DOCKETED

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

MAR 04 2009

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY AB DEPUTY

IN RE: RANDOM SELECTION OF GRAND AND PETIT JURORS	))	G.O. 09-02

GENERAL ORDER REGARDING RANDOM
SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, Title 28 U.S.C. § 1861, et seq., as amended, the following Plan is hereby adopted by this Court.

(A) The Court has considered parts of the district from which jurors should be selected for the places where Court is held, and finds that a designation of counties from which jurors will be drawn for each place of holding court will result in impartial trials and at the same time avoid incurring unnecessary expense and unduly burdening citizens in any part of the district with jury service. For this purpose there shall be four divisions as follows:

(1) Oklahoma City, Guthrie, Chickasha, Pauls Valley and Shawnee Division: Blaine, Canadian, Cleveland, Garvin, Grady, Kingfisher, Lincoln, Logan, McClain, Oklahoma and Pottawatomie Counties.

(2) Enid and Ponca City Division: Alfalfa, Garfield, Grant, Kay, Noble and Payne Counties.

(3) Lawton and Mangum Division: Beckham, Caddo, Comanche, Cotton, Greer, Harmon, Jackson, Jefferson, Kiowa, Stephens, Tillman and Washita Counties.

(4) Woodward Division: Beaver, Cimarron, Custer, Dewey, Ellis, Harper, Major, Roger Mills, Texas, Woods and Woodward Counties.

(B) This Plan shall apply separately to each place of holding court designated herein, except that Oklahoma City, Guthrie, Chickasha, Pauls Valley and Shawnee shall have the same jury

wheel; Enid and Ponca City shall have a jury wheel; Lawton and Mangum shall have a jury wheel; and Woodward a jury wheel.

(C) The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge or in the absence of the Chief Judge, any other judge of the district court. The Clerk may be assisted in the performance of functions under this Plan by any other person authorized by the Court.

(D) Voter registration lists represent a fair cross section of the community in the Western District of Oklahoma. Accordingly, names of grand and petit jurors shall be selected at random from the voter registration lists of all counties within the district. The Court has determined that electronic data processing methods can be advantageously used for managing this plan. Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may be used to select master wheel names, select names of persons to be sent questionnaires, select names of persons to be summoned, and to perform other clerical and record keeping functions as determined by the Clerk. Non-court personnel are authorized to assist the Clerk with electronic data processing to comply with the random selection of prospective jurors.

(E) The Clerk shall maintain a Master Jury Wheel for each of the four divisions for holding court. The names of all persons randomly selected from the voter registration lists of the counties in each division shall be placed in the Master Jury Wheel for that division. The minimum number of names placed initially in the Master Jury Wheels shall be as follows:

(1) Oklahoma City, Guthrie, Shawnee, Chickasha and Pauls Valley Division: Forty Thousand (40,000) names.

(2) Enid-Ponca City Division: One Thousand (1,000) names.

(3) Lawton-Mangum Division: Two Thousand (2,000) names.

(4) Woodward Division: One Thousand (1,000) names.

(F) Any judge of this district may order additional names to be placed in the Master Jury Wheels from time to time when necessary. The Master Jury Wheels shall be filled not later than March 31, 2009, and emptied and refilled between November 15, 2012, and March 31, 2013, and every fourth year thereafter. If for any reason approved by one of the judges of the district, the Master Jury Wheels are not emptied and refilled within the time as herein provided, the current Master Jury Wheels shall continue to serve until they are properly refilled.

The Clerk, after refilling the Master Jury Wheels, shall issue to the operator of the properly programmed electronic data processing system instructions describing the operations to be performed by the computer equipment as follows: (1) Prepare an alphabetical list of all the names from each Master Jury Wheel for transmission to the Clerk, which list shall not be disclosed to any person except by order of the Court. (2) Furnish to the Clerk an electronic copy of each Master Jury Wheel. This copy is to be in standard ASCII format and transmitted via e-mail or on compact disk.

(G) On or before March 31, 2009, and each succeeding thirty-first day of March thereafter, a juror qualification form shall be mailed by the Clerk's Office to one out of every four individuals listed on the Master Jury Wheel. The selection of the names of individuals to receive the qualification form will be made either manually or electronically. If done electronically, 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. The selection of names from the master wheel and the qualified wheel must also ensure that the mathematical odds of any single name being picked are substantially equal. The qualification forms shall be mailed in the following manner:

2009 - One fourth of all names in the Master Jury Wheel through purely random selection by a properly programmed electronic data processing system,

2010 - To one third of all remaining names in the Master Jury Wheel through purely random selection by a properly programmed electronic data processing system,

2011 - To one half of all remaining names in the Master Jury Wheel through purely random selection by a properly programmed electronic data processing system,

2012 - All remaining names listed on the Master Jury Wheel.

(H) The mailing of the jury qualification forms shall be accomplished with instructions to fill out and return the form, duly signed and sworn, to the Clerk by mail within ten days in order to elicit necessary information as to prospective jurors' qualifications for jury service. If it appears that there is an omission, ambiguity or error in a filled out and returned qualification form, the Clerk may return the form with instructions to the person to make such additions and corrections as may be necessary and to return the form to the Clerk within ten days.

(I) The Clerk shall maintain a qualified jury wheel which incorporates juror information for each division within the district. This qualified jury wheel shall list those jurors not disqualified or exempt pursuant to the Plan. The Clerk shall ensure that at all times an adequate number of names are contained in each such jury wheel. The clerk may maintain any or all of the qualified wheels through use of either an electronic system or through use of manual methods. Whenever a qualified wheel is maintained on an electronic system, the selection of names shall be in accordance with a purely randomized process.

(J) At the direction of any active judge of this district, the Clerk shall draw at random from a divisional qualified jury wheel, either manually or by use of a properly programmed electronic data processing system, as many names of persons as may be required for assignment to grand and petit jury panels. Whenever a divisional qualified jury wheel is maintained on an electronic data processing system, names to be drawn from said wheel shall be selected by using the purely random process.

(K) When the Court orders a grand or petit jury to be drawn, the Clerk shall issue summons for the required number of jurors. Persons drawn for jury service may, in accordance with Title 28 U.S.C. § 1866, be served by First Class Mail addressed to such persons at their usual residence or business address. Grand jurors shall be drawn proportionately from each of the four divisions in the qualified jury wheel as ordered by the Court by a purely randomized process through a properly programmed electronic data processing system. The selections of names from the source list, the master wheel, and the qualified wheel must insure that the mathematical odds of any single name being picked are substantially equal.

(L) Until they have been qualified in open court, the names of persons summoned for grand or petit jury service shall not be made public unless a judge of this Court shall otherwise direct.

(M) The contents of records or papers used by the Clerk in connection with the jury selection process shall not be disclosed except upon order of the court as may be necessary in the preparation or presentation of a motion challenging compliance with the selection procedures of the district court Plan. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such motion. Any person who discloses the contents of any record or paper shall be subject to penalty as provided in the Jury Selection and Service act of 1968 as amended. Names of grand jurors shall not be disclosed

except upon special order of the Court. Court hearings on motions to quash, subpoenas, motions for protective orders, or other contested matters affecting grand jury proceedings prior to the indictment stage shall be closed to the public and the press.

(N) When there is an unanticipated shortage of available petit jurors drawn and summoned from the qualified jury wheel, the Court may require the Marshal to summon a sufficient number of petit jurors selected at random from available citizens listed on voter registration lists in the manner ordered by the Court who are by the Court found to be qualified.

(O) The names of persons drawn for use in trials of civil and criminal actions shall be drawn at random and will make up the trial panel. The Clerk or deputy clerk may utilize a purely randomized electronic data processing system to select names of jurors for each panel. The names of persons drawn for the trial of a case who may be excused or not used for any reason shall be placed back in the electronic data processing system. Names of a trial panel after it has completed the trial of a case may be placed back in the electronic data processing system if deemed necessary. This procedure is to be repeated for each subsequent case tried at each session of Court.

(P) The judges of this Court deem any person to be qualified to serve on grand and petit juries in this district unless he or she:

(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.

(Q) The judges find it to be in the public interest and not inconsistent with the Jury Selection and Service Act of 1968 to exempt from jury duty the following:

(1) Members in active service in the Armed Forces of the United States.

(2) Members of the fire or police department 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 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 elected to public office.

(R) The district court hereby finds that excuse from jury service by members of the following groups of persons will not be inconsistent with the Act, and <u>shall be granted upon individual request</u>.

(1) Persons over 70 years of age.

(2) Persons who have, within the past two years, served on a federal grand or petit jury.

(3) Persons in charge of minor children or providing care for an infirm individual.

(4) Volunteer safety personnel who serve without compensation as firefighters, or members of a rescue squad or ambulance crew for a public agency.

(S) In making the determination of whether a particular person falls within the category of those disqualified, exempt or entitled to be excused from serving, the judge who is qualifying a

jury panel is vested with complete authority to make a final decision with respect thereto. In making such determination, he shall be governed by all pertinent information before him, including, but not limited to, information contained in the juror qualification form, sworn testimony, public records, letters and communications received by the judge from the prospective juror persons acting on behalf of such prospective juror, and any other competent evidence.

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, or the name of such person may be reinserted into the qualified jury wheel for selection pursuant to 28 U.S.C. § 1866.

This Order supersedes General Order 00-03 filed August 3, 2000.

DATED this 4th day of March, 2009.

VICKI MILES-LaGRANGE, CHIEF
UNITED STATES DISTRICT JUDGE

DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

ROBIN J. CAUTHRON
UNITED STATES DISTRICT JUDGE

STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

JOE HEATON
UNITED STATES DISTRICT JUDGE

TIMOTHY D. DeGIUSTI
UNITED STATES DISTRICT JUDGE