

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

PLAN FOR THE RANDOM SELECTION
OF GRAND AND PETIT JURORS
FOR SERVICE IN THE DISTRICT OF MAINE

Dated: December 16, 2008

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**PLAN FOR THE RANDOM SELECTION OF GRAND AND
PETIT JURORS FOR SERVICE IN THE DISTRICT OF MAINE**
(As amended December 16, 2008)

Pursuant to the provisions of the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. §1861-1878, "the Act", the United States District Court for the District of Maine adopts the following revised plan for the random selection of grand and petit jurors for service in this District, to take effect after approval by the Reviewing Panel prescribed by 28 U.S.C. §1863(a). The prior plan for the random selection of grand and petit juror for service in this District, which became effective February 13, 2006, is superseded as of the effective date of this revised plan which shall be the date it is approved by the Reviewing Panel prescribed by 28 U.S.C. § 1863(a).

I. Declaration of Policy, 28 U.S.C. §1861

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

II. Prohibition of Discrimination, 28 U.S.C. §1862

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.

III. Applicability of the Plan, 28 U.S.C. §§ 1861, 1863

Maine constitutes one judicial district with Court being held at Bangor and Portland. There shall be one plan for the random selection of grand and petit jurors for service in the District of Maine.

IV. Management and Supervision of the Jury Selection Process, 28 U.S.C. §1863(b)(1)

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

Wherever used in this Plan, the term "Court" shall mean the District Court or any or all of the judges of the District Court. Wherever used in this Plan, the terms "Clerk" and "Clerk of Court" shall mean the Clerk of the District Court, any authorized deputy clerk, and any other person, agency or data processing center authorized by the Court to assist the Clerk in the performance of the functions required by the Act.

V. Method and Manner of Random Selection, 28 U.S.C. §1863(b)

The selection of names for the master jury wheel shall be accomplished by a pure randomized process through a properly programmed electronic data processing system. A properly programmed

electronic data processing system for pure randomized selection shall also be used to select names from the master jury wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. In each instance, the selection of names shall ensure that the mathematical odds of any single name being picked are substantially equal.

The Chief Judge has authorized the use of the Jury Management System (JMS), an electronic data processing system, to select names from the master jury wheel to fill the qualified wheel; to select names from the qualified wheel for persons to be summoned to serve as grand or petit jurors; and for the recording of names and other information on any papers and records needed by the Court to administer the selection and payment of jurors.

**VI. Maintaining the Master Jury Wheel and Jury Selection Sources,
28 U.S.C. §1863(b)(2),(3)&(4)**

The Clerk shall maintain a master jury wheel for the District of Maine.

The persons whose names appear in the Central Voter Registration System maintained by the State of Maine represent a fair cross-section of the citizens of the State of Maine. The Clerk shall use the Central Voter Registration System as the source for obtaining potential jurors. The procedures prescribed in this Plan are designed to ensure a random selection of a fair cross-section of the citizens residing in each county

within the District of Maine so that each county is substantially and proportionately represented within the District's master jury wheel.

Unless the Court shall otherwise direct, the master jury wheel shall be emptied and refilled, as herein provided, once every four (4) years, within nine (9) months following a general election for the President of the United States. The number of names to be initially placed in the master jury wheel shall be of a sufficient number as may be deemed needed for a four-year period and shall be a minimum of one-half of 1% of the total number of names in the Central Voter Registration System. The Court may order additional names to be placed in the master jury wheel from time to time as necessary.

The names of prospective jurors to serve on grand and petit juries in Bangor shall be selected at random from the Central Voter Registration System from the counties of Aroostook, Franklin, Hancock, Kennebec, Penobscot, Piscataquis, Somerset, Waldo, and Washington; and shall be maintained in the Master Wheel for jury service in Bangor.

The names of prospective jurors to serve on grand and petit juries in Portland shall be selected at random from the Central Voter Registration System from the counties of Androscoggin, Cumberland, Knox, Lincoln, Oxford, Sagadahoc, and York; and shall be maintained in the Master Wheel for jury service in Portland.

At the conclusion of the general election of the President of the United States, the Clerk shall issue written instructions directing the Secretary of the State of Maine to provide the Court with a list, in electronic format, from the Center Voter Registration System of all registered voters in the State of Maine. The Clerk shall also require the Secretary to provide an affidavit stating that the list includes all voters registered in the State of Maine.

The selection of names from the Central Voter Registration System for the master jury wheel shall be accomplished by a purely randomized process through a properly programmed electronic data processing system. The selection of names for the master jury wheel shall insure that each county within each jury subset is substantially proportionally representative of the total number of names for each county within that jury subset in accordance with 28 U.S.C. § 1863(b)(3). The selection of names from the Central Voter Registration System must also insure that the mathematical odds of any single name being picked are substantially equal.

After determining the total number of names needed for the master wheel and the proportionate share of names to be drawn from each particular county serving the Court in Bangor and in Portland, the Clerk shall proceed to make the initial selection.

VII. Drawing of Names from the Master Jury Wheel; Completion of the Juror Qualification Forms, 28 U.S.C. §§ 1863(b)(7), 1864(a), 1868 & 1869(k)

The Clerk shall maintain a qualified jury wheel. The Clerk shall utilize JMS to randomly draw a sufficient number of names from the master jury wheel to maintain an adequate number of names in the qualified jury wheel to meet the needs of the Court for assignment to grand and petit jury panels in Bangor and Portland.

The Clerk shall post on an annual basis, in Bangor and in Portland, a general notice of the approximate times of the drawing of the names from the master and qualified jury wheels.

The number of names to be drawn from the master jury wheel shall be determined by the Clerk based upon the juror demands of the Court. However, unless ordered by the Court, that number shall not be less than 500 qualified persons for service at Bangor and 500 qualified names for service in Portland.

The lists of names drawn shall not be exhibited to any person except as provided in the Act or in this Plan. Lists of names so drawn are generated by JMS and are maintained in the Clerk's Office.

The Clerk shall prepare, by means of JMS, and mail 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, by mail within ten days. If the person is unable

to fill out the form, another shall do it for that person, and shall indicate the reason for the needed assistance. In any case in which it appears that there is an omission, ambiguity, or error on a form, the Clerk shall 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.

At the time of appearance for jury service, any person so appearing may be required to fill out another juror qualification form in the presence of the Clerk, at which time, in such cases as it appears warranted, the person may be questioned by the Clerk, but only with regard to the person's responses to questions contained on the form. Any information thus acquired shall be noted by the Clerk on the juror qualification form transmitted to the Court.

At the option of the Clerk, questionnaires may be mailed by the Clerk's Office or by a commercial mailing service, or they may be delivered to the United States Marshal for direct service upon the prospective jurors.

If any person fails to return a completed juror qualification form as instructed, the Clerk may thereupon pursue the matter in accordance with 28 U.S.C. §1864(a).

VIII. Qualifications for Jury Service, 28 U.S.C. §1865(b)

Any person shall be deemed qualified to serve on grand and petit juries unless the person:

1. is not a citizen of the United States, is not eighteen 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 complete the juror qualification form;
3. is unable to speak the English language;
4. is incapable by reason of mental or physical infirmity of rendering satisfactory jury service; or
5. has a charge pending against him or her, or has been convicted in a state or federal court of record, for the commission of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

IX. Exemptions from Jury Service, 28 U.S.C. §§1863(b)(6)

The exemption for jury service of members of the following occupational classes or groups of persons is in the public interest and consistent with law. Accordingly, members of such classes or groups shall be exempt from jury service:

1. members in active service in the Armed Forces of the United States;
2. members of 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 United States, or any state, district, territory, possession or subdivision thereof, who are actively engaged in the performance of official duties.

X. **Determination of Qualifications, Exemptions and Excuses, 28 U.S.C. §§1865(a)&(b); 1866(c)**

The Court on its own initiative, or the Clerk under the supervision of the Court, shall determine solely on the basis of the information provided on the juror qualification questionnaires and other competent evidence, whether a person is unqualified for, exempt, or to be excused from jury service. Such determination shall be entered by the Clerk in the space provided on the juror qualification questionnaire or shall appear on the appropriate database listing. If a person did not appear in response to a summons, such a fact shall be noted by the Clerk.

Except as provided in this Plan, no person or class of persons shall be disqualified, excluded, excused, or exempt from jury service. However, any person summoned for jury service may be excluded by the Court:

1. on the ground 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; or
2. upon peremptory challenge as provided by law; or
3. pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or
4. upon determination by the Court that the person's service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberation. No person shall be excluded under this Clause except in accordance with the provisions of 28 U.S.C. §1866.

XI. Excuse from Jury Service Upon Individual Request, 28 U.S.C. §§1863(b)(5)(A)&(B), 1866(e); 1869(j) and District Court Clerk's Manual, Chapter 23

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

1. Permanently Excused
 - a. all persons over seventy years of age;

- b. all attorneys, physicians, surgeons, and dentists, actively so engaged;
- c. all persons who have served as grand or petit jurors in a state or federal court within the preceding two (2) years;
- d. all persons who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a public agency;
- e. all persons who have active care and custody of a child or children under ten years of age whose health and/or safety could be jeopardized by such person's absence for jury service; or if such person is essential to the care of aged or infirm persons; or
- f. all persons whose services are essential to the operation of a business, commercial, or agricultural enterprise.

B. Temporarily Excused

The Court or the Clerk under the supervision of the Court, upon individual request, may temporarily excuse from jury service, for such period as the Court deems necessary, any individual who demonstrates that jury service would present an undue hardship or extreme inconvenience.

Unless otherwise directed by the Court, the Clerk shall return to the qualified wheel the name of any temporarily excused person.

XII. Frequency of Service, 28 U.S.C. §1866(e)

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 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.

XIII. Maintenance and Inspection of Juror Records, 28 U.S.C. §§1863(a); 1867(f); 1868

1. The names and personal information concerning petit and grand jurors shall not be disclosed to attorneys, parties, the public or the media, except as provided herein.
2. Prior to impanelment of a petit jury, the parties, their lawyers, and any person employed by or working with those lawyers, shall ordinarily have access to the list of those jurors summoned to appear and to any supplemental juror questionnaires issued by the Court for that purpose. The information made available to these individuals shall not be shared except as necessary for jury selection. If the interests of justice so require, the Court may order that the names of jurors remain confidential. Upon request, the list of all jurors who have been excused for the impanelment shall also be made available to these individuals.

3. After a petit jury has been discharged at the conclusion of any trial, the names and addresses of the jurors may be released to the public only upon leave of the Court.
4. The contents of records or papers used by the Clerk in the process of filling the Master Jury Wheel shall not be disclosed, except pursuant to this Plan or upon order of the Court.
5. Except when the Court orders a longer retention period, all jury records and papers may be disposed of four years after the master jury wheel has been refilled and all persons selected have completed jury service in accordance with 28 U.S.C. §1868. These records are not to be transferred to the Federal Records Center.

So ORDERED for the Court:

12/16/08


George Z. Singal
Chief Judge

Dated at Portland, Maine this 16th day of December, 2008.