

JURY SELECTION PLAN

**EASTERN DISTRICT
OF TENNESSEE**

AS REVISED JANUARY 2021

**JURY SELECTION PLAN
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

Pursuant to the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. §1861 et seq., “the Act,” this Jury Selection Plan is hereby adopted by this Court, subject to approval by the reviewing panel for the Sixth 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, 28 U.S.C. §§1861, 1863

This Plan applies to each of the divisions of this district as now established by law unless specifically indicated otherwise. The Northern Division comprises the counties of Anderson, Blount, Campbell, Claiborne, Grainger, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, and Union. The Northeastern Division comprises the counties of Carter, Cocke, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington. The Southern Division comprises the counties of Bledsoe, Bradley, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, and Sequatchie. The Winchester Division comprises the counties of Bedford, Coffee, Franklin, Grundy, Lincoln, Moore, Van Buren, and Warren.

DECLARATION OF POLICY, 28 U.S.C. §1861

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 where the Court convenes, that all citizens who reside within the district shall have the opportunity to be considered for service on grand and petit juries, and that all citizens shall have an obligation to serve as jurors when summoned for that purpose.

DISCRIMINATION PROHIBITED, 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.

MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS, 28 U.S.C. §1863(b)(1)

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge. In managing and supervising the jury selection process, the Clerk is authorized to delegate duties as may be necessary in the jury selection process to deputy clerks.

METHOD AND MANNER OF RANDOM SELECTION, 28 U.S.C. §1863(b)

Pursuant to 28 U.S.C. § 1861, all litigants "have the right to grand and petit jurors selected at random from a fair cross section of the community." The Court uses a two-step process to select jurors. First, a master jury wheel is created by selecting names at random from the lists of registered voters maintained by the Tennessee State Election Commission. Then, names are randomly drawn periodically from the master jury wheel to receive juror qualification questionnaires. Individuals' answers to these questionnaires determine whether they are legally qualified to serve. The names of qualified persons are then put on a second wheel, a qualified jury wheel. As prospective jurors are needed for a specific trial or grand jury, juror summonses are sent to persons randomly selected from the qualified wheel.

All of these selections are carried out through a properly programmed electronic data processing system for pure randomized selection. The pure randomized process ensures that the mathematical odds of any single name being picked are substantially equal. At the discretion of the Clerk, the selection of names from the voter registration lists to fill the master jury wheel may be performed by Court personnel or by an outside vendor. If an outside vendor is used, the Clerk shall issue written instructions directing the vendor to select the names in accordance with this Plan and to certify that the work was done in accordance with this Plan.

The Jury Management System ("JMS"), an electronic data processing system developed by the Administrative Office of the United States Courts, shall be used 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.

MAINTAINING THE MASTER JURY WHEEL, 28 U.S.C. §1863(b)(3) & (4)

The Clerk shall maintain a master jury wheel for the district, with juror names from each of the four divisions as subsets of the wheel. The initial selection of names to fill the master jury wheel shall be of a sufficient number as may be deemed needed for a four-year period. The minimum number of names to be placed in the master jury wheel shall be at least one-half of 1% of the total number of names on the voter registration lists. The minimum number of names to be placed in the subsets of the master jury wheel for each division will be as follows:

Northeastern Division	10,000
Northern Division	14,500
Southern Division	14,500
Winchester Division	4,000

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

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 the county's voter registration list bears to the total number of names on the voter registration lists for each county within the division. For example, if there are 240,000 names on the voter registration list for all counties within the division, and there are 48,000 names on county "A's" list (twenty percent of the total), then the number of county "A's" names initially selected should be substantially equivalent to twenty percent of the total number selected from all counties within the division.

After first determining the total number of names needed for the master jury wheel, and the proportionate share of names to be drawn from each county, the Clerk shall proceed to make the initial selection of names.

The master jury wheel shall be refilled every four years in the year following a general election for President of the United States. No later than June 1, the Clerk shall begin selecting names for filling the qualified jury wheels from the newly filled master jury wheel and will cease selecting names from the prior master jury wheel.

JURY SELECTION SOURCES, 28 U.S.C. §1863(b)(2) & (3)

Names of prospective jurors for service in this district shall be selected at random, following the procedures outlined in this Plan, from the lists of all registered voters maintained by the Tennessee State Election Commission (“Election Commission”) for the counties within the district. Such lists represent a fair cross section of the community in each of the divisions of the Court.

If the Court should find it necessary, it may authorize the Clerk to draw names of prospective jurors from supplementary source lists in addition to voter registration lists. The selection of names from such additional lists shall be done in a manner consistent with the selection procedures described in this Plan.

DRAWING OF NAMES FROM THE MASTER JURY WHEEL; COMPLETION OF JUROR QUALIFICATION FORMS, 28 U.S.C. §§1863(b)(7), 1864(a), 1868 and 1869(k)

The Clerk shall, either all at one time or at periodic intervals, 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.

The number of names to be drawn from the master jury wheel shall be determined by the Clerk based upon anticipated juror demands of the Court, plus a margin of extra names sufficient to compensate for those individuals who will be ineligible or unavailable.

The lists of the names drawn shall not be exhibited to any person except as provided in the Act or 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. 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. Prospective jurors may also complete and submit their questionnaire via the Court's internet website. 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).

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:

- a. is not a citizen of the United States,¹ is not eighteen years old, or has not 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 satisfactorily complete the juror qualification form;
- c. is unable to speak the English language;
- d. is incapable by reason of mental or physical infirmity of rendering satisfactory jury service; or
- e. 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 by pardon or amnesty.

EXEMPTIONS FROM JURY SERVICE, 28 U.S.C. §§1863(b)(6); 1869(i)

The following persons, when employed on a full-time basis, are exempt from jury service under this Plan: members in active service in the armed forces of the United States; members of fire or police departments; and public officers in the executive, legislative, or judicial branches of

¹ Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to appropriate election officials for verifying voter registration eligibility.

the United States, or the State of Tennessee, who are actively engaged in the performance of official duties.

EXCUSE FROM JURY SERVICE UPON INDIVIDUAL REQUEST, 28 U.S.C. §§1863(b)(5)(A) & (B); 1866(e); 1869(j) and District Clerks' Manual Chapter 14

The judges of the Court find that jury service by members of the following occupational classes or group 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. Persons over 70 years of age.
2. Persons who have, within the past two years, served on a federal grand or petit jury.
3. Persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service or a person who is essential to the care of aged or infirm persons.
4. Any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that said enterprise must close if such person were required to perform jury duty.
5. Volunteer safety personnel. Such personnel are defined as those who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a public agency, meaning the United States, any state or territory of the United States, or any unit of local government, department, or instrumentality of any of the foregoing.

DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES, 28 U.S.C. §§1865(a) & (b); 1866(c)

The senior active district judge in each division (“Responsible Judge”) or his or her designee, on his or her own initiative or upon recommendation of the Clerk, shall determine whether a person is qualified, exempt, or to be excused from jury service based solely on the information provided on the juror qualification questionnaire and other competent evidence. Such determination shall be entered in the designated space provided on the juror qualification questionnaire or shall appear on the appropriate database listing.

The Clerk of Court under the supervision of the Court may determine whether persons are qualified, exempt, or excused from jury service, with the exceptions of: (1) determining whether a person will be excused because his or her services are essential to the operation of a business, commercial, or agricultural enterprise; (2) determining whether a person is disqualified because he or she is incapable by reason of mental or physical infirmity of rendering satisfactory jury service; and (3) any other determinations requiring the exercise of discretion. All matters of discretion are reserved for determination by the Responsible Judge or designee unless the Responsible Judge specifically authorizes the Clerk to make such determinations.

QUALIFIED JURY WHEELS AND SUMMONS FOR JURY SERVICE, 28 U.S.C. §§1863(b)(8); 1866; 1868

Separate qualified jury wheels (subsets) shall be maintained in JMS for each division and the names of all persons drawn from the master jury wheel and not disqualified, exempt, or excused pursuant to this plan shall be placed in the qualified wheel subsets. The Clerk shall ensure that an adequate number of names is contained in each such qualified jury wheel to meet the needs of the Court.

From time to time as directed by the Court, the Clerk shall cause to be drawn at random, by means of JMS, from the qualified jury wheel of each division such number of names of persons as may be required for assignments to grand and petit jury panels. The Clerk shall prepare, by means of JMS, and mail to every person whose name is so drawn, a summons for jury service. At the option of the Clerk, summonses 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 jurors.

For those who have been summoned for jury service, the Clerk, in consultation with the Responsible Judge or designee, is authorized to grant temporary excuses from jury service to jurors whose service on a particular day or days would create undue hardship or extreme inconvenience. Examples of undue hardship and extreme inconvenience are scheduled medical appointments, vacation plans, and business travel.

PENALTY FOR FAILURE TO APPEAR FOR JURY SUMMONS 28 U.S.C. §§ 1864(b);1866(g)

Any person summoned for jury service who fails to appear as directed may be ordered by the Court 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.

UNANTICIPATED SHORTAGE OF JURORS, 28 U.S.C. §§1861, 1862, 1866(f)

Where there is an unanticipated shortage of available petit jurors drawn from the qualified jury wheel, the Court may require the marshal to summon a sufficient number of petit jurors selected at random either from the voter registration list, list of actual voters, or from the qualified jury wheel, or in a manner as may be ordered by the Court.

PENALTY FOR EMPLOYEES WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY 28 U.S.C. §§1875(b)(3)

No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service. Any employer who violates the provisions of this section shall be subject to a civil penalty of not more than \$5,000 for each violation as to each employee and may be ordered to perform community service.

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

RECORDS TO BE MAINTAINED BY THE CLERK AND MADE PUBLIC UPON REQUEST, 28 U.S.C. §§1863(a); 1867(f); 1868

The Clerk shall retain the following documents:

- Orders regarding refilling of the master jury wheel, petit juries, and grand juries;
- Written instructions to the State Election Commission to provide list of registered voters;
- Affidavit certifying that any work performed by a vendor or other non-court official using automated software in selecting names was performed according to the procedures laid out in this Plan.
- Voter datafiles;
- Qualification questionnaires;
- Individual petit jury and grand jury panel information; and
- Administrative Office reports: JS-11, JS-11G and AO-12.

Pursuant to 28 U.S.C. § 1868, these records can be disposed of four years after the master jury wheel has been refilled and all persons selected have completed jury service, unless a longer retention period is ordered by the Court. These records are not to be transferred to the Federal Records Center.

Prior to the master jury wheel being emptied and refilled, these records shall only be disclosed upon an order of the court finding disclosure necessary in preparation of a motion challenging the selection of a jury pursuant to 28 U.S.C. § 1867(f). Parties who have obtained an order of disclosure shall be allowed to inspect, reproduce, and copy such records at reasonable times during the pendency of the motion challenging the selection of a jury.

After the master jury wheel has been emptied and refilled, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, these records shall only be disclosed upon request by the public for the purpose of determining the validity of the selection of any jury.

RELEASE OF JUROR INFORMATION, 28 U.S.C. §1863(b)(7)

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.

Names and personal information concerning persons who have been entered in the jury

wheel shall not be disclosed, except upon order of the Court.

Names and personal information concerning prospective and sitting petit jurors shall not be disclosed to the public or media outside open Court, except upon order of the Court. A request for disclosure of petit juror names and personal information to the media or public must be made to the presiding judge.

The Clerk may provide names and personal information concerning prospective petit jurors to the attorneys (or a party if proceeding *pro se*) in a case set for trial unless otherwise directed by the Court. The names and information will be provided in written form only (hereafter “the jury list”). The attorneys (or party) may not share the jury list or information therein except as necessary for purposes of jury selection. Following jury selection, the attorneys (or party) provided the jury list must return to the Clerk the jury list and any copies made from the jury list provided to them or destroy them.

The Court may order juror names and personal information to be kept confidential where the interests of justice so require.

Revised: January 2021.

CERTIFICATE OF APPROVAL

This is to certify that, in accordance with 28 U.S.C. § 1863(a), the foregoing Jury Selection Plan for the Eastern District of Tennessee has been duly received and approved as complying with the law by a reviewing panel consisting of the members of the Judicial Council for the Sixth Circuit of the United States and the Chief Judge of the District to which the plan is applicable.

This 2nd day of April 2021.

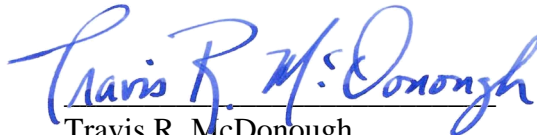


R. Guy Cole, Jr.
Chief Judge
United States Court of Appeals
for the Sixth Circuit

CERTIFICATE OF FILING

This is to certify that, in accordance with 28 U.S.C. § 1863(a), a true copy of the foregoing Jury Selection Plan for the Eastern District of Tennessee was filed with the Administrative Office of the United States Courts, Washington, D.C., and the Attorney General for the United States.

This 12th day of April 2021.



Travis R. McDonough
Chief Judge
United States District Court for the
Eastern District of Tennessee