

United States District Court
for the District of Rhode Island

Jury Selection Plan

Effective July 10, 2019



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I. GENERAL

A. Introduction

Pursuant to the Jury Selection and Service Act, 28 U.S.C. §1861-1878, (Jury Act), the following Jury Selection Plan (Plan) is applicable to the District of Rhode Island. The Plan shall become effective upon approval of the Judges of this Court and the Judicial Council for the First Circuit, and is subject to such rules and regulations as may be adopted by the Judicial Conference of the United States.

B. Declaration of Policy

It is the policy of the Court that:

1. 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;
2. all citizens residing within the District shall have the opportunity to be considered for service on grand and petit juries; and
3. all citizens shall have an obligation to serve as jurors when summoned for that purpose.

C. 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, economic status, sexual orientation, or gender identity.

D. Definitions

For purposes of this Plan,

1. "District" shall mean the State of Rhode Island.
2. "Clerk" and "Clerk of Court" shall mean the Clerk of the United States District Court for the District of Rhode Island, any authorized deputy clerk, or any other person authorized by the Court to assist the Clerk in the performance of functions under this Plan.
3. "Master jury wheel" or "master wheel" is a term designating all names randomly selected directly from the merged source list as described by this Plan.
4. "Qualified jury wheel" or "qualified wheel" is a term designating the names of all

persons randomly drawn from the master wheel determined to be qualified to serve as grand or petit jurors as described by this Plan.

5. "Petit juror" shall mean a juror summoned to serve at a civil or criminal trial proceeding.
6. "Grand juror" shall mean a juror summoned to serve on a grand jury.

E. Management and Supervision of the Jury Selection Process

The Clerk of Court shall manage the jury selection process under the supervision and control of the Chief Judge.

II. ESTABLISHMENT AND MAINTENANCE OF THE MASTER AND QUALIFIED JURY WHEELS

A. Master Jury Wheel

1. Sources for the Master Jury Wheel

Pursuant to 28 U.S.C. §1863(b)(2) the Clerk will use the voter registration lists transmitted to the Secretary of State for the State of Rhode Island by each municipality within the State of Rhode Island as the primary source of names for the master jury wheel. To foster the policies and protect the rights secured by 28 U.S.C. §§1861-1862, the Clerk will supplement the voter registration list with the following sources:

- a. The list of active licensed drivers as maintained by the State of Rhode Island Division of Motor Vehicles; and
- b. The list of state identification cardholders as maintained by the State of Rhode Island Division of Motor Vehicles.

The Court finds pursuant to 28 U.S.C. §1863(b)(2) that a merged combined list from the sources listed above represents a fair cross section of the community in this District.

The Court authorizes the Clerk, to the extent possible, to adopt data processing procedures to merge the source lists, to eliminate duplicate names between the lists of registered voters, licensed drivers, and state identification holders, and to remove from the

merged list the names of deceased individuals and individuals who have moved out of the District of Rhode Island.

2. Selection of Names for the Master Jury Wheel

The Court authorizes the Clerk to select the names for the master jury wheel from the merged list described above by a purely randomized process through a properly programmed electronic data processing system. The number of names to be placed in the master jury wheel will be determined by the Clerk based upon the anticipated jury demands by the Court, including additional names to compensate for supplemental draws from the master wheel (described in Section B(3) below) that are necessary to replace mailings that are returned to the Court as undeliverable or to which no response has been received. At minimum, the master jury wheel shall contain one-half of 1% of the total number of names in the merged source list.

The selection of names for the master jury wheel shall ensure that each municipality in the District of Rhode Island is substantially proportionally representative of the total number of names for that municipality in the District of Rhode Island in accordance with 28 U.S.C. §1863(b)(3). For the purposes of 28 U.S.C. §1863(b)(3), the Court finds the municipality as the appropriate political subdivision due to the fact that voter registration records transmitted to the Secretary of State are maintained by municipal boards of canvassers.

3. Maintaining the Master Jury Wheel

The Clerk shall maintain the master jury wheel using the Jury Management System (JMS), an electronic data processing system.

4. Refilling the Master Jury Wheel

The master jury wheel shall be emptied and refilled between March 1st and September 1st of every odd calendar year. The qualified wheel shall be established by October 1st of the same year.

B. Qualified Jury Wheel

The Clerk shall maintain a qualified jury wheel using JMS. The qualified jury wheel shall contain the names of all persons drawn randomly from the master jury wheel and not disqualified,

exempt, or excused pursuant to this Plan. The Clerk shall ensure that an adequate number of names are contained in the qualified wheel. As with the selection of names from the source list, purely randomized selection is used to select names to ensure that: (a) the mathematical odds of any single name being picked are substantially equal; and (b) the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

1. Drawing Names from the Master Jury Wheel

Using a randomized process through a properly programmed electronic data processing system, the Clerk shall draw from the master jury wheel at periodic intervals the names of as many persons as may be required to maintain the qualified jury wheel. JMS is used to ensure pure randomized selection. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror demands of the Court plus a margin of extra names sufficient to compensate for the estimated number that will be unavailable or ineligible. The Clerk may prepare alphabetized lists of the names drawn upon order of the Court.

2. Juror Qualification Forms

The Clerk shall mail to every person whose name is drawn from the master jury wheel either a juror qualification form accompanied by instructions to complete and return the form to the Clerk or a letter with instructions to complete the juror qualification form electronically within ten days, in accordance with 28 U.S.C. §1864(a). If the person is unable to fill out the juror qualification form, another person shall do it for the prospective juror, and shall indicate the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in the form, the Clerk may direct the person to make such additions or corrections as may be necessary and to return the form to the Clerk within ten days.

The Clerk shall mail a follow-up questionnaire to every person who fails to respond to the initial mailing of a questionnaire form or letter with instructions to complete the questionnaire electronically. The Clerk shall ensure that follow-up mailings are sent at regular intervals.

Any person who fails to complete a juror qualification form as instructed may be

summoned by the Clerk to appear to complete such a form. At the time of jury service, any person may be required by the Clerk to fill out another juror qualification form, and the person may be questioned by the Clerk about responses to questions on the form. Any information acquired by the Clerk may be noted on the juror qualification form and transmitted to the Court.

In accordance with 28 U.S.C. §1864(b), any person summoned to complete a juror qualification questionnaire and fails to appear may be ordered to appear and show cause for failure to comply with the order. Any person who fails to appear pursuant to such an order may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

3. Supplemental Draw for Undeliverable and Non-Responding Juror

Qualification Forms. In an effort to increase the likelihood that the qualified wheel represents a fair cross section of the community, the Clerk will conduct a supplemental draw for all questionnaires returned as undeliverable by the United States Postal Service (USPS) and those to which no response has been received after the Clerk has sent a follow-up questionnaire to the person who has not responded. For the purposes of this section, the Clerk shall designate as undeliverable all questionnaires to which no response has been received within a reasonable amount of time after the mailing of a follow-up questionnaire.

For each juror qualification questionnaire returned as undeliverable or to which no response has been received after the mailing of a follow-up questionnaire, the Clerk, as soon as practicable, shall mail a new juror qualification form or letter with instructions to complete the juror qualification form electronically to another address within the same zip code as the questionnaire returned undeliverable or to which no response has been received after the mailing of a follow-up questionnaire. The Clerk shall randomly draw these names for additional juror qualification forms from the master jury wheel in accordance with Section II, B(1) of this Plan.

C. Public Notice

The Clerk shall post a general notice for public review in the Clerk's office and on the

Court's website explaining the process by which names are periodically and randomly drawn.

III. QUALIFICATION PHASE: QUALIFICATION FOR, EXEMPTION, OR EXCUSE FROM JURY SERVICE

In accordance with 28 U.S.C. §1865(a), a judicial officer, upon his or her own initiative or upon recommendation of the Clerk, or the Clerk under supervision of the Court, shall determine solely on the basis of the 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 Court may require supporting documentation if a juror wishes to invoke any of the below causes for disqualification, exemption or excuse during the qualification phase.

A. Qualification for Jury Service

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

1. is not a citizen of the United States 18 years old who has resided for a period of one year within the judicial district;
2. is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
3. is unable to speak the English language;
4. is incapable, by reason of mental or physical infirmity, to render satisfactory jury services; or
5. has a charge pending 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 their civil rights have not been restored.

B. Permanent Exemption and Excusals from Jury Service

1. Exemption from Jury Service

Only the following persons, employed in a fulltime capacity, shall be exempt from

jury service under this Plan and Section 1863(b)(6) of the Act:

- (a) Members in active service in the Armed Forces of the United States;
- (b) Members of professional fire or police departments of any state, district, territory, possession or subdivision thereof;
- (c) Public officers in the executive, legislative, or judicial branches of the United States, or any state, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of public 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.

Prospective jurors who are found exempt are barred from jury service and may not serve even if they indicate a desire to do so.

2. Excusal from Jury Service for the Duration of the Master Jury Wheel Upon Individual Request

Jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience, and excuse from jury service of such members is in the public interest and consistent with applicable law. Accordingly, upon individual request, excuse from jury service of the following individuals shall be granted by the Court, or by the Clerk under the supervision of the Court:

- (a) All persons who have served as grand or petit jurors in a state or federal court within the preceding two years;
- (b) All “volunteer safety personnel,” defined as individuals serving a public agency in an official capacity without compensation as firefighters or members of a rescue squad or ambulance crew;
- (c) Individuals over 70 years of age.

IV. SUMMONS PHASE

A. Summoning of Jury Panels

Whenever the Court orders grand and/or petit juries to be drawn, the Clerk shall draw the total number of prospective jurors needed from the qualified jury wheel and issue summonses by a randomized process through a properly programmed electronic data processing system. JMS is used to ensure pure randomized selection. The Clerk shall prepare a separate alphabetized list of persons summoned. 14 days before the jury empanelment date, the Clerk shall send a follow-up mailing, email or phone call to any juror who fails to respond to the summons.

In accordance with 28 U.S.C. §1866(g), any person summoned for jury service who fails to appear, and fails to provide an acceptable explanation for the failure to appear, may be ordered to appear 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 not more than three days, ordered to perform community service, or any combination thereof.

B. Temporary Exclusion or Excusal from Jury Service after Summons

Except as provided in this Plan, and in accordance with 28 U.S.C. §1866(c), no person, group or class of persons shall be disqualified, excluded, excused, or exempt from jury service. However, any person summoned for jury service may be:

1. Excused by the Court, or by the Clerk under supervision of the Court, upon a showing of undue hardship or extreme inconvenience, for such period as the Court deems necessary. Unless otherwise ordered by the Court, any juror excused may be returned to the qualified wheel and issued a subsequent summons upon expiration of the conditions that were the grounds for the initial temporary excuse; or
2. Excluded by the Court on the ground that such person may be unable to render impartial service or that service as a juror would be likely to disrupt the proceedings; or
3. Excluded by the Court upon peremptory challenge as provided by law; or
4. Excluded by the Court pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or
5. Excluded by the Court upon determination by the 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. No person shall be excluded under this provision unless a 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 the Act.

Any person excluded from a particular jury as stated in paragraphs 2, 3, and 4 above shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to that person's ability to serve on such other jury.

Whenever a person is disqualified, excused, exempted, or excluded from jury service, the Clerk shall note the specific reason in JMS.

C. 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 a petit juror.

D. Grand Jury Empanelment

In order to comply with the provisions of Fed. R. Crim. P. Rule 6(e)(2) and LR Cr 6(d), grand juries shall be chosen in closed session.

V. RECORDS MAINTENANCE

A. Maintenance and Inspection of Records

1. Disclosure

The names of prospective and sitting petit and grand jurors shall not be disclosed without an order of the Court, with the following exceptions:

- (a) The names are mentioned in open court.
- (b) Parties may have access to the list of jurors summoned to appear and to any juror questionnaires submitted to the Court 7 days prior to empanelment. The information made available to parties shall not be shared except as necessary for jury selection. The Court may order that the names of jurors remain confidential in the interests of justice pursuant to 28 U.S.C. §1863(b)(7).

(c) The names of grand jurors and information obtained from the Jury Information Form may be provided to the United States Attorney.

(d) The names and addresses of petit jurors are considered public after a jury is discharged unless the Court determines that the names and addresses should remain confidential in the interests of justice. At the conclusion of any civil or criminal trial, the names and addresses of the jurors may be released upon request for such information.

2. Records

(a) The contents of records or papers used by the Clerk in connection with the jury selection process shall not be disclosed, except pursuant to this Plan or upon order of the Court.

(b) After the master wheel is emptied and refilled pursuant to this Plan, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all records and papers compiled and maintained by the Clerk before the master wheel was emptied shall be preserved in the custody of the Clerk for four years or for such longer period as may be ordered by a Court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury pursuant to 28 U.S.C. § 1868. Thereafter, the Clerk may dispose of all such records following applicable records disposition policies.

(c) The Clerk shall provide public access to this Jury Selection Plan.

Approved and adopted on May 9, 2019.

/s/ William E. Smith
William E. Smith, Chief Judge

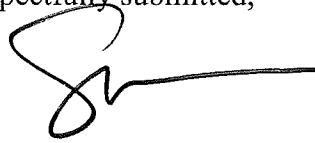
/s/ John J. McConnell, Jr.
John J. McConnell, Jr., District Judge

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

Entered: July 10, 2019

The First Circuit Judicial Council has voted to approve the revised Jury Selection Plan for the United States District Court for the District of Rhode Island, dated May 9, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'S. Goldberg', with a long horizontal line extending to the right.

Susan J. Goldberg
Circuit Executive