

AMENDED PLAN OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S. §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:

I.

APPLICABILITY OF THE PLAN

The Western District of Washington is hereby divided, for jury selection purposes, pursuant to §1869(e) of the Act, as follows:

- (2) At Seattle, consisting of the counties of Island, King, San Juan, Skagit, Snohomish, and Whatcom.
- (3) At Tacoma, consisting of the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skarnania, Thurston, and Wahkiakum.

II.

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 jurors 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.

III.

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.

IV.

MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge, or under the direction of any other judge to whom authority has been delegated. The Clerk of Court is authorized to use non-court personnel to assist in the performance of functions under this Plan.

V.

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 active voter registration lists, the drivers' license records, and the lists of holders of State-issued identification cards. These

source lists shall be merged, and the judges of this court do further find that such lists 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 merged lists, as aforementioned, of active registered voters of the counties within each division and who are of record as active registered voters, licensed drivers, and holders of State-issued identification cards as maintained in the books, lists, cards, and/or automated voter registration system of the Secretary of State of the State of Washington at Olympia, Washington, and lists and/or automated drivers' license and identification records systems of the Department of Licensing, Olympia, Washington.

This Plan's references to lists of voters shall be to active voter registration lists.

If the court, pursuant to §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 the merged 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 either the initial 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 lists(s), or the initial name and all subsequent names may be chosen by means of an automated random number generator. 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.

VI. MASTER JURY WHEEL

A) 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 merged lists of voters, licensed drivers, and holders of State-issued identification cards shall be made at random in such a total number as may be deemed sufficient for a two-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 merged lists bears to the total number of names on the merged lists for all counties within the division. For example, if there are exactly 240,000 names on the merged lists of 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 twenty percent of the total number selected from all counties within the division.

For the purpose of calculating from the merged lists the total number in the respective division 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 merged list or upon such total number as is furnished by the Department of Information Services, Olympia, Washington.

After first determining the total number of names needed for the master jury wheel, the Clerk shall proceed either manually or through the use of a properly programmed computer, or through a combination of manual and computer methods, to make the initial selection of names from the merged list for each county.

B. METHOD AND MANNER OF RANDOM SELECTION

(1) Determining a "Quotient." For each division, the Clerk shall make the randomized selection by taking the total number from the merged lists of the counties in that 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 two 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 merged 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 merged lists for the master wheel.

(2) Determining a "Starting Number." After determining the "quotient" for each division, the Clerk shall establish a starting number. This starting number, one for each division, will identify the first name to be selected on the merged list for each division,

whether that name appears on a computer tape, disc, or punched card record of such merged list. The starting number will be manually drawn 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 equal to the "quotient" plus the remainder.* 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 number representing the quotient plus the remainder 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 from the merged list would be the 12th name on the merged list, the second name would be the 112th, the third the 212th, etc., and continued so through the end of the list.

C. SELECTING THE NAMES BY MANUAL METHODS.

When selection from any county's merged list 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.

D. 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 merged lists of those counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes or magnetic discs.

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 wheel names from merged lists of any or all counties in the district, provided that the provisions of section VI.B. of this Plan are met.

VII.

MAINTAINING THE MASTER JURY WHEEL

The Clerk shall maintain a master jury wheel for the district, with separate subsets for each division. The names and addresses of all persons randomly selected from the merged lists shall be placed in the jury wheel subset for that division. The physical form of record on which names for the master wheel are kept may include such electronic data storage devices as punched cards, magnetic tapes or magnetic disc files. Pursuant to §1863(b)(4) of the Act, 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 all county merged lists. The

minimum number of names to be placed in each divisional subset of the master wheel will be as follows:

Tacoma Division 4,500

Seattle Division 10,000

The designated jury judge in each said division may order additional names to be placed in the jury wheel subset for said division from time to time, as necessary and in accordance with the formula hereinabove described. The master jury wheel shall be emptied and refilled every two years, between January 1 and July 1.

VIII.

DRAWING OF NAMES FROM THE MASTER JURY WHEEL.

COMPLETION OF JUROR QUALIFICATION FORMS

The Clerk, either all at one time or at periodic intervals, shall draw at random from the master jury wheel, either manually or by automated means, the names of as many persons as may be required to maintain an adequate number of names in the qualified jury wheel. 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 allow for the estimated number of jurors who will turn out to be unavailable or ineligible.

The Clerk shall have prepared, by manual or computer means, an alphabetized list of the names drawn, if such a request is made by the court. These lists shall not be exhibited to any person except as provided herein and in §§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 §1864(a) of the Act, as amended.

IX.

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. Persons who have, within the past two years, served as a federal grand or petit juror.
3. Volunteer safety personnel, specifically individuals serving a public agency in an official capacity, without compensation, as fire fighters or members of a rescue squad or ambulance crew.

X.

EXEMPTION FROM JURY SERVICE

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

XI.

QUALIFICATIONS FOR JURY SERVICE

The jury judge or designee in each division, or the Clerk of Court or designee, under supervision of the court, shall determine solely on the basis of the information provided on the juror qualification questionnaire, and other competent evidence, whether a person is unqualified for, or exempt, or to be excused from jury service. The Clerk shall enter this determination in the space provided on the juror qualification questionnaire or in the juror's record in the court's database. If a person did not appear in response to a summons, such fact shall be recorded. If any person fails 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 §1864 of the Act, as amended.

In making such determination, the district judge or Clerk of Court or designee 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, 18 years of age, and 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 or her 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.

XII.

INDIVIDUAL EXCUSE FROM JURY SERVICE

In addition to the members of groups and occupational classes subject to excuse from jury service on individual request as provided in §IX. of this Plan, any person summoned for jury service may on request be excused by the court, or by the Clerk of Court or designee, 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 notified again for jury service within a reasonable time or as the court, pursuant to general order, may direct, the name of such person shall be reinserted into the qualified jury wheel of the court.

"Undue hardship or extreme inconvenience" as a basis for excuse from immediate jury service under this section shall mean great distance, either in miles or travel time, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service.

XIII.

QUALIFIED JURY WHEEL

The Clerk shall maintain separate divisional subsets of the qualified jury wheel for Tacoma and Seattle and shall place in such divisional subsets the names of all persons

drawn from the master jury wheel subset maintained for each place of holding court who are 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 subset. The Clerk may, at his option and after consultation with the Chief Judge, maintain either or both of the qualified wheel subsets through use of either a properly programmed data computer or through use of manual methods. Qualified names may be selected by computer using a random number generator or the "quotient" and "starting number" system. If the court uses a manual system for drawing names from the district's master wheel or any division's qualified wheel subset, the names shall be drawn by lot. Normally, the emptying (removal) of names in the qualified wheel shall be accomplished by July 1 unless the court should find it necessary to authorize the Clerk to extend that time.

A district-wide grand jury sitting at Seattle shall hear criminal matters for the entire district, and the names of persons as may be required for assignment to the grand jury panels shall be drawn from the Tacoma and Seattle qualified jury wheel subsets in numbers proportionate to each division's total merged list of active registered voters and holders of drivers' licenses and State-issued identification cards. Special grand juries will be selected in the same manner as regular grand juries.

An alphabetized list of persons summoned shall be prepared. These lists shall not be exhibited to any person except as provided herein and in §§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, at the option of the Clerk, by computer center or by a commercial mailing service.

XIV.

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.

The automated selection of names of prospective jurors shall be publicly announced at a location 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:

- (a) The court's "Juror Selection Plan," including the Plan's verbatim description of the method used in determining the "quotient" and "starting number;" and
- (b) A verbal or graphically charted description of the procedure employed in the automated selection system; and
- (c) 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.

XV.

IMPANELLING JURORS

Names of persons summoned and appearing for service may be considered as a petit jury pool, from which separate trial panels will be randomly selected through use of

either a properly programmed data computer or through use of manual methods. Pooling of jurors, staggered trial starts and multiple voir dire may be utilized in the assignment of jurors to petit jury panels. 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.

On the day of trial the names of persons on each trial panel shall be made public. This will be done with the proviso that any district judge in a case or cases, where the interests of justice so require, may order that the names be kept confidential until the time of voir dire examination.

XVI.

OBLIGATION TO SERVE AND PERIOD OF SERVICE

When summoned to serve as a juror, every person shall be obligated to serve unless determined to be disqualified, to be exempt, to be excluded or entitled to be excused. Petit jurors shall serve for a term of service not to exceed 30 days and grand jurors shall serve for a term not in excess of eighteen months, unless extended pursuant to statute. In any two-year period, no person shall be required to serve or attend court for prospective service as a petit juror for a total of more than ten days, except when necessary to complete service in a particular case; nor shall any person be required to serve upon more than one grand jury or to serve as both a grand and petit juror.

Grand and petit jurors shall initially be summoned for service in the manner provided in §1866(b), Title 28 U.S. Code, for service until the next general panel is drawn or until relieved by order of the court. As needed thereafter, the Clerk, unless otherwise

directed by the court, shall notify jurors of the time, date and place to report. This notification will be made by mail, in person, by telephone, through the U.S. Marshal, or by whatever method he feels appropriate under the particular circumstances.

Where there is an unanticipated shortage of available petit jurors drawn from any qualified jury wheel or tape, the judge before whom a case is pending and requiring additional jurors, may by order of the court require the Marshal to summon a sufficient number of additional petit jurors. These jurors will be selected at random from the active voter registration records, holders of drivers' licenses and State-issued identification cards, telephone directories, or city directories in a manner fixed by order of court from the city, county or division in which court is held consistent with §1861 and §1862 of Title 28 U. S. Code.

XVII.

EFFECTIVE DATE AND DURATION

This Plan shall become effective after approval by the reviewing panel, consisting of the members of the Judicial Council of the United States Court of Appeals for the Ninth Circuit and the Chief Judge of this district.

This Plan shall remain in force and effect until approval of one or more modifications thereof by said reviewing panel. Modifications may be initiated by the court and submitted to the reviewing panel for approval. This Plan shall be modified as and when directed by said reviewing panel or by such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

DATED this 17th day of Feb, 2001.



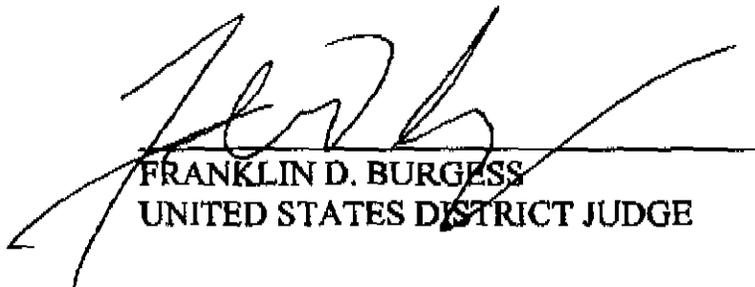
JOHN C. COUGHENOUR
CHIEF UNITED STATES DISTRICT JUDGE



BARBARA JACOBS ROTHSTEIN
UNITED STATES DISTRICT JUDGE



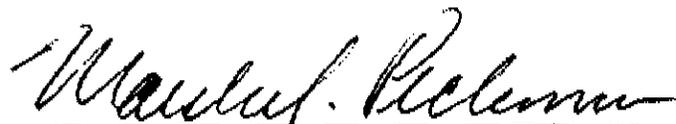
THOMAS S. ZILLY
UNITED STATES DISTRICT JUDGE



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE



ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE



MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE