

GENERAL ORDER NO. 6  
PLAN OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to 28 U.S.C. §§ 1861 - 1878 ("Jury Act" or "Act"), this amended 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. This general order supplements the provisions of Jury Act, which is incorporated herein by reference; together, this general order and the Act comprise the jury plan for the U.S. District Court for the Northern District of California.

I. DIVISIONS

Pursuant to 28 U.S.C. § 1869(e), the Northern District of California is hereby divided into jury divisions for jury selection purposes as follows:

1. San Francisco-Oakland jury division, consisting of the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Sonoma.
2. San Jose jury division, consisting of the counties of Monterey, San Benito, Santa Clara, and Santa Cruz.
3. Eureka jury division, consisting of the counties of Del Norte, Humboldt, Lake, and Mendocino.

Jurors will be selected for service from a single jury division, unless the chief judge directs otherwise.

II. POLICY

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 the district or jury division wherein the court convenes and all citizens 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. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The Clerk of the district court is authorized to manage the jury selection process under the supervision and control of the chief judge of the district. The use of the word "clerk" in this plan contemplates the Clerk of this court and any and all of his or her deputies. The phrase "chief judge," wherever used in this plan, shall mean the chief judge of this district, the acting chief judge, or such other judge as the chief judge may designate.

IV. SUPPLEMENTATION OF VOTER REGISTRATION LISTS

To foster the policy and protect the rights secured by 28 U.S.C. §§ 1861 & 1862, driver's license and state ID information will be used to supplement voter record information for the creation of master jury wheels. Voter registration lists supplemented with driver's license/state ID lists hereafter will be known as the supplemented voter registration lists. Additional sources may be added in the future if feasible.

V. RANDOM SELECTION FROM SUPPLEMENTED VOTER REGISTRATION LISTS

Names of all jurors serving on or after the effective date of this plan shall be selected at random from the supplemented voter registration lists of all counties within the relevant jury division.

A properly programmed electronic data processing system may be used to select names from supplemented voter registration lists of any or all counties in this district, provided that the required proportions of names for each county are maintained. Where a machine selects the names, it must be programmed, first, to accept specific instructions necessary to perform a proportionately balanced selection and retrieval of names. Pursuant to 28 U.S.C. § 1863(b)(3), proportionality shall be based on the number of actual or registered voters in each county.

VI. MASTER JURY WHEELS

The clerk shall maintain a master jury wheel for each of the jury divisions within the district. The names of all persons randomly selected from the supplemented voter registration lists of the counties in a jury division shall be placed in the master jury wheel for that jury division. The form of record on which these names are kept may be an electronic data storage device.

The minimum number of names to be placed initially in these master jury wheels shall be as follows:

San Francisco-Oakland jury division – 30,000

San Jose jury division – 10,000

Eureka jury division – 7,000

The foregoing minimum number of names represents well in excess of one-half of one percent of the total number of registered voters for each jury division and is in substantial compliance with the mandate of the Act.

The chief judge of the district may order additional names to be placed in the master wheel for each jury division from time to time as is necessary to achieve the purposes of the Act.

The master jury wheel of each jury division shall be emptied and refilled as soon as practicable every two years immediately following the close of registration for the general election.

VII. DRAWING OF NAMES FROM THE MASTER JURY WHEELS

From time to time, the clerk shall draw at random from the master jury wheel of each jury division the names of as many persons as may be required for jury service in each jury division. The clerk shall mail to every person whose name is drawn from the master wheel a juror summons and qualification form accompanied by instructions to fill out and submit the form, duly signed and sworn, to the clerk by mail or via the court's website within ten days. If a recipient is unable or unwilling to fill out the form on the website, a paper copy of the form will be provided. In drawing the names, allowance shall be made for the possibility that some of the

juror qualification forms will not be submitted, that some individuals may be exempt by law and others may not be able to comply with the statutory qualifications.

In any case in which it appears that there is a substantive omission, ambiguity, or error in a juror qualification 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 five days.

For each juror summons and qualification form returned to the court as “undeliverable” and those to which no response has been received, the clerk shall randomly draw the name of another person residing in the same zip code and mail a new juror summons and qualification form to that person. This shall be the “supplemental drawing” of names.

Any person who fails to submit a completed juror qualification form as instructed may be summoned by the clerk forthwith to appear before the clerk 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 may, at the discretion of the district court, except where his or her 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 28 U.S.C. § 1871. At the time of his or her appearance for jury service, any person may be required to fill out another juror qualification form in the presence of 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 or her responses to questions contained on the form. Any information thus acquired by the clerk may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as this plan provides.

Any person summoned to complete a juror qualification form or for jury service who fails to appear as directed may be ordered by the district court forthwith to appear and show cause for his or her failure to comply with the summons. *See* 28 U.S.C. §§ 1864(b) and 1866(g). Any person who fails to appear pursuant to such order or 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. *Id.* 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. *Id.*

#### VIII. EXCLUSION, EXCUSE OR EXEMPTION FROM JURY SERVICE

Except as provided herein and in 28 U.S.C. § 1866(c), no person or class of persons shall be excluded, excused or exempted from service as jurors, provided that any person summoned for jury service may be excused by the court or the clerk for not more than six months at a time upon showing of undue hardship or extreme inconvenience.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk shall document the specific reason therefor in the space provided on the juror qualification form, or in an electronic jury management database.

It is the policy of the district to minimize the inconvenience to prospective jurors resulting from being on standby or actual service for extended periods. Therefore, in any one-year period, no person shall be required to (1) serve or attend court more than once or be on standby for prospective service as a petit juror for a total of more than two weeks, 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.

The court hereby finds and states that exemption of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with the Act, and accordingly, members who are employed full-time in the following groups are exempt from jury service:

1. Members in active service in the armed forces of the United States;
2. Members of the 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 government of the United States, or any state, district or territory or 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 or persons elected to public office.

#### IX. EXCUSES ON INDIVIDUAL REQUEST

The court finds that jury service by the groups of persons or occupational classes listed below would entail undue hardship or extreme inconvenience to the members thereof and excuse of the members thereof would not be inconsistent with 28 U.S.C. §§ 1861 & 1862. The members of such groups of persons or occupational classes may, on individual request therefor, be excused from jury service:

1. Sole caretakers of a preschool child or of an aged or disabled person, and not otherwise employed;
2. Persons residing more than 80 miles from the place of holding court;
3. Persons over 75 years of age;
4. Persons who within the last year have served on one or more petit or grand juries in any state court, or who have reported in person to the courthouse in response to a jury summons;
5. Persons who demonstrate that they would suffer undue hardship or extreme inconvenience if required to serve (such persons may be excused by the court for such period as the court deems necessary);
6. Persons who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a public agency.

#### X. QUALIFICATIONS FOR JURY SERVICE

The clerk, under supervision of the court, 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, or record it in an

electronic jury management database. If a person did not appear in response to a summons, such fact shall be noted on the appropriate form or recorded in an electronic jury management database.

In making such determination, the clerk shall deem any person qualified to serve on grand and petit juries in this court unless such person:

1. Is not a citizen of the United States who is eighteen years old and 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, of rendering satisfactory jury service; or
5. 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 or her civil rights have not been restored.

#### XI. QUALIFIED JURY WHEEL

The clerk shall maintain separate qualified jury wheels for each jury division in the district containing not fewer than 300 names and shall place in such wheels the names of all persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused pursuant to this plan or the Jury Act.

The qualified jury wheels may be maintained either in manual or electronic form.

The contents of records or papers used by the clerk in connection with the jury selection process shall not be disclosed, except in the manner provided in 28 U.S.C. § 1867.

#### XII. DISCLOSURE OF NAMES OF JURORS

The names drawn from the qualified jury wheel as potential jurors for a given trial, that is to say, the venirepersons, shall be disclosed to the parties on the day of trial, prior to voir dire, unless otherwise ordered by the trial judge after a noticed motion. The names of the venirepersons for a given trial, or the names of the jurors selected for a given trial, shall be disclosed to a member of the public only upon the order of the judge presiding over the trial, and only after a noticed motion pursuant to Civil Local Rule 7-11. The names of grand jurors shall likewise be disclosed only upon a court order after a noticed motion. A motion for the names of grand jurors that is not related to a particular trial may be made by filing a Miscellaneous Action with the Clerk of Court.

#### XIII. MAINTENANCE OF RECORDS

The clerk shall maintain all records and papers compiled and used in the jury selection process as required by 28 U.S.C. § 1868. Unless otherwise ordered by the court, such records will be disposed of in accordance with the Act and the records disposition schedules approved by the Judicial Conference of the United States.

#### XIV. PETIT JURY PANELS

The clerk shall draw at random from the qualified jury wheels for use on such petit jury panels in such numbers and at such times as may be ordered by a judge of this court. Unless otherwise ordered by the chief judge, the term of service of a prospective petit juror shall be two weeks, during which two-week period no prospective petit juror shall be required to report to the courthouse more than once unless (1) the jury-selection process in the case to which he or she has been prospectively assigned is continuing, or (2) he or she is selected as a juror. Prospective jurors who report for jury selection but are not selected as jurors for any trial shall have satisfied their jury service obligation upon completion of voir dire, empanelment of the final jury, and discharge by the judge. Those prospective jurors who are selected as trial jurors shall have satisfied their jury service obligation upon completion of the trial.

#### XV. GRAND JURY PANELS

One or more grand juries shall be impaneled for this district or any jury division of this district for terms of service at San Francisco, or such other places as the court may designate and at such times as the court may order. If a grand jury is to be impaneled for service in one jury division only, the clerk shall draw at random from the qualified wheel of that jury division for the grand jury panel such number of prospective grand jurors as the chief judge, or the judge designated by the chief judge to preside over the jury division in which the grand jury is to be impaneled, may direct. If a grand jury is to be impaneled for service in the entire district, the clerk shall draw at random from the qualified wheel of each jury division for the grand jury panel such number of prospective grand jurors as the chief judge may direct in the same ratio that the number of registered voters in each jury division bears to the total number of registered voters in the district. Each grand jury shall serve until discharged by the chief judge, but no regular, criminal grand jury shall serve more than 18 months unless the court extends the service of the grand jury for a period of six months or less, upon a determination that such extension is in the public interest. A special grand jury as defined in 18 U.S.C. § 3331 shall serve for a term of 18 months unless an order for its discharge is entered earlier by the court. If, at the end of an 18 month term or any extension thereof, the district court determines the business of the grand jury has not been completed, the court may enter an order extending such term for an additional period of six months. No special grand jury term so extended shall exceed 36 months, except as provided in subsection (e) of 18 U.S.C. § 3333.

The court may direct that alternate jurors may be designated at the time a grand jury is selected. Alternate jurors may thereafter be impaneled to replace excused jurors in the order in which they were designated. Alternate jurors shall be drawn in the same manner and shall have the same qualification as the regular jurors and if impaneled shall be subject to the same challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular grand jurors.

#### XVI. CHALLENGES TO THE SELECTION PROCEDURES

Any challenge to this plan or the court's compliance with the provisions of this plan or compliance with the provisions of the Jury Act shall be made within the times and in the manner provided in 28 USC § 1867.

XVII. FORMS EMPLOYED BY THE CLERK

The court has considered and approved all forms prepared and employed by the clerk of this court, including the revised juror qualification questionnaire and the summons form as prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

XVIII. EFFECTIVE DATE

The effective date of this plan shall be established by a separate order of this court after this plan has been approved by the reviewing panel of the Ninth Circuit.

The current jury plan of this court, as approved by the reviewing panel of the Ninth Circuit, together with amendments thereto, shall remain effective and operative until the effective date of this revision.

Nothing in this plan shall affect the composition of the various wheels in existence at the time of the adoption of this plan or preclude the service of any juror summoned or impaneled on or before the date upon which this plan shall become effective.

The court shall promptly notify the reviewing panel, the Administrative Office of the United States, and the Attorney General of the United States of the adoption of said amended plan by filing copies therewith.

ADOPTED: December 8, 1981  
AMENDED: November 15, 1988  
AMENDED: April 6, 1989  
AMENDED: January 22, 1991  
AMENDED: July 21, 1992  
AMENDED: August 21, 2000  
AMENDED: February 22, 2001  
AMENDED: June 28, 2005  
AMENDED: February 23, 2009  
AMENDED: December 21, 2009  
AMENDED: February 19, 2015

FOR THE COURT:



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PHYLLIS J. HAMILTON  
UNITED STATES DISTRICT CHIEF JUDGE