

DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISIONS OF ST. CROIX, AND ST. THOMAS AND ST. JOHN




# JUROR SELECTION PLAN

Revised: February 20, 2019


## CERTIFICATE OF APPROVAL

This is to certify that, in accordance with 28 U.S.C. § 1863(a) the foregoing plan 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 Third Circuit of the United States and the Chief Judge of the District to which the plan is applicable.

This 2<sup>nd</sup> day of April, 2019.

  
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Honorable D. Brooks Smith  
Chief Judge  
U.S. Court of Appeals for the Third Circuit

This is to certify that, in accordance with 28 U.S.C. § 1863(a), a true copy of the foregoing plan was filed with the Administrative Office of the U.S. Courts, Washington, D.C., 20544.

  
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Honorable Wilma A. Lewis  
Chief Judge  
District Court of the Virgin Islands

**DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISIONS OF ST. CROIX, AND ST. THOMAS AND ST. JOHN**

**JUROR SELECTION PLAN**

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**DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISIONS OF ST. CROIX, AND ST. THOMAS AND ST. JOHN**

**A. DEFINITIONS**

1. As used in this plan, the word “divisions” shall mean the divisions established in the section herein captioned “Applicability of Plan”.
2. The words used in this plan which are defined in 28 U.S.C §§ 1861-1878 of the Jury Selection and Service Act (Jury Act), as amended, shall have the meaning therein specified.
3. Whenever the phrase “voter list(s) or “list of voters” is used in this Plan, it shall be intended to mean names obtained from the official registration lists as provided by the Supervisor of the Election System of the Virgin Islands.
4. Whenever the phrases “MVB” or “registered motor vehicle operators” are used in this Plan, it shall be intended to mean names obtained from the Virgin Islands Motor Vehicle Bureau, as provided by the Director of that bureau.
5. Whenever used in this Plan, the term "Chief Judge of the Court" or "Court" shall mean the Chief Judge of the District Court or, in his/her absence, any other District Court Judge.
6. Whenever used in this Plan, the terms "Clerk" and "Clerk of Court" shall mean the Clerk of the District Court, any authorized Deputy Clerk, or any other person authorized by the Court to assist the Clerk in performance of the functions under this Plan.
7. Whenever used in this Plan, the term "publicly draw" shall have the meaning prescribed by 28 U.S.C. § 1869(k).
8. "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.
9. Whenever the phrase “JMS” is used in this Plan, it shall be intended to mean Jury Management System.

**B. APPLICABILITY OF THE PLAN**

The provisions of the Revised Plan of the District Court apply to each of the judicial divisions of the territory, namely, the Division of St. Croix and the Division of St. Thomas and St. John.

**C. DECLARATION OF POLICY**

It is the policy of the United States that all litigants in the District Court, who are entitled to trial by jury shall have the right to juries selected at random from a fair cross section of the community in the judicial 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 juries in the District Court and shall have an obligation to serve as jurors when summoned for that purpose. No citizen shall be excluded from service as a grand or petit juror in the District Court on account of race, color, religion, sex, national origin or economic status.

D. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

This Plan shall be managed by the Clerk of Court under the supervision and control of the Chief Judge.

The Court finds that electronic data processing methods through a properly programmed electronic data processing system, may, at the Clerk's option after consultation with the Chief Judge, be used to select names for inclusion in source lists, eliminate duplicated names, select master wheel names, select names of persons to be sent questionnaires, select names of persons in the qualified wheel to be summoned, and perform other clerical and record-keeping functions. In those circumstances where independent vendors or agencies are utilized, they shall provide to the court an affidavit or similar certification that the work assigned has been completed pursuant to the detailed instructions provided by the court.

In the event of computer malfunction or any overt and/or obvious deviation from this Plan caused by an automated process, the Clerk, with the approval of the Chief Judge, shall manually, or by alternative electronic methods, proceed from the last step correctly implemented.

E. METHOD AND MANNER OF RANDOM SELECTION

The District Court finds that general election voter registration lists and the Virgin Islands Motor Vehicle Bureau (MVB) lists of licensed motor vehicle operators represent a fair cross section of the community in the territory and in each of its judicial divisions. The selection of names from the voter registration and the MVB lists from each Judicial Division within the federal district for the master jury wheels may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, 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 creating a qualified wheel comprised of persons who have been determined to be qualified for jury service. Such a properly programmed electronic data processing system may also be used to select names from the qualified wheel for the purpose of summoning persons to serve as grand or petit jurors. Such random selections of names from the source lists for inclusion in the master wheel by data computer personnel must ensure that each district within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. Section 1863(b)(3) (Jury Act). The selections 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 Court finds that the Jury Management System (JMS), provided and supported by the Administrative Office of the U.S. Courts, is a properly programmed electronic data processing system for pure randomized selection, which shall be used to select names from the master and qualified wheels of persons to be summoned to serve as grand or petit jurors.

F. MASTER JURY WHEELS

The names and addresses of all persons randomly selected from the lists of registered voters and registered motor vehicle operators of a Judicial Division shall be placed in the master jury wheel for that division. Refilling of the master jury wheel shall be done pursuant to a Court order. The Clerk shall maintain two (2) separate jury wheels; one for the Division of St. Croix and the other for the Division of St. Thomas and St. John. Both wheels shall be maintained in electronic format within the District, with backup media stored off-site. Pursuant to Section 1863(b)(4) of the Jury Act, the minimum number of names to be placed initially in the master jury wheel, shall be no less than eight thousand (8,000) names from the total number of active registered voters and registered motor vehicle operators list. The Chief Judge of the District Court may order additional names to be placed in the master jury wheel for a judicial division from time to time as necessary and in accordance with the formula herein above described. The master jury wheel shall be emptied and refilled biannually by September 1<sup>st</sup> following each general election, or more frequently to maintain a current database of official registered voters and registered motor vehicle operators.

The physical form of the master jury wheel may include a properly programmed electronic data processing system. The Clerk may utilize electronic data processing technology to perform the selection procedures set forth in this plan.

G. DRAWING NAMES FROM THE MASTER JURY WHEELS AND COMPLETION OF JUROR QUALIFICATION FORMS

The Clerk shall determine the number of prospective jurors required for qualification to fill the qualified jury wheel at each seat of Court and shall utilize JMS to select at random that number of names from among all the names in the master jury wheels. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror demand by the Court plus a margin of extra names sufficient to compensate for the estimated number that may turn out to be unavailable or ineligible.

The Clerk shall have prepared an alphabetized list of names drawn. These lists shall not be exhibited to any person except as provided herein and in Sections 1867 and 1868 of the Jury Act, as amended. The Clerk shall prepare and mail to every person whose name is so drawn, a juror qualification questionnaire form, as prescribed by the Director of the Administrative Office of the U.S. Courts, accompanied by instructions to execute and return the questionnaire, duly signed and sworn to, either by mail or through the court's internet website within ten (10) days, in accordance with Section 1864(a) of the Jury Act, as amended.

Any person who fails to return a completed juror qualification form as instructed may be summoned forthwith to appear to complete a juror qualification form. If any person is unable to complete the form, another person may complete the form on their behalf and indicate that he or she has done so and the reason therefor. If there appears to be an omission, ambiguity, or error on the form, the Clerk shall return the form with instructions to make corrections as necessary within ten (10) days. If a person fails to return a completed questionnaire as instructed and did not appear in response to a summons to complete a questionnaire, the Clerk may thereupon pursue the matter in accordance with the provision of Section 1864 of the Jury Act, as amended.

## H. JURY SERVICE

The Chief Judge or a District Judge, upon recommendation of the Clerk, shall determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is unqualified for, or exempt, or is to be excused from jury service. The Clerk shall enter such determination in the space provided on the juror qualification questionnaire or on the juror record in the JMS database and the alphabetical list of names drawn from the Master Jury Wheel.

### 1. QUALIFICATION

- a) Any person shall be deemed qualified to serve on grand and petit juries in this District unless the person:
  - (1) is not a citizen of the United States, eighteen years or older, who has resided for a period of one year within this district;
  - (2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the qualification questionnaire;
  - (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 (1) year and his/her civil rights have not been restored.
- b) Prospective jurors who are found to be ineligible may not serve even if they indicate a desire to do so.

### 2. EXCUSES ON INDIVIDUAL REQUEST

- a) The Court finds that pursuant to 28 U.S.C. § 1863(b)(5) (Jury Act), jury service by members of the following occupational classes or groups of persons may entail undue hardship or extreme inconvenience to the members thereof and the excuse of such members at the discretion of the Judge will not be inconsistent with the policy stated in this plan and may be granted upon individual written request:
  - (1) persons over seventy years of age;
  - (2) persons who have served on a federal grand or petit panel; within the past two years pursuant to [28 U.S.C. § 1866\(e\)](#);
  - (3) persons having active care and custody 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;

- (4) any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that this enterprise must close if such person were required to perform jury duty;
  - (5) persons in professional categories and occupations, such as doctors and lawyers.
- b) “Volunteer safety personnel” who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a “public agency,” must be provided an automatic excuse from jury service on individual request. [28 U.S.C. § 1863\(b\)\(5\)\(B\)](#).
  - c) Any person summoned for jury service may be excused by the Court, or by the Clerk under supervision of the Court, upon a showing of undue hardship or extreme inconvenience, for such period as the Court deems necessary. The period for which such prospective juror may be excused shall be fixed in an order granting the excuse. At the expiration of the period so fixed, (1) such persons shall be summoned again for jury service within a reasonable time, or (2) the names of such persons shall be reinserted into the qualified jury wheel for selection.

### 3. EXEMPTION FROM JURY SERVICE

- a) The Jury Act, at [28 U.S.C. § 1863\(b\)\(6\)](#), provides that the following persons are exempt, and therefore barred, from jury service:
  - (1) members in active service in the Armed Forces of the United States, defined in [10 U.S.C. § 101\(a\)\(4\)](#) as including only the Army, Navy, Air Force, Marine Corps, and Coast Guard;
  - (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;
  - (3) "Public officers" — i.e., persons either elected to public office or directly appointed by a person elected to public office — in the executive, legislative, or 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;
- b) As a result of the Judicial Improvements and Access to Justice Act of 1988, courts can no longer exempt other classes of persons from jury service except those listed above. Prospective jurors who are found to be exempt are barred from jury service and may not serve even if they indicate a desire to do so.



I. FREQUENCY AND TERM OF SERVICE

In any two-year period, no person shall be required to (1) serve or attend court for prospective service as a petit juror for a total of more than thirty (30) days, 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. A record shall be kept of each juror's service.

J. SELECTION OF PANELS

Whenever it is determined by the Court that a new panel of jurors will be required for a Judicial Division, the Chief Judge, or his/her designee, shall issue an order to the Clerk of Court directing him/her to draw such a panel of jurors specifying in the order the numbers of jurors to be drawn. Upon receipt of such an order, the Clerk shall use JMS to select from the qualified wheel of the division the number of persons required for assignment to the panel. The Clerk shall prepare a separate list of names of persons assigned to each jury panel. The names of the persons assigned to the panel shall not be made public until they have been summoned and have appeared at the courthouse. However, Judges of the District Court may order the names to be kept confidential in any case where the interest of justice so require.

K. SUMMONING JURORS

When a Judge of the court orders a grand or petit jury to be drawn, the Clerk of Court shall issue summonses which may be served personally or by first-class mail or by registered or certified mail addressed to such person at his/her usual residence or business address. Personal service shall be made by the U.S. Marshal. Service by first-class mail shall be made by the Clerk of Court who shall attach the addressee's return receipt for the summons when service is made by registered or certified mail.

Any person summoned for jury service who fails to appear as directed may be ordered by the District Court to appear forthwith and show cause for his/her failure to comply with the summons. Any person who fails to show good cause for non-compliance with a summons may be fined not more than \$1,000.00, or imprisoned not more than three (3) days, ordered to perform community service, or any combination thereof.

L. ADDITIONAL JURORS

Pursuant to 28 U.S.C. Section 1866(f) (Jury Act), when there is an unanticipated shortage of available petit jurors for the trial of any case, the Court may order the Clerk to summon additional jurors on short notice to fill the required emergency needs of the Court. The Clerk shall use JMS to select the names of jurors from the qualified jury wheel. The Clerk shall prepare a separate list of the names of persons assigned to each jury panel.

The names, addresses and telephone numbers of those jurors who have indicated their availability on short notice shall be placed on a prepared list and assigned numbers. The names of those jurors who were not contacted or who indicated their unavailability on short notice shall be replaced in the qualified jury wheel.

M. PUBLIC RELEASE OF JUROR INFORMATION

1. Disclosure of Juror's Names: A request for public disclosure of the names of petit jurors shall be made in writing to the Judge to whom the case is assigned. The Clerk shall not publicly release the names of petit jury venire persons or jurors unless specifically ordered to do so by the assigned Judge. If the assigned Judge is not available, the request shall be referred to the Magistrate Judge, the Chief Judge or the next Judge in seniority order, for determination. The restriction on disclosure of jurors' names does not apply to disclosure occurring in open court during voir dire proceedings.
2. Any request for juror information related to challenging compliance with selection procedures shall be in accordance with 28 U.S.C. Section 1867, 1868 (Jury Act).
3. Names drawn from the qualified jury wheel for grand jury shall not be made public.
4. The Clerk of Court shall provide public access to this Juror Selection Plan, including the Plan's verbatim description of the method used in determining the method and manner of random selection.

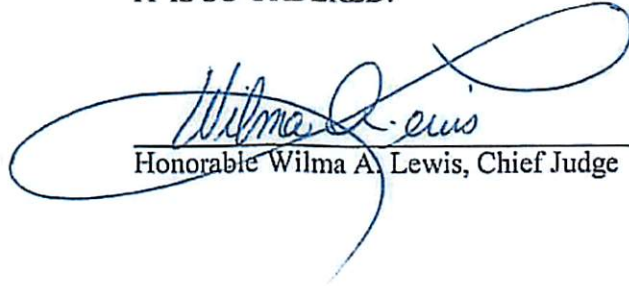
As an integral portion of this plan, there is incorporated herein by reference the provisions of 28 U.S.C. Sections 1861 and 1874, as amended, and all amendments of said sections which may hereafter be made, and all laws hereafter enacted relating to jury and trial by jury in the United States.

**DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISIONS OF ST. CROIX, AND ST. THOMAS AND ST. JOHN**

JUROR SELECTION PLAN

Pursuant to the Jury Selection and Service Act of 1968, as amended, (28 U.S.C. 1861, *et seq.*), the following plan is hereby adopted by this Court subject to approval by the reviewing panel for the Third Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

IT IS SO ORDERED.

  
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Honorable Wilma A. Lewis, Chief Judge