

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**AMENDED PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS
PURSUANT TO THE JURY SELECTION AND SERVICE ACT OF 1968, AS AMENDED**

In compliance with the provisions of the "Jury Selection and Service Act of 1968", Pub. L. 90—274, 28 U.S.C., SS 1861—1869, as amended by Pub. L. 92—269, 86 Stat. 117 (April 6, 1972), the Amended Plan for the Random Selection of Grand and Petit Jurors pursuant to the Jury Selection Act of 1968, as amended, (February 22, 1982), is hereby further amended as follows:

1. POLICY

It is the policy of the United States of America and 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 area comprised within the District of Puerto Rico, and that all citizens eighteen years of age or older shall have the opportunity to be considered for service on grand and petit juries in this Court, and shall have an obligation to serve as jurors when summoned for that purpose.

2. DISCRIMINATION PROHIBITED

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

3. SELECTION OF JURORS

Citizens to serve as grand or petit jurors in this Court shall be selected at random, in the manner hereinafter stipulated, from all registered voters for all the voting precincts of the Commonwealth of Puerto Rico that are comprised within the District of Puerto Rico.

4. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The Clerk of this Court, pursuant to 28 U.S.C. 1863(b) shall manage the jury selection process in strict compliance with the provisions of this Plan and shall at all times act under the supervision and control of the Chief Judge of this Court, or, in his or her absence, under the supervision and control of any other district judge designated by him or her.

5. SOURCE OF PROSPECTIVE JURORS

Names of prospective jurors to serve on grand and petit juries in this Court shall be selected only from the certified lists of registered voters maintained by the Electoral Commission of the Commonwealth of Puerto Rico for each of the voting precincts of the Commonwealth of Puerto Rico.

6. **QUALIFICATION TO SERVE**

A. Every person shall be deemed qualified to serve on grand and petit juries in this Court if he or she is a citizen of the United States, eighteen years of age or older, has resided for a period of one year within the judicial district of Puerto Rico, and is able to read, write, speak, and understand the English language with a degree of proficiency sufficient to satisfactorily complete the Juror Qualification Form and to render satisfactory jury service in this Court.

B. No person shall be qualified to serve on grand or petit juries of this Court if he is incapable, by reason of mental or physical infirmity, to render satisfactory jury service or has a charge pending against him or her for the commission, or has been convicted in any court of record, of a crime punishable by imprisonment for more than one year, and his or her civil rights have not been restored by pardon, amnesty or by any constitutional or statutory provision.

7. **EXCLUSION, EXCUSE OR EXEMPTION FROM JURY SERVICE**

Except as provided herein, no person or class of persons shall be disqualified, excluded, excused or exempt from service as juror:

Provided: That any person summoned for jury service may be:

A. Excused by the Court or by the Clerk of Court, under supervision of the Court, upon a showing of undue hardship or extreme inconvenience, for such a period as the Court or Clerk deem necessary, at the conclusion of which such person shall be summoned again for jury service, as provided under subsections (b) of Section 1866 of the Jury Selection and Service Act of 1968; or

B. Excluded by the Court on the ground that 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; or

C. Excluded upon peremptory challenge as provided by law; or

D. Excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or

E. Excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberations.

No person shall be excluded under subparagraph (E) above unless the Judge, in open court, determines that such is warranted and that exclusion of the person will not be inconsistent with Section 1861 and 1862 of the Jury Selection and Service Act of 1968.

8. **AUTOMATIC EXEMPTIONS FROM JURY SERVICE**

The Court finds that the exemption of the following groups of persons or occupational classes is in the public interest, consistent with law, and shall be barred from jury service:

- A. Members in active service in the Armed Forces of the United States.
- B. Members of the Fire or Police Department of the Commonwealth of Puerto Rico, or any federal or local law enforcement agency.
- C. Public officers in the executive, legislative, or judicial branches of the Government of the United States, or of the Commonwealth of Puerto Rico, or its political subdivisions, who are actively engaged in the performance of official duties, on a full time basis.

9. **EXCUSED FROM JURY SERVICE ON REQUEST**

A. The Court finds that jury service by members of the groups of persons or occupational classes hereinafter listed may entail undue hardship or extreme inconvenience to the members thereof, and that to excuse from jury service any such members would not be inconsistent with Section 1861 or 1862 of, the Jury Selection and Service Act of 1968. The following persons may be excused from jury service upon individual request therefor:

- 1. Persons seventy (70) years of age or older.
- 2. Ministers of the Gospel and members of a religious order of any denomination, actively so engaged, on a full time status.
- 3. Actively practicing attorneys, physicians, or dentists.
- 4. Teachers in private, parochial or public schools or colleges who are actively engaged in teaching, on a full time status.
- 5. Persons who have served as grand or petit jurors in the federal court during the past two (2) years.
- 6. Full-time students.
- 7. Person rendering professional nursing or medical services (including, but not limited to, registered or licensed nurses, student nurses, medical laboratory technicians, therapists and students of the medical laboratory sciences).

8. Person with custody and care of a child or children under ten (10) 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.

9. Volunteer safety personnel serving a public agency.

B. The distance from San Juan to the residence of prospective jurors, whether in miles or travel time, shall not constitute a valid excuse from jury service in this Court.

C. The Clerk of Court, or the Clerk's designee, has been delegated the authority to grant temporary excuses from jury service.

10. MASTER JURY WHEEL

A. The Clerk of Court shall maintain a Master Jury Wheel consisting of the names of all the persons randomly selected from the lists of registered voters for the Commonwealth of Puerto Rico. The number of names shall be a minimum of five tenth of one percent (0.5%) of the total of all names in the list. The Master Jury Wheel shall be emptied and refilled every four years between January 1 and September 30 of the year following the federal general election in accordance with the same procedure provided for in this Plan, except that the lists of registered voters to be used shall be those of the last general elections held in the Commonwealth of Puerto Rico.

B. To ensure that each of the voting precincts of the Commonwealth of Puerto Rico is substantially and proportionally represented in the Master Jury Wheel for this Court, and in order to obtain a fair cross-section of the community, the following procedure is hereby established, as follows:

1. Certificate of total number registered voters and certified lists of registered voters.

The Clerk of Court shall obtain from the Electoral Commission of the Commonwealth of Puerto Rico, a certification of the total number of registered voters for all voting precincts in the Commonwealth of Puerto Rico for the general elections held in Puerto Rico on November 2004, and every four (4) years thereafter. The Clerk of Court shall also obtain from the Electoral Commission certified lists of the names and addresses of the registered voters for all the voting precincts of the Commonwealth of Puerto Rico. Said lists shall be obtained electronically, at the Data Processing Center of the Electoral Commission.

2. Initial and Supplementary needs of names for the Master Jury Wheel.

The total number of names in the Master Jury wheel shall not be less than five tenth percent (0.5%) of the total number of voters in the most recent general election.

3. Determining a quotient for the selection of the names that will make up the initial and additional sets of names.

After obtaining from the Clerk of the Electoral Commission of the Commonwealth of Puerto Rico a certificate of the total number of registered voters for all voting precincts in Puerto Rico, the Clerk of Court will divide that number by the number of names needed for maintaining the Master Jury Wheel, as determined in paragraph (2) above. The result is referred to herein as 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 four years, it will need 20,000 names, and if there are a total of 2,200,000 on the consolidated list of registered voters, the "quotient" to be used would be $2,200,000/20,000$ or 110; therefore, the Clerk would take every 110th registered voter's name for the Master Jury Wheel.

4. Establishing a Starting Number

After determining the "quotient", the Clerk or designee shall establish a starting number. This number will identify the first name to be selected on the consolidated voters' registration list. The starting number will be drawn manually by lot from numbered cards placed in a jury drum or box. Cards used for this drawing shall begin with number one and end with the same number as the "quotient". 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 "quotient" number happens to be. As an example of how both starting number and quotient are used, if one assumes the quotient to be 110 and the starting number drawn turns out to be 14, the first name chosen would be the 14th name on the consolidated voters' registration list, the second name would be the 124th, the third, the 234th, etc., up to the end of the consolidated voters' registration list.

Once the names of the voters selected from the voters' registration list is inputted into the Jury Management System (JMS), the JMS will randomly select any number of names needed to pull from the master wheel to issue questionnaires.

5. Manual Selection

If selection from the consolidated voters' registration list and/or the list of selected registered voters has to be drawn 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" procedures described above.

6. Electronic Data Processing

The Judges of the Court find that electronic data processing methods can be advantageously used for selecting and copying names from the consolidated voters' registration lists of Puerto Rico and/or the list of selected registered voters. Therefore, barring unforeseen circumstances, a properly programmed electronic data processing system or a combination system employing both manual and electronic—machine methods shall be used to select names from said lists.

Upon using electronic—machine methods, or combination manual machine methods, the selection system shall be planned and programmed to achieve the same results as described above for a manual selection procedure. Where a machine does the selecting of names, it must be programmed first, to accept a specific instruction as to what the "starting number" and "quotient" procedures are to be used, and secondly, to perform a selection and retrieval of names precisely according to those procedures.

11. DRAWING OF NAMES FOR AND FROM THE MASTER JURY WHEEL

A. At the Clerk's option, and after consultation with the court, the selection of names from complete source list databases in electronic media 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. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each voting precinct within the Commonwealth of Puerto Rico is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. s 1863 (b)(3).

B. Any person who fails to return a completed Juror's Qualification Form within ten days, as instructed, may be summoned by the Clerk to appear before the Clerk to fill out such form. Any person who returns by mail an executed Juror's Qualification Form and is subsequently summoned for service on a grand or petit jury panel may, if necessary, be required by the Clerk to fill out another such form. Any person who fails to appear as directed, or who wilfully misrepresents a material fact on a Juror's Qualification Form for the purpose of avoiding or securing service as a juror, may be fined or penalized as provided under Section 1864 of the Jury Selection and Service Act of 1968.

C. The names drawn from the Master Jury Wheel shall not be disclosed to any person except when, at the request of any party or any citizen of the United States, the Court shall deem proper to so order.

12. CONTRACTING FOR ELECTRONIC WORK

Any and all work requiring data processing methods or techniques, as directed by this Plan, may be carried out by public or private enterprises under the direct control and supervision of the Clerk, provided that a proper agreement is entered into by the Court with the public or private enterprises in question.

13. QUALIFIED JURY WHEEL

A. The Clerk shall maintain a Qualified Jury Wheel and shall place in such wheel the names of all persons drawn from the Master Jury Wheel who are determined by the Court to be qualified as jurors and not exempted, excluded or excused pursuant to this Plan.

B. All those persons found to be qualified by the jury administrator at the time of the initial screening of the questionnaires, shall be summoned to serve as Jurors.

C. When the Court orders a grand or petit jury to be drawn, the Clerk or his or her duly designated deputies shall draw at random from the Qualified Jury Wheel such number of names of persons as may be required for assignment to grand or petit jury panels.

D. The Clerk or his or her duly designated deputies shall notify by letter for regular petit jury service using first-class mail or through a U.S. Marshal, on such petit jurors at their usual residence or place of business.

E. The Clerk or his or her designated deputies shall prepare an affidavit certifying the service of the notification letter or summons and shall file with such affidavit, the list of names drawn at random from the Qualified Jury Wheel.

F. Any person summoned for jury service who fails to appear as directed may be ordered by the Court to appear and show cause for his or her 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 or penalized as provided under Section 1864 of the Jury Selection and Service Act of 1968, as amended.

G. The names pertaining to the persons drawn for grand or petit jury panels may be made available to the parties involved in the judicial proceeding, their attorneys or the press, only after the end of the trial or the grand jury term. To request such information, the parties involved in the relevant judicial proceeding, their attorneys, or the press must file a motion with the Judicial Officer presiding over the relevant case, or with the Jury Judge in case of a grand jury proceeding. The Clerk of Court, or the Clerk designee, will release the names of the jurors to the moving party only after the motion filed has been granted by the Judicial Officer involved. However, the Judicial Officer may keep the names of jurors confidential in any case where the interest of justice so require.

14. COURT


The use of the word "Court" in this Plan contemplates any Judge of this Court. The "Clerk" and the "Clerk of the Court" shall mean the Clerk of this Court or any authorized deputy clerk or any other person authorized by the Court to assist the Clerk in the performance of functions under this plan.

15. EFFECTIVENESS

The provisions of this Plan shall be effective immediately after its approval by the reviewing panel designated pursuant to Section 1863 of the Jury Selection and Service Act of 1968, as amended, and subject to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

THE FOREGOING AMENDED PLAN WAS APPROVED AND ADOPTED BY THE ACTIVE JUDGES OF THIS COURT ON OCTOBER 25, 2005.

FOR THE COURT



JOSE ANTONIO RUSTE
CHIEF U.S. DISTRICT JUDGE

THE FOREGOING AMENDED PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS WAS APPROVED BY A REVIEWING PANEL COMPRISED OF MEMBERS OF THE JUDICIAL COUNCIL OF THE CIRCUIT AND THE CHIEF JUDGE FOR THE DISTRICT OF PUERTO RICO, AS OF THE DAY OF *9th February 2005, 6*



GARY H. WENTE, Circuit Executive
Secretary of the Judicial Council