

**JURY PLAN**

**FOR THE UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF ARKANSAS**

**ALL DIVISIONS, FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

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This Jury Selection Plan (the "Plan") is adopted by the United States District Court for the Eastern District of Arkansas (the "Court") in accordance with the Jury Selection and Service Act of 1968, as amended, Title 28 United States Code (U.S.C.) § 1861, *et seq.*

**APPLICABILITY OF PLAN**

This Plan is applicable to the Eastern District of Arkansas, which is divided by statute, Section 83 of Title 28, United States Code, into three divisions, as follows:

- (a) Delta Division (Helena) consisting of Arkansas, Chicot, Crittenden, Desha, Lee, Monroe, Phillips and Saint Francis Counties;
- (b) Northern Division (Jonesboro) consisting of Clay, Craighead, Cross, Fulton, Greene, Independence, IZard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Sharp and Woodruff Counties;
- (c) Central Division (Little Rock) consisting of Cleburne, Cleveland, Conway, Dallas, Drew, Faulkner, Grant, Jefferson, Lincoln, Lonoke, Perry, Pope, Prairie, Pulaski, Saline, Stone, Van Buren, White and Yell counties.

Pursuant to the authorization contained in 28 U.S.C. § 1863 (a), the provisions hereof are adopted as separate plans for the separate divisions of the Eastern District of Arkansas, unless specifically indicated to the contrary. The new divisional alignment reflected above is made pursuant to the revisions to 28 U.S.C. § 83 and will be used in building the court's next master jury wheel as addressed below.

**POLICY**

This Plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

**Section 1861 - Declaration of Policy**

It is the policy of the United States that all litigants in Federal courts 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 the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

**Section 1862 - Discrimination Prohibited**

No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status.

**MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS**

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge of this District and there shall be no jury commission. The phrase “Chief Judge of this District,” wherever used in this Plan, shall mean the Chief Judge of this District, the designated jury judge, or in their absence, disability or inability to act, the active district court judge who is present in the District and has been in service the greatest length of time. Wherever the Jury Selection and Service Act of 1968, as amended, requires or authorizes the Plan to designate a district court judge to act instead of the Chief Judge, the above definition shall apply and such active district court judge above-mentioned is hereby designated to act. The use of the word “Clerk” in this Plan contemplates the Clerk and all or any of the Clerk’s deputies.

**RANDOM SELECTION FROM VOTER LIST**

**AND**

**MASTER JURY WHEEL**

Voter registration lists represent a fair cross section of the community in each division of the Eastern District of Arkansas. Accordingly, names of petit jurors serving on or after the effective date of this Plan shall be selected at random from voter registration lists of all the counties in the respective division. Names of grand jurors shall be selected at random from the same lists of all counties in the District. The Clerk shall maintain a master jury wheel subdivided for each of the divisions within the District. Pursuant to 28 U.S.C. § 1863 (b)(4), the minimum number of names to be placed in the master jury wheel shall be at least one half of one percent of the total number of names on all of the voter registration lists of the counties comprising each division.

At the Clerk's option, and after consultation with the Court, the selection of names from the complete electronic source list for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the Clerk and after consultation with the Court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master 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 accordance with 28 U.S.C. § 1863 (b) (3), the Court must ensure that the electronic data processing system includes representation for each county within the jury division in proportion to that county's population as a percentage of the population of the division. The selection of names from the source list, the master wheel, and the qualified wheel must also ensure that the

mathematical odds of any single name being picked are substantially equal.

The master jury wheel may be emptied and refilled on an annual basis, but shall be emptied and refilled at least every two years. Additional names may be drawn and placed in the Master Wheel from time to time as found necessary by a judge in authority under this Plan.

This Plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968, as amended, will be fully accomplished and implemented by the use of voter registration lists as the source of an at-random selection of prospective grand and petit jurors who represent a fair cross section of the community. This determination is supported by all the information this Court has been able to obtain after diligent effort on its part.

**DRAWING OF NAMES FROM THE MASTER JURY WHEEL:**

**COMPLETING OF JURY QUALIFICATION FORM**

This Plan hereby incorporates the provisions of 28 U.S.C. § 1864, which reads as follows:

- (a) From time to time as directed by the district court, the clerk or a district judge shall draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk or jury commission 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. The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title. The clerk or jury commission shall mail to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk or jury commission by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it

appears that there is an omission, ambiguity, or error in a form, the clerk or jury commission 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 or jury commission within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk or jury commission forthwith to appear before the clerk or jury commission to fill out a juror qualification form. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the clerk or jury commission may, at the discretion of the district court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under section 1871 of this title. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the jury commission or the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk or jury commission may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

- (b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

#### **DETERMINATION OF QUALIFICATIONS, EXCUSES AND EXEMPTIONS**

This Plan hereby incorporates the provisions of 28 U.S.C. § 1865, as amended, which reads as follows:

- (a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk or jury commission, or the clerk under supervision of the court if the court's jury selection plan so authorizes, shall determine solely on the basis of 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 clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.
  
- (b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, or the clerk if the court's jury selection plan so provides, shall deem any person qualified to serve on grand and petit juries in the district court unless he—
  - (1) is not a citizen of the United States eighteen 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 service;
  - or
  - (5) has a charge pending against him 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.

**NOTIFICATION OF SECRETARY OF STATE**

The Jury Administrator will notify the Arkansas Secretary of State when prospective jurors identify themselves as non-citizens on juror qualification questionnaires.

**EXCUSES ON INDIVIDUAL REQUEST**

The Court finds and hereby states that jury service by members of the following

occupational classes or groups of persons would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse will not be inconsistent with Sections 1861 and 1862 of Title 28 and may be claimed, if desired, and shall be granted by the Clerk upon individual request:

- (1) Any person over 70 years of age;
- (2) Any person who has served as a grand or petit juror within the last two years in State or Federal court; and
- (3) Any person who is engaged in volunteer safety work, including, but not limited to, firefighters, rescue squad members and ambulance crew.

#### **EMERGENCIES AND UNDUE HARDSHIP**

In the event of an emergency or situation that appears to impose an undue hardship on a person summoned for jury service, and a judge is unavailable, the Court authorizes the Clerk to defer jury service until the Court has an opportunity to consider whether or not to provide a permanent excuse.

#### **EXEMPTION FROM JURY SERVICE**

The Court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, is not inconsistent with the Act, and shall be automatically granted:

- (1) member in active service of the Armed Forces of the United States;
- (2) members of the fire or police departments of any State, District, Territory, Possession or subdivision thereof;
- (3) public officers in the executive, legislative or judicial branches of the government of the United States or any State, District, Territory, Possession or subdivision thereof who are actively engaged in the performance of official 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).

**QUALIFIED JURY WHEEL**<sup>1</sup>

The Clerk shall also maintain separate qualified jury wheels for each division in the District and shall place in each such wheel the names of all persons drawn at random from the master jury wheel and not disqualified, exempt, or excused pursuant to this Plan. The Clerk shall ensure that at all times enough names are contained in the qualified wheel to ensure a random selection. The qualified jury wheel for each division shall be emptied and refilled after the master wheel is emptied and refilled.

**DRAWING OF AND ASSIGNMENT TO JURY PANELS**

From time to time the Clerk, when so ordered by the Court, shall draw at random from the qualified jury wheel or wheels such numbers or names of persons as may be required for assignment to grand or petit jury panels, and the Clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel.

**NONDISCLOSURE OF RECORDS**

The contents of records and papers used in connection with the jury selection process will not be disclosed except as provided in this Plan and by the provisions of 28 U.S.C. § 1867 (f). Juror names (grand jurors, prospective and sitting petit jurors) will not be disclosed to the public or media outside of open court, except upon order of the Court. A request for disclosure of juror information to the media or public must be made to the presiding judge. The type of information that may be released is limited to the juror's name and city of residence. This policy applies to both civil and criminal cases.

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<sup>1</sup>In accordance with 28 U.S.C. § 1878(a), a one-step process, which does not utilize a separate qualified jury wheel, may be used whenever authorized by the Court to comply with the purposes of §§ 1861-1862.

### **MAINTENANCE OF RECORDS**

The Clerk must maintain all records and papers compiled and used in the jury selection process. The Clerk will preserve these records as required by 28 U.S.C. § 1868, and then destroy them unless otherwise ordered by the Court.

Information from an active jury wheel may not be released except as provided in 28 U.S.C. § 1867(f). All jurors selected from a wheel must have completed their service, including grand jurors, before any information can be released.

After the master jury wheel has been emptied and refilled, all jury records and papers retained by the clerk from that wheel and prior to disposition are “available for public inspection for the purpose of determining the validity of the selection of any jury.” 28 U.S.C. § 1868.

### **GRAND JURIES**

Inasmuch as Eastern District of Arkansas grand juries usually function on a district-wide basis, they shall be drawn by the Clerk by drawing a substantially pro rata number of names at random from the qualified jury wheel of each division in the District and the names so drawn shall be pooled and shall constitute the pool of prospective grand jurors to report for selection. At its option, the Court may also draw divisional grand juries in any of the three divisions.

### **TERM OF SERVICE**

The Court has adopted a one-month term of service and maximum four times to report for petit jurors serving in the Central Division (Little Rock), and a two-month term of service and maximum eight times to report for the remaining divisional offices, except when necessary to complete service in a particular case. In addition, the Court has adopted a practice, whenever possible, of only requiring jurors to report for one day (or one trial) for all divisions. If a juror is not required to report during the period summoned to appear, the juror will be permanently excused from further service for the life of the master wheel.

This Amended Plan shall become effective upon approval by the Judicial Council of the United States Court of Appeals for the Eighth Circuit and shall be used in building the court's next yearly master jury wheel based on the now-three statutory divisions in 28 U.S.C. §82 and in this plan.

SO ORDERED, this 21st day of July 2022.

*W.P. Marshall Jr.*

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D. P. MARSHALL JR.  
CHIEF UNITED STATES DISTRICT JUDGE

*Susan Webber Wright*

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SUSAN WEBBER WRIGHT  
UNITED STATES DISTRICT JUDGE

*Billy Roy Wilson*

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BILLY ROY WILSON  
UNITED STATES DISTRICT JUDGE

*Brian S. Miller*

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BRIAN S. MILLER  
UNITED STATES DISTRICT JUDGE

*Kristine G. Baker*

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KRISTINE G. BAKER  
UNITED STATES DISTRICT JUDGE

*James M. Moody Jr.*

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JAMES M. MOODY JR.  
UNITED STATES DISTRICT JUDGE

*Lee P. Rudofsky  
by W.P. Marshall Jr.  
at LPR's direction*

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LEE P. RUDOFSKY  
UNITED STATES DISTRICT JUDGE

Jury Plan was amended on August 1, 1980; amended again on July 27, 1981; September 20, 1984; December 22, 1988; January 25, 1993; September 1, 1998; August 15, 2000; November 17, 2005, July 20, 2012, December 12, 2019, and July 21, 2022. The amendments incorporated herein are adopted by the Eighth Circuit Judicial Council on August 22, 2022.