12 years of age.
- (5) Actively teaching in a public, parochial or private school or college.
- (6) Self-employed in a "one-man business".
- (7) A person who has served as grand or petit juror in state or federal court within the past 2 years.
- (8) A person residing more than 75 miles and/or more than two (2) hours driving time from the place of holding court.

EXEMPTION FROM JURY SERVICE

Only those persons who are exempt from jury service under the provisions of Section 1863(b) (6) of the Act, as amended, shall be exempt from jury service under this plan:

- (1) Members in active service in the Armed Forces of the United States;
- (2) Members of the active fire, police or law enforce-

ment 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, territory, possession or subdivision thereof, who are actively engaged in the performance of official duties.

QUALIFICATIONS FOR JURY SERVICE

The presiding Judges in each division, on their initiative or upon recommendation of the Clerk, shall determine solely on the basis of the information provided on the juror qualification questionnaire, and other competent evidence, whether a person is qualified for, or exempt, or to be excused from jury service. A member of the Jury Commission shall enter such determination in the space provided on the jury qualification questionnaire 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 and if any persons fail to return a completed juror qualification form as instructed, the Clerk shall thereupon pursue the matters each and all in accordance with the provisions of Section 1864 of the Act, as amended.

In making such determination, the District Judge shall deem any person qualified to serve on grand and petit juries in this District unless the person:

- (a) is not a citizen of the United States, eighteen (18) years old, who has resided for a period of one year within the judicial district;
- (b) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (c) is unable to speak the English language;
- (d) is incapable, by reason of mental or physical infirmity, to render satisfactory jury services; or

- (e) 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 by pardon or amnesty.

SELECTION OF JURORS

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 separate qualified jury wheels for each of the two divisions in the District and shall place in such wheels the names of all persons drawn from the master jury wheel and not disqualified, exempt, or excused pursuant to this plan. He shall insure that at all times an adequate number of names are contained in each such jury wheel. The Clerk may, at his option and after consultation with the Chief Judge, maintain either or both of the qualified wheels through use of either a properly programmed data computer or through use of manual methods. Whenever a qualified wheel is maintained on a data computer, the number of names to be summoned for a particular term will be the "quotient". The Clerk will draw a starting number by lot, as described above, and when an order for this group of jurors to be summoned is given to the computer center, it will be instructed to follow the starting number and quotient formula in the machine selection of those persons,

and the recording of their names and addresses on the summons forms.

As grand juries are required, the Clerk shall order the drawing from each division's qualified wheel, a pro rata share of the total number of grand jurors needed to be summoned.

The computer center will also be instructed to prepare an alphabetized list of persons summoned. These lists shall not be exhibited to any person except as provided herein and in Sections 1867 and 1868 of the Act, as amended.

Completed summons forms, at the option of the Clerk of the Court, may be mailed to jurors by the Clerk's Office, or by the computer center or by a commercial mailing service.

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 Court at times to be publicly announced on the court bulletin board located in the Clerk's office.

Drawing of names of prospective jurors for the qualified wheel 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 Court's bulletin board.

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

- the Court's "Juror Selection Plan", including the Plan's verbatim description of the method used in determining the "quotient" and "starting number";
- a verbal or graphically charted description of the procedure employed in the automated selection system, and

-- 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

Names of persons summoned and appearing for service may be inserted in a panel assignment wheel, from which separate trial panels will be selected by lot. The Clerk shall prepare for the use of the Court and counsel a separate list of names of persons assigned to each petit jury panel.

When there is an unanticipated shortage of available petit jurors drawn from the Qualified Jury Wheel, the Court shall order that a sufficient number of additional petit jurors be furnished from the Qualified Jury Wheel to satisfy the needs of the Court for the day in question. If there is not a sufficient number of qualified jurors in the Qualified Jury Wheel to fill the said needs of the Court, then the Court shall order that a sufficient number of prospective jurors be selected at random from the Master Jury Wheel to fill the said needs of the Court. Finally, if the Master Jury Wheel does not contain sufficient names to fill the said needs of the Court, then the Court shall order 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 Sections 1861 and 1862 of "The Jury Selection and Service Act of 1968", as amended.

Upon empanelment for a particular term, the entire list of names drawn from the Qualified Jury Wheels identifying persons who have been empaneled as qualified jurors, may be disclosed to

counsel for the parties, unless the Court directs otherwise. As for the jurors assigned for service on particular cases or particular days, their identity shall not be disclosed until three days prior to the trial date, provided, the Court may in any case, keep such names confidential until the time of voir dire examination.

Any person summoned for jury service who fails to appear as directed shall be ordered by the Court to appear forthwith and show cause for his 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 \$100.00 or imprisoned not more than three days, or both.

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

This order 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.