

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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Re: Juror Selection Plan

Administrative Order

No. 23-AO-015

ADMINISTRATIVE ORDER

On October 3, 2022, the Judges of the United States District Court for the Eastern District of Michigan approved the attached revised Juror Selection Plan for submission to the Judicial Council of the Sixth Circuit for approval. The Plan was approved by the Judicial Council and the Certificate of Approval signed by Chief Judge Jeffrey S. Sutton on April 10, 2023.

NOW THEREFORE IT IS ORDERED THAT the attached Juror Selection Plan is adopted for the Eastern District of Michigan until further order of the Court.

Pursuant to 28 U.S.C. § 1863(a), copies of the revised Juror Selection Plan have been forwarded to the Attorney General of the United States, the Administrative Office of the United States Courts, and the Judicial Council of the Sixth Circuit.

This administrative order supersedes Administrative Orders 00-AO-060, 05-AO-020 and 13-AO-016.

FOR THE COURT:



Sean F. Cox
Chief Judge

4/13/23
Date

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

JUROR SELECTION PLAN

(a) Declaration of Policy.

All litigants in this court entitled to trial by jury have the right to grand and petit juries selected at random from a fair cross section of the community. All citizens resident within the district have the opportunity to be considered for service on grand and petit juries and have an obligation to serve as jurors when summoned for that purpose.

This court utilizes the one-step summoning and qualification procedure, as authorized by 28 U.S.C. § 1878. Accordingly, jurors will be summoned and qualified in a single procedure.

(b) Definitions.

The definitions contained in 28 U.S.C § 1869, as amended, will apply in this Juror Selection Plan (plan) except:

- (1) "division" means a set of counties deemed a unit for the purpose of defining the geographic area of the master jury wheels; and
- (2) "chief district judge" includes his or her designee.

(c) Discrimination Prohibited.

No citizen will 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.

(d) Designation of Divisions.

The Eastern District of Michigan is divided into the following divisions for juror selection purposes:

- (1) Grand and petit jurors serving in the Detroit division will be selected from citizens residing in the following counties:

Jackson	Monroe	Sanilac
Lenawee	Oakland	Washtenaw
Macomb	St. Clair	Wayne

- (2) Grand and petit jurors serving in the Flint division will be selected from citizens residing in the following counties:

Genesee	Livingston
Lapeer	Shiawassee

- (3) Grand and petit jurors serving in the Bay City division will be selected from citizens residing in the following counties:

Alcona	Gladwin	Ogemaw
Alpena	Gratiot	Oscoda
Arenac	Huron	Otsego
Bay	Iosco	Presque Isle
Cheboygan	Isabella	Roscommon
Clare	Midland	Saginaw
Crawford	Montmorency	Tuscola

- (4) Petit jurors serving in the Port Huron division will be selected from citizens residing in the following counties:

Macomb	St. Clair
Oakland	Sanilac
	Wayne

- (5) Petit jurors serving in the Ann Arbor division will be selected from citizens residing in the following counties:

Jackson	Oakland
Lenawee	Washtenaw
Monroe	Wayne

(e) Management of the Juror Selection Process.

- (1) The clerk will manage the juror selection process under the supervision of the chief judge.
- (2) In accordance with 28 U.S.C. §§ 1863(b)(1) and 1869(a), the clerk may delegate responsibility for the day-to-day operation of the jury selection process to any authorized deputy clerk.
- (3) Orders of the court relating to the general operation of the jury system and public notices concerning the drawing of names for assignment to grand

and petit jury panels will be available in the clerk's office and on the court's website and distributed to the judicial officers of the court.

(f) Data Sources.

- (1) Grand and petit jurors will be selected randomly from the following data sources:
 - (A) registered voters in the Qualified Voter File (QVF) compiled by the Michigan Secretary of State;
 - (B) persons licensed by the Michigan Secretary of State to drive motor vehicles;
 - (C) persons who have been issued a personal identification card by the Michigan Secretary of State; and
 - (D) persons who have filed Michigan state income tax returns, if available.
- (2) The clerk will obtain data sources in the electronic form most compatible with the computer hardware and software used by the court for the random selection of names.

(g) Random Selection.

- (1) The clerk may use electronic data processing systems for any tasks associated with the administration of the jury system including, but not limited to:
 - (A) the random selection of names from the data sources for master jury wheels;
 - (B) the random selection of names of qualified jurors for grand and petit jury panels;
 - (C) the random assignment of prospective jurors to pools;
 - (D) the summoning of jurors;
 - (E) the payment of jurors;
 - (F) the preparation of documents; and

- (G) statistical reports necessary for the efficient and effective administration of the jury system.
- (2) For all purposes for which random selection is required by this plan, the clerk will use a purely randomized process through a properly programmed electronic data processing system.
- (3) If a contractor is used for any tasks associated with the administration of the jury system, the contractor will submit to the court a certification that work has been completed pursuant to the detailed instructions from the clerk.
- (4) The clerk has the option to randomly select jurors manually for petit or grand jury panels and petit juries for specific cases by:
 - (A) preserving the computer prepared random sequence of names of jurors summoned and assigning jurors to panels in the order listed; or preserving the computer prepared random sequence of names of jurors impaneled and assigning jurors to petit juries in the order listed; or
 - (B) drawing names at random from a box, jury wheel or similar device containing the names of the present pool or panel of jurors.
- (h) Master Jury Wheels.**
 - (1) The clerk will maintain master jury wheels for each division.
 - (2) The clerk will ensure that each county within a division is proportionally represented in the master jury wheel for that division. For the purpose of determining proportional representation in master jury wheels, the number of registered voters in each county in each division will be used.
 - (3) To increase the probability that the names and addresses on the data sources are as current as possible, the clerk will empty and refill the master jury wheels as frequently as is practicable, but at least once every two years, between March 1 and November 1 in the year following general elections.
 - (4) The clerk will determine the total number of names to be selected at random from the data sources and placed in master jury wheels.
 - (5) The minimum number of names to be placed in the respective master jury wheels is as follows:

Ann Arbor division	10,000
Bay City division	10,000
Detroit division	300,000
Flint division	10,000
Port Huron division	10,000

- (6) The clerk will use the most current data sources referenced in (f) for the creation of each master jury wheel.
- (7) After determining the total number of names needed for any master jury wheel and the percentage of names to be drawn from each county, the clerk will direct the random selection of names from the data sources.

(i) Drawing of Names from the Master Jury Wheels.

- (1) The clerk will direct the random drawing of the names of as many persons from the master jury wheels as may be needed to maintain an adequate number of names of qualified jurors.
- (2) The clerk will maintain records of the names drawn from the master jury wheels.

(j) Juror Summons and Qualification Forms.

The clerk will mail a juror summons and juror qualification notice to every person drawn with instructions for the recipient to complete a juror qualification questionnaire through the Court's website within 10 days. 28 U.S.C. §1864(a). The clerk will send a paper copy of the questionnaire to any person not responding to an earlier mailing within that 10-day period with a warning that the recipient must complete the form within 10 days to avoid statutory penalties for noncompliance.

All federal courts must use the same juror qualification form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

(k) Determination of Juror Qualifications.

Under the supervision of the chief judge, the clerk will determine whether a person is (1) unqualified for, (2) exempt from, or (3) to be excused from, jury service. These determinations will be based solely on information provided in the juror qualification form and other competent evidence. The clerk will produce reports on qualification information upon request of the court.

(l) Qualifications for Jury Service.

Under 28 U.S.C. § 1865(b), a person will be deemed qualified to serve on grand and petit juries unless he or she:

- (1) is not a citizen of the United States at least 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 complete 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 service, or
- (5) has a charge pending against him/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/her civil rights have not been restored. Application of this provision is governed by state law. Since there is no provision in Michigan law for the restoration of an individual's civil rights, the clerk must deem any individual convicted of a felony in Michigan as not qualified to serve as a juror in this court.

(m) Exemption from Jury Service.

Under 28 U.S.C. § 1863(b)(6), the following categories of persons working on a full-time basis are 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, the District of Columbia, territory or possession of the United States, or any subdivision thereof; and
- (3) public officers in the executive, legislative or judicial branches of the government of the United States, or of any state or subdivision of any state, who are actively engaged in the performance of official duties.

(n) Excuses on Individual Request.

- (1) The court finds that jury service by the following persons would entail undue hardship or extreme inconvenience and to excuse them from jury service on individual request is not inconsistent with 28 U.S.C. §§ 1861 and 1862:

- (A) persons over the age of 73;
 - (B) persons who have served on a grand or petit jury in a federal court within the last two years, and
 - (C) persons who are members of a volunteer fire department, rescue squad or ambulance crew for a public agency.
- (2) Additionally, under supervision of the chief judge, the clerk may excuse persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other ground of excusal as set forth in 28 U.S.C. §§ 1866(c) and 1869(j), for such period of time as the court may deem necessary and proper. The court finds that jury service by members of the following groups of persons may entail undue hardship and extreme inconvenience to the members thereof:
- (A) persons who have active care and custody of a child under the age of ten whose health and/or safety would be jeopardized by their absence;
 - (B) persons who are essential to the care of aged or infirm persons;
 - (C) persons having no access to a private vehicle and residing in a remote location where public transportation is unavailable or is not feasible; and
 - (D) persons whose services are so essential to the operation of a business, commercial, or agricultural enterprise that it may close or cease to function if they were required to perform jury duty.

The clerk may only excuse jurors under the categories defined in this plan. All other categories will be referred to the chief judge for disposition.

Persons excused under this section shall be excused only for the duration of the current jury wheel.

(o) Postponement of Jury Service.

- (1) If a person requests a postponement of his or her jury service for a specific reason, such as a pre-planned vacation, business commitment, health problem or similar episodic event, the clerk will reassign the juror to a later pool within the same jury wheel. All requests for postponement must be in writing.

- (2) The clerk will record any postponements granted and will report on the status of any individual juror or group of jurors upon request of the court.

(p) Request for Excusal Due to Medical Condition.

- (1) If a person requests to be excused of his or her jury service for a specific health reason, the person must submit in writing a signed statement from their doctor with an explanation and, if the person is employed, how the medical hardship permits the person to work but not serve on a jury. If the request to be excused based on medical grounds is granted, the clerk will excuse the juror for the duration of the current wheel.
- (2) The clerk will record any excusals granted and will report on the status of any individual juror or group of jurors upon request of the court.

(q) Qualified Jurors.

- (1) At all times, the clerk will maintain an adequate number of qualified jurors not exempt or excused under this plan.
- (2) Qualified jurors will be randomly assigned to grand and petit jury panels.
- (3) The clerk will maintain records of persons summoned and assigned to grand and petit jury panels.

(r) Term of Service.

Petit jurors in the Detroit division are on call for a period of one week to be selected as a juror. Petit jurors in other divisions are on call for a period of two weeks to be selected as a juror. If selected for a trial, a juror's service extends until the trial is completed unless otherwise ordered by the judge presiding over the trial.

Grand jurors will serve until discharged by the chief judge, but no regular grand jury will serve more than 18 months unless the court extends the service in accordance with Fed. R. Crim. P. Rule 6(g) and no special grand jury will serve more than 36 months unless the court extends the service in accordance with 18 U.S.C. § 3331.

(s) Failure to Report for Jury Service.

A person who does not report for jury service on the date and at the time stated on his or her summons may be subject to prosecution. 28 U.S.C. §1866(g).

(t) Maintenance of Records.

- (1) During the life of a master jury wheel, the contents of records or papers used by the clerk in connection with the juror selection process, including juror qualification questionnaires, will not be disclosed, except as necessary in the preparation or presentation of a motion under subsection (a), (b), or (c) of 28 U.S.C. § 1867(f) or as indicated in this plan. See 28 U.S.C § 1867(f). Accordingly, pursuant to this plan, any request to inspect, reproduce, or copy such records or papers shall also be made by motion to the Chief Judge of the district or designee.
- (2) Names and personal information of grand and petit jurors will not be disclosed to attorneys, parties, the public, or the media, subject to the following exceptions:
 - (A) names, cities and counties of residence and the occupation of prospective petit jurors may be disclosed to the attorneys or parties in a case set for trial after those jurors have appeared for service. Unless otherwise directed by the court, the clerk will, on the day of trial, provide attorneys or parties a written list of the jurors' names, cities and counties of residence and occupation, which may not be copied or shared except as necessary for selecting a jury. The list and any copies must be returned to the clerk immediately following jury selection.
 - (B) upon order of the court, names and counties of residence of petit jurors selected in a case set for trial may be disclosed after the conclusion of the jury selection. Unless otherwise directed by the court, the clerk will provide the attorneys, parties, the public, or the media with a written list of the jurors' names and counties of residence.
- (3) Any district judge may order juror names to be kept confidential in any case when the interests of justice so require.
- (4) After a master jury wheel is emptied and refilled, and after all persons selected have completed their jury service, the clerk will maintain and preserve all records and papers pertaining to all master jury wheels for four years or for such longer period as may be ordered by the court. These records and papers will be available for public inspection for the purpose of determining the validity of the selection of any jury.

- (5) The clerk will retain and, when requested, provide the public access to the following:
 - (A) Juror Selection Plan for the Eastern District of Michigan;
 - (B) a description of the procedure used by the electronic data processing system to randomly select and assign names during the implementation of this plan; and
 - (C) the clerk's directives to any contractor that implements any portion of this plan, including the execution of any pure random selection procedures, and that contractor's certifications required under (g)(3) of this plan.


(u) General Provisions.

- (1) The clerk will collect information to monitor the court's compliance with statutes, this plan, and the quality of the data sources provided by the Michigan Secretary of State and will distribute it periodically to the judges of the court.
- (2) Incorporated in this plan by reference are the provisions of 28 U.S.C. §§ 1861-1971, any amendments to these sections as may be made from time to time, and all statutes enacted after this plan is approved pertaining to grand and petit jurors and trials by jury in federal courts.

CERTIFICATE OF APPROVAL

This is to certify that, in accordance with 28 U.S.C. § 1863(a), the foregoing Juror Selection Plan for the Eastern District of Michigan 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 10th day of April 2023.



Jeffrey S. Sutton
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 Juror Selection Plan for the Eastern District of Michigan was filed with the Administrative Office of the United States Courts, Washington, D.C., and the Attorney General for the United States.

This 13th day of April 2023.



Sean F. Cox
Chief Judge
United States District Court for the
Eastern District of Michigan