

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
JUDICIAL COUNCIL**

In the Matter of the Review of the	*	
Amended Local Rules and	*	
Revised Jury Selection Plan	*	No. 473
Submitted by the United States District Court	*	
for the Western District of Virginia	*	

**ORDER**

The 2023 Plan of the U.S. District Court for the Western District of Virginia for the Random Selection of Grand and Petit Jurors is hereby revised and the Local Rules amended by District Court approval and the Fourth Circuit Judicial Council, and it is so ORDERED.

FOR THE COUNCIL:

  
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James N. Ishida  
Secretary

Date: September 19, 2023

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

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**2023 JURY SELECTION PLAN**

**A Written Plan for Random Selection of Grand and Petit Jurors in All Divisions of this District in Accord with the Jury Selection and Service Act of 1968, 28 U.S.C. §§ 1861, et seq.**

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**SECTION ONE  
ADOPTION AND DECLARATION OF POLICY**

**SECTION 1.01 - ADOPTION AND IMPLEMENTATION**

This Plan is adopted by the United States District Court for the Western District of Virginia as required by 28 U.S.C. § 1863(a). Pursuant to the provisions of 28 U.S.C. § 1863(b)(1), the Clerk of this Court is authorized to manage the jury selection process provided for herein under the supervision and control of the Chief Judge of this Court. The Clerk is authorized to delegate duties as may be necessary in the jury selection process to deputy clerks. The Chief Judge may from time to time designate another judicial officer to exercise the authority of the Chief Judge as set forth in this Plan, which judicial officer may be referred to as the “jury liaison judge.” A jury liaison judge may be designated for the District as a whole, or for each Division, in the discretion of the Chief Judge. As used in this Plan, the term “presiding judge” means the judicial officer presiding over jury selection in a particular case or proceeding. The definitions set forth in 28 U.S.C. § 1869 also apply to this Plan.

As required by 28 U.S.C. § 1864(a), the Clerk must 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, including additional random draws based on Zip code as set forth in Section 3.01 of this Plan.

Outside computer personnel may assist in the selection of names from voter registration lists. The Clerk must insure that such outside personnel are given detailed instructions and that they certify to the Clerk that the work has been completed in this manner.

#### **SECTION 1.02 - DECLARATION OF POLICY**

Pursuant to 28 U.S.C. § 1861, it is the policy of this Court that all litigants 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, and that all citizens shall have the opportunity to be considered for service on grand and petit juries, and shall have the obligation to serve as jurors when summoned for that purpose.

#### **SECTION 1.03 - DISCRIMINATION PROHIBITED**

Pursuant to 28 U.S.C. § 1862, no citizen shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin or economic status.

### **SECTION TWO ESTABLISHMENT OF JURY DIVISIONS AND MASTER JURY WHEELS**

#### **SECTION 2.01 - JURY DIVISIONS.**

This Plan applies to all divisions in this district, unless specifically indicated to the contrary.

In accordance with 28 U.S.C. § 1869(e)(2), and unless otherwise directed, the following counties and cities are assigned to the divisions indicated below:

DIVISION	COUNTIES/CITIES
Abingdon	Bland, Bristol City, Buchanan, Dickenson, Grayson, Lee, Norton City, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe
Charlottesville	Albemarle, Charlottesville City, Culpeper, Fluvanna, Greene, Louisa, Madison, Nelson Orange, and Rappahannock
Danville	Charlotte, Danville City, Halifax, Henry, Martinsville City, Patrick and Pittsylvania
Harrisonburg	Augusta, Bath, Clarke, Frederick, Harrisonburg City, Highland, Page, Rockingham, Shenandoah, Staunton City, Warren, Waynesboro City, and Winchester City
Lynchburg	Amherst, Appomattox, Bedford, Buckingham, Buena Vista City, Campbell, Cumberland, Lexington City, Lynchburg City, and Rockbridge
Roanoke	Alleghany, Botetourt, Carroll, Covington City, Craig, Floyd, Franklin, Galax City, Giles, Montgomery, Pulaski, Radford City, Roanoke City, Roanoke, and Salem City

**SECTION 2.02 - METHOD AND MANNER OF RANDOM SELECTION**

The Court finds that voter registration lists represent a fair cross-section of the persons residing in the communities in this District. The Clerk must obtain when required electronic data files that contain the voter registration lists for the District, which files are referred to in this Plan as the “source list.” The selection of names for Master Jury Wheels, Qualified Jury Wheels, panels of prospective jurors for a particular time period, and summoning persons to serve as grand or petit jurors, must be accomplished by a purely randomized process through a properly programmed electronic data processing system that insures that the mathematical odds of any

single name being picked are substantially equal. The random selection of names for inclusion in Master Jury Wheels must further insure that each city and county within each Division is substantially proportionately represented.

#### **SECTION 2.03 - MASTER JURY WHEEL**

Pursuant to 28 U.S.C. § 1863(b)(3) and (4), the Clerk must establish and maintain a Master Jury Wheel for each Division of the Court and must start populating the new Master Jury Wheels between January 1 and June 15 of every odd-numbered year. The number of names to be placed in each new Master Jury Wheel must be no less than one thousand in each Division, and in no event less than one-half of one percent of the number of registered voters contained on the source list for that Division. The Chief Judge may direct that additional names be placed in any Master Jury Wheel if and when needed.

#### **SECTION 2.04 - DRAWING OF NAMES FROM MASTER JURY WHEELS**

The Clerk must establish and maintain for each Division of the Court a Qualified Jury Wheel. From time to time, the Clerk shall draw at random from each Master Jury Wheel the names and addresses of persons to whom Juror Qualification Forms will be sent, in order to maintain an adequate number of names in the Qualified Juror Wheel for each Division in order to meet the needs of the court. The Clerk must make available to every person whose name is so drawn, a Juror Qualification Form, electronically or upon request in paper, with instructions to fill out and return it within ten (10) days, through the Court's Internet website or, by regular mail. At the option of the Clerk, Juror Qualification Forms may be mailed by the Clerk, by a commercial mailing service, or may be delivered to the United States Marshal for service upon the prospective

jurors. Any person who fails to return a Juror Qualification Form as instructed may be summoned by the Clerk to appear and complete it.

### **SECTION THREE QUALIFYING GRAND AND PETIT JURORS**

#### **SECTION 3.01 - JUROR QUALIFICATION FORMS**

Juror Qualification Forms, as prescribed by the Administrative Office of the United States Courts and as from time to time revised, shall be used to elicit the information necessary to determine whether a person is qualified for, disqualified from, exempt from, or excused from jury service. Those persons deemed qualified to serve must be placed in the appropriate Division Qualified Juror Wheel of their residence. Additional forms may be sent when additional information is required to effectuate the purposes and provisions of this Plan.

In those instances when a mailed juror qualification is returned to the Clerk's Office by the United States Postal Service as undeliverable, the Clerk may randomly draw a replacement name from the master jury wheel from the same Zip code to which the undeliverable juror qualification form had originally been sent. The Clerk will then mail a juror qualification form to the person whose name is drawn.

After a reasonable period of time, if the Clerk's Office does not receive a response to a mailed juror qualification form, the Clerk may randomly draw an additional name from the master jury wheel from the same Zip code from which the original juror qualification form had been sent. The Clerk will then mail a juror qualification form to the person whose name is drawn.

### **SECTION 3.02 - DETERMINATION OF QUALIFICATIONS, EXEMPTIONS, AND EXCUSES**

Pursuant to 28 U.S.C. § 1865(a), the Clerk, under the supervision of the Chief Judge, must determine on the basis of the returned Juror Qualification Forms and other competent evidence 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 judicial discretion. All such matters of discretion are reserved for determination by the Chief Judge, or by the presiding judge at the time of jury selection.

### **SECTION 3.03 - QUALIFICATIONS TO SERVE**

Pursuant to 28 U.S.C. § 1865(b), any person shall be deemed qualified to serve on grand or petit juries in this Court unless the person:

1. Is not a citizen of the United States, is not eighteen years old, or has not resided for a period of one year within this District<sup>1</sup>;
  
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;

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<sup>1</sup> If a person who returns a Juror Qualification Form indicates that he/she is a non-citizen, the Clerk will notify the Registrar in the city or county where the person resides.

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 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.

If Congress creates additional disqualifications, any person falling within such categories shall be deemed disqualified to serve on grand or petit juries in this Court. Only objective criteria may be used to determine whether any person has satisfied any qualification for jury service or whether a basis exists for exempting or excusing any person from jury service.

#### **SECTION 3.04 - AUTOMATIC EXEMPTIONS FROM JURY SERVICE**

Pursuant to 28 U.S.C. §§ 1863(b)(6) and 1869(i), the exemption of members of the following occupational classes or groups of persons is in the public interest, consistent with law, and shall be automatically granted:

1. Members in active service in the Armed Forces of the United States;
2. Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; and
3. Public officers, as defined by statute, in the executive, legislative and judicial branches of the Government of the United States, or of any State, the District of Columbia, any

territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

### **SECTION 3.05 - EXCUSES FROM JURY SERVICE UPON REQUEST**

Since jury service by the members of the following occupational classes or groups of persons may entail undue hardships, extreme inconvenience, or serious obstruction or delay in the fair and impartial administration of justice, the excuse of such members would be consistent with law, and may be granted if the individual requesting an excuse is:

1. A person over 70 years of age;
2. A person who has served as a grand or petit juror in any federal court within the preceding two years;
3. A person having active care and custody of a child or children under ten 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. A person whose services are so essential to the operation of a business, commercial or agricultural enterprise that it must close or cease to function if such person were required to perform jury service;
5. Volunteer safety personnel who serve without compensation as a firefighter, rescue squad member or ambulance crew of a public agency. "Public agency" for this purpose means any unit of federal, state or local government, or a department or instrumentality of any of the same. In accord with 28 U.S.C. § 1863(b)(5)(B), volunteer safety personnel as defined herein must be excused upon individual request; and
6. Correctional officers employed by State or Federal correctional facilities.

**SECTION FOUR  
QUALIFIED JURY WHEEL ESTABLISHMENT  
AND SUMMONING PROCEDURES**

**SECTION 4.01 - QUALIFIED JURY WHEELS**

The Qualified Jury Wheel for each Division consists of the names of all persons drawn at random from the Master Jury Wheel for that Division who are deemed to be qualified as jurors and not disqualified, exempt, or excused. New Qualified Jury Wheels must be used beginning October 1 of every odd-numbered year.

The Clerk must draw at random from the Qualified Jury Wheel of each Division such number of persons as may be required for assignments to grand and petit juries, which prospective jurors may be referred to as a panel. The Clerk shall prepare and mail a summons to every person whose name is drawn. Each panel will serve for a term of four months or for such other period of time as the Chief Judge determines. A particular panel may be added to from time to time as necessary by drawing additional names from the Qualified Jury Wheel, which additional persons shall serve during the term of that panel.

In addition to a district-wide grand jury that may convene in the Roanoke Division, grand juries may convene in the Abingdon, Charlottesville, Harrisonburg, and Roanoke Divisions. To create the grand jury that will meet in Abingdon, names will be drawn from the Qualified Jury Wheel for the Abingdon Division. To create the grand jury that will meet in Roanoke, names will be drawn from the three Qualified Jury Wheels for the Danville, Lynchburg, and Roanoke Divisions and must be in the same proportion to the total number of registered voters for each division. To create the grand jury that will meet in Charlottesville, names will be drawn from the

Qualified Jury Wheel for the Charlottesville Division. To create the grand jury that will meet in Harrisonburg, names will be drawn from the Qualified Jury Wheel for the Harrisonburg Division. To create a district-wide grand jury that may convene in Roanoke, names will be drawn from the six Qualified Jury Wheels and must be in the same proportion to the total number of registered voters for each of the divisions.

The Clerk shall randomly select from the appropriate panel the names of prospective petit and grand jurors and direct them to report on a particular date. The Clerk shall prepare and mail to every person so selected a Notice to Report for jury service. The Clerk is authorized to temporarily excuse or defer the services of the chosen prospective jurors if a reasonable excuse is given, such as a planned vacation, an important business meeting, or other similar event that would cause undue hardship or extreme inconvenience to the juror if required to report for jury service on a particular date or dates. Those jurors so excused or deferred must be subject to selection for service at another time during their tenure on the panel.

Any person who fails to appear as directed may be ordered by the Court to appear forthwith and show cause for the failure to appear.

#### **SECTION 4.02 - EXCLUSION OR EXCUSE FROM JURY SERVICE**

Except as provided herein, no person or class of persons shall be excluded or excused from service as jurors, provided that any person summoned for jury service may be:

1. Excused by the presiding judge or the Clerk upon a showing of undue hardship or extreme inconvenience;
2. Excluded by the presiding judge because such person may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings;

3. Excluded upon peremptory challenge as provided by law;
4. Excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown;
5. Excluded on determination by the presiding judge that service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of the jury deliberations, or
6. Excluded on determination by the presiding judge upon challenge by a party, or sua sponte, that such a person is unable, for cause other than physical infirmities, to fill out a Juror Qualification Form, or is otherwise not qualified for service pursuant to law.

Whenever a person is excused or excluded for causes set forth under clause 1, 2, 3, or 4 of this paragraph, he may be eligible to sit on another jury if the basis for his or her initial exclusion would not be relevant to his or her ability to serve on such other jury. Whenever a person is excused or excluded from jury service, the Clerk shall note the specific reason in the space provided on the Juror Qualification Form or on the electronic data processing system.

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 thirty days, except when necessary to complete service in a particular case, or to serve on more than one grand jury, or to serve as both a grand and petit juror.

**SECTION FIVE  
DISCLOSURE OF JURY RECORDS**

**SECTION 5.01 - DISCLOSURE OF INFORMATION AND JURY RECORDS RELATING TO THE JUROR QUALIFICATION AND SELECTION PROCESS**

Names and personal information concerning petit and grand jurors shall not be disclosed to the attorneys, parties, public or media, except as provided herein.

The name of the grand jury foreperson or vice-foreperson will not be disclosed on an indictment returned as a true bill presented for public filing. The page of the indictment bearing the original signature of the foreperson or vice-foreperson will not be disclosed to the public, or media, or other parties except upon written order of the Chief Judge.

Names and personal information concerning persons who have been entered into a jury wheel but who are not sitting or have not been summoned for a particular case or proceeding must not be disclosed, except upon written order of the Chief Judge or the presiding judge.

In accordance with 28 U.S.C. § 1867(f), the contents of records and papers used by the Clerk in connection with the juror qualification and selection process shall not be disclosed, except upon written order of the Chief Judge.

Names and personal information concerning petit jurors who are sitting or who have been summoned for a particular case or proceeding must not be disclosed to the public or media outside open court, except upon written order of the presiding judge. Any request for such 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 presiding judge where the interests of justice require. The names and personal information must be provided in written form only and must not be disclosed earlier than five business days prior to trial except as otherwise directed by the presiding judge.

Names and personal information concerning prospective grand jurors may be provided by the Clerk to the United States Attorney's office prior to the date of impanelment.

In accordance with 28 U.S.C. § 1868, the Clerk shall keep all records and papers relating to the juror qualification and selection process for four years following the emptying and refilling of the master jury wheels, or for such longer period of time as the Court may require.

Upon written request from any person attempting to determine the validity of the selection of any jury, the Court may order the Clerk to make such records available during normal business hours.

Nothing herein contained shall be construed as requiring the issuance or service of any summons other than for the first day of any specified period of service, which date may be continued.

This Plan shall become effective upon approval by the Reviewing Panel of the Judicial Council for the Fourth Circuit Court of Appeals, or at such time thereafter as the Panel shall direct.



Michael F. Urbanski  
Chief U.S. District Judge  
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CHIEF UNITED STATES DISTRICT JUDGE

Dated: September 8, 2023.