

Administrative Office of the District Courts
Harris County, Texas

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June 12, 2018

Honorable Commissioners Court
1001 Preston
Houston, Texas 77002

Vote of the Court:

	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Morman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Re: Recommended Adoption of 2018 Harris County Jury Plan

Commissioners:

Our projections of present juror usage indicate that we will exhaust the available jurors under our existing Harris County Jury Plan by September 18, 2018.

To constitute a new jury wheel that passes constitutional and statutory muster, the Texas Government Code requires the District Clerk to obtain and integrate the current Harris County Voter Registration database, and the Department of Public Safety's database listing Harris County drivers' license holders and valid DPS personal identification card or certificate holders as the source for our jurors. See TEX. GOV'T CODE ANN. §§ 62.001; 62.011. Accordingly, to ensure an uninterrupted supply of jurors for the courts of Harris County, adoption of a new Jury Selection Plan is imperative.

On June 12, 2018, the Harris County Board of District Judges adopted the attached Jury Selection Plan and recommends the plan to the Commissioners Court of Harris County for adoption.

Respectfully submitted,



Clay Bowman

Com. Ct. Agenda 6/26/18

Presented to Commissioners' Court

JUN 26 2018

APPROVE clm

Recorded Vol. _____ Page _____

HARRIS COUNTY
BUDGET MANAGEMENT
DEPARTMENT
18 JUN 13 PM 3:45



HARRIS COUNTY JURY SELECTION PLAN

A majority of the Judges of the District Courts of Harris County, Texas recommend that the Commissioners Court of Harris County, Texas adopt the following Jury Selection Plan ("the Plan") under Section 62.011 of the Texas Government Code:

I. THE JURY COMMITTEE

- A. The Jury Committee is a committee of the Harris County Board of District Judges. The Jury Committee reports to the Harris County Board of District Judges on matters concerning the summoning, selection, and control of juries. The Jury Committee also reports to the Harris County Board of District Judges on matters that the Board of District Judges or the Local Administrative Judge of the Harris County District Courts refer to the Committee.
- B. **Chair of the Jury Committee ("Chair")**. The Local Administrative Judge of the Harris County District Courts must appoint one or more district judges to be the Chair or Co-Chairs of the Jury Committee. The Chair is responsible for managing and setting policy for the Harris County Jury System.
- C. **Members of the Jury Committee**. The Local Administrative Judge of the Harris County District Courts selects the members of the Jury Committee. See TEX. GOV'T CODE §74.092.

II. HARRIS COUNTY DISTRICT CLERK

- A. **Official in Charge of the Jury-Selection Process**. The Harris County District Clerk ("District Clerk") is designated as the official in charge of the jury-selection process
- B. **Duties to Electronically Automate the Jury-Selection Process**. The District Clerk must:
 - 1. Deputize a clerk skilled in computer science;
 - 2. Automate the jury selection and recordation tasks set forth in this plan;
 - 3. Direct and maintain the program or programs necessary for the automation of tasks required under this plan;

4. Electronically save the dataset upon receipt of the datasets from the Secretary of State; and
5. Electronically save the subsequent copies of the datasets after completion of each step of the process set forth below.

III. COLLECTING PROSPECTIVE JUROR NAMES

A. **Sources.** The names for the list of prospective jurors for Harris County must come from:

1. The names of all persons on the current voter registration lists from all Harris County voting precincts; and
2. The names on a current list to be furnished by the Department of Public Safety ("DPS"), showing all the citizens of Harris County who hold a valid Texas driver's license or a valid personal identification card or certificate issued by DPS.

B. **Exclusions.** The list of prospective jurors must exclude individuals who are:

1. Disqualified from jury service, including those who are disqualified from jury service under Section 62.102(1), (2), or (7) of the Texas Government Code; or
2. Permanently exempt from jury service as provided by Sections 62.108 and 62.109 of the Texas Government Code. *See* TEX. GOV'T CODE §§ 62.001 & 62.011.

IV. SUBSEQUENT REMOVAL OF JUROR NAMES

A. At any stage of this Plan, the Voter Registrar of Harris County ("Registrar"), DPS, the Secretary of the State of Texas, or the District Clerk may remove duplications of any citizen's name or the name of any citizen who is disqualified from jury service, including, but not limited to, persons convicted of felony offenses or aliens.

V. ANNUAL VOTER REGISTRATION LIST

A. **The Registrar's Duty to Prepare the Annual Voter Registration List.**

1. Each year, the Registrar must furnish to the Secretary of State a current voter registration list from all the voting precincts in Harris County ("Annual Voter Registration List"). *See* TEX. ELEC. CODE §16.032.
2. The Registrar must furnish the Annual Voter Registration List to the Secretary of State on or before the third Tuesday in November or the

date provided by statute for the cancellation of voter registrations, whichever is earlier. *See* TEX. ELEC. CODE § 16.032.

B. Required Data. The Annual Voter Registration List must include:

1. The complete name, mailing address, date of birth, voter registration number, and precinct number for each voter;
2. If available, the Texas driver's license number (or personal identification card or certificate number) and social security number for each voter; and
3. Any other information included on the Harris County voter registration list.

C. Exclusions from the Annual Voter Registration List.

1. The Registrar may exclude from the Annual Voter Registration List the names of persons on the suspense list maintained under Section 15.081 of the Texas Election Code.
2. The Registrar must exclude from the Annual Voter Registration List:
 - a. convicted felons,
 - b. those permanently exempt from jury service,
 - c. those prohibited by law from serving as jurors, and
 - d. those who are legally exempt from jury service. *See* TEX. GOV'T CODE §§ 62.108, 62.109.

D. At the same time the Registrar sends the Secretary of State the Annual Voter Registration List, the Registrar must also send the Secretary of State a list of the names of persons that the Registrar excluded from the list.

VI. ANNUAL DRIVERS' LICENSE LIST

A. DPS's Duty to Prepare the Annual Drivers' License List.

1. Each year, DPS must furnish to the Secretary of State a current list of citizens of Harris County who hold a valid Texas driver's license or a valid personal identification card or certificate issued by DPS ("Annual Drivers' License List").
2. DPS must furnish the Annual Drivers' License List on or before the first Monday in October of each year.

- B. Required Data.** The Annual Drivers' License List must include the names of persons who:
1. Hold a valid Texas driver's license or a valid personal identification card or certificate issued by the department; and
 2. Are not disqualified from jury service under Section 62.102(1), (2), or (7) of the Texas Government Code.
- C. Optional Data.** The Annual Drivers' License List may also contain any of the following information for each person:
1. The person's complete name, mailing address, date of birth, voter registration number, and precinct number;
 2. The person's Texas driver's license number;
 3. The person's personal identification card or certificate number;
 4. The person's social security number; or
 5. Any other information included on the voter registration list of the county, including citizenship status and county of residence.
- D. Exclusions from the Annual Drivers' License List.** DPS must exclude from the Annual Drivers' License List the names of:
1. Convicted felons,
 2. Persons who are not citizens of the United States,
 3. Persons residing outside of Harris County, and
 4. Duplicate names. *See* TEX. GOV'T CODE § 62.001.

VII. THE JURY LIST

- A.** The Secretary of State must accept the Annual Voter Registration List from the Registrar and the Annual Drivers' License List from DPS.
- B.** The District Clerk must give the Secretary of State notice that Harris County needs a new Jury List no later than 90 days before the date the District Clerk needs the new list.
- C.** On or before December 31 of each year (or as otherwise required by Harris County under this Plan) the Secretary of State must combine the Annual Voter Registration List and the Annual Drivers' License List, eliminate duplicate names, and send the combined list (the "Jury List") to the District Clerk. *See* TEX. GOV'T CODE § 62.011.

- D. The Secretary of State must furnish the Jury List to the District Clerk in the format requested by the District Clerk.
- E. The Secretary of State must certify that the Jury List eliminates duplications and contains the names required by Section 62.011(e) through (f) of the Texas Government Code. *See* TEX. GOV'T CODE § 62.001.
- F. The Secretary of State must furnish the list to the District Clerk free of charge.
- G. **Acceptance of the Jury List.** The District Clerk of Harris County must accept the Jury List from the Secretary of State when it is delivered.
- H. **Maintaining the Jury List.** The District Clerk must protect the Jury List from further writing and must keep it securely stored electronically within his or her custody and control.
- I. **Removing Names of Jurors Who Appear for Jury Service.**
 - 1. The District Clerk must remove from the Jury List the names of persons who are summoned for jury service in Harris County and who appear for service.
 - 2. The District Clerk cannot include on the Jury List the names of persons removed under this provision until the third anniversary of the date the person appeared for service or until the next date the jury list is reconstituted, whichever date occurs earlier. This subsection applies regardless of whether the person served on a jury as a result of the summons. *See* TEX. GOV'T CODE §62.001(j).

VIII. PROSPECTIVE JUROR DATASET

- A. The District Clerk must randomize the names on the Jury List and record the randomized names on another list (the "Prospective Juror Dataset") in a format determined by the District Clerk that will facilitate updating the Jury List.
- B. **Time Period.** The District Clerk must use the Prospective Juror Dataset to supply jurors for the period of time:
 - 1. Beginning on or about **September 17, 2018**, and concurrent with substantial exhaustion of the prior Prospective Juror Dataset, which commenced on **February 1, 2015**, and
 - 2. Continuing until the Prospective Juror Dataset created under this Plan has been substantially exhausted.
- C. **Duplicates.** The District Clerk must create at least two (2) duplicates of the Prospective Juror Dataset. The District Clerk must identify the datasets

containing the original and duplicate Prospective Juror Datasets by a unique marking and must certify these datasets for use in the jury selection program.

1. The Chair may order that the Deputy District Clerk to whom the District Clerk has assigned the responsibility of sorting from the Prospective Juror Dataset a list for jury service retain one copy of the Prospective Juror Dataset.
2. The District Clerk must keep the second copy of the Prospective Juror Dataset containing the certified list of prospective jurors in a safety deposit box in a vault in a bank in Harris County that has a regularly established safety deposit vault organization.
3. The District Clerk or his or her deputy must load the original of the Prospective Juror Dataset in the computer used for jury selection for the duration of its use. The District Clerk or his or her deputy must ensure the security of this file.

D. Testing the Prospective Juror Dataset.

1. The District Clerk must test the Prospective Juror Dataset and all output of programs that create the Prospective Juror Dataset.
2. The tests must include a test for goodness of fit. The goodness-of-fit test must use:
 - a. The Kolmogorov-Smirnov Test,
 - b. A more effective recognized and established test of significance, or
 - c. Other tests required by the District Clerk, the Harris County Sheriff, or the Chair.
3. The test must check for:
 - a. A reasonable and fair distribution of selected names from each geographical area (by zip code area) of the county; and
 - b. A reasonable and equal distribution of selected names from each segment of the alphabet.

E. New Plan. The Board of District Judges and the Commissioners Court of Harris County must adopt an amended Jury Selection Plan pursuant to the Texas Government Code to provide for future jury selection in Harris County, Texas no less than 90 days before exhaustion of the Prospective Juror Dataset. See TEX. GOV'T CODE § 62.011.

- F. When it is necessary to create and test a new Prospective Juror Dataset, the Chair may direct the District Clerk or his or her deputy to download the Secretary of State's Juror Dataset from the Texas Secretary of State's secure ftp website.
1. For the creation and testing of a new Prospective Juror Dataset, the District Clerk or his or her deputy must download the Secretary of State's Juror Dataset to a computer equal or superior to a computer known as the Hewlett Packard Proliant DL580 G7.

IX. PROSPECTIVE JUROR UPDATE DATASET

- A. The Registrar must produce a list to be called the "Prospective Juror Update Dataset."
1. The Registrar must produce the Prospective Juror Update Dataset in a format to be determined by the District Clerk.
 2. The Registrar must provide the Prospective Juror Update Dataset to the District Clerk no later than Friday of each week until such time as a new Prospective Juror Dataset is created.
- B. The Prospective Juror Update Dataset must contain the names of all registered qualified voters certified by the Registrar who:
1. Are claiming permanent exemption from jury service as provided by law because they are:
 - a. Over 70 years of age,
 - b. Physically or mentally unable to serve, or
 - c. Unable to speak or comprehend the English language;
 2. Are deceased or no longer reside in Harris County; or
 3. Have filed with the Registrar a change of address within Harris County, Texas or a change of name.
- C. The Registrar must list the applicable circumstance for each name on the Prospective Juror Update Dataset.
- D. The District Clerk must maintain a record of all changes and deletions to the Prospective Juror Dataset. This record must be subject to inspection by order or request.

X. UPDATING NAMES OR ADDRESSES ON THE PROSPECTIVE JUROR DATASET

- A.** For each juror who is listed on the Prospective Juror Update Dataset as having filed a change of address or a change of name, the District Clerk must change that juror's name or address as applicable on the Prospective Juror Dataset.
- B.** To accomplish this task, the District Clerk must develop appropriate software programs to match the Prospective Juror Dataset to the Prospective Juror Update Dataset in order to delete all jurors who:
 - 1. Have a permanent exemption,
 - 2. Have moved out of Harris County, Texas, or
 - 3. Are deceased.
- C.** The District Clerk cannot add newly qualified voters to the Prospective Juror Dataset except as specifically provided for by this Plan.
- D.** The District Clerk cannot add to the Prospective Juror Dataset names from newly issued driver's licenses or state-issued identification cards that DPS included on a DPS Juror Update Dataset.
- E.** If data supplied by the Registrar conflicts with data supplied by DPS, the District Clerk will use the data supplied by the Registrar.
- F.** The District Clerk must maintain a record of all changes and deletions. This record must be subject to inspection by order or request.

XI. DPS JUROR UPDATE DATASET

- A.** DPS may supply periodic updates to records of prospective jurors in the Prospective Juror Dataset who hold valid Texas driver's licenses or state-issued identification cards.
 - 1. If DPS provides such updates, it must do so in a "DPS Juror Update Dataset."
 - 2. Update items may include, but are not limited to:
 - a. Address or name changes,
 - b. Persons who are deceased,
 - c. Persons who no longer reside in Harris County,
 - d. Persons who are not citizens, and
 - e. Individuals who have been convicted of a felony.

- B. The Jury Committee has the authority to decide whether to update the Prospective Juror Dataset with the DPS Juror Update Dataset.
- C. If the Jury Committee decides to update the Prospective Juror Dataset with the DPS Juror Update Dataset, the District Clerk must develop the appropriate programs (or modify existing programs) to match the Prospective Juror Dataset to the DPS Juror Update Dataset.
 - 1. The District Clerk must use such programs to update prospective juror information, including address or name changes.
 - 2. The District Clerk must also use such programs to delete names of persons who:
 - a. Are deceased;
 - b. No longer reside in Harris County;
 - c. Are not citizens; or
 - d. Have been convicted of a felony.

XII. FINAL JURY LIST

- A. The Chair will enter an order designating the specific day, time, and number of names to be included on a list of jurors to be summoned for jury service.
 - 1. The Chair may make the order by electronic means using the Harris County Jury Imaging System.
- B. Upon receipt of the order the Chair, the District Clerk must generate such a list ("Final Jury List") from the Prospective Juror Dataset.
- C. The names and addresses on the Final Jury List must be in the order that they appear on the Prospective Juror Dataset.

XIII. JUSTICE OF THE PEACE JURY LIST

- A. The District Clerk must supply each Harris County Justice of the Peace Court ("Justice Court") a list of jurors ("JP Jury List") in accordance with law. *See* TEX. GOV'T CODE §62.412 (a-1). The JP Jury List must contain the number of jurors requested by the Justice of the Peace and must include the jurors' zip codes and addresses.
 - 1. Justice of the Peace Court, Precinct 1, Place 2, may use jurors from the regular daily central jury panel in the Jury Assembly Room by following the same procedures as the district, county, and probate courts. These jury panels will be countywide in makeup and not selected by zip codes.

- B. **Duties of the District Clerk.** The District Clerk must maintain records of justice-court jury usage by zip code, and must, if deemed necessary, have this usage tested by an outside consultant for randomness and the effect on the Prospective Juror Dataset's randomness.
- C. **Duties of the Justice Courts.** The justice courts must deliver to the District Clerk adequate information concerning jury service so that the District Clerk may keep adequate records and process jury pay for the jurors that have served. Each justice court must request jurors within a reasonable time in advance to the date of jury service and in sufficient time for the preparation and processing or service of juror summons.

XIV. ENSURING RANDOMNESS

- A. The District Clerk must develop protocols to be approved by the Jury Committee to ensure that the jury pool remains random when:
 - 1. Jurors reschedule their jury service;
 - 2. The District Clerk forms jury panels; and
 - 3. The District Clerk assigns jury panels to courts.

XV. JUDICIAL EXCUSES OF JURORS

- A. The Board of District Judges of Harris County may appoint a court designee to hear any reasonable excuse of a prospective juror and discharge the juror or release the juror from jury service until a specified day of the term. *See* TEX. GOV'T CODE § 62.110.
- B. The judge presiding over a jury trial also has authority to hear any reasonable excuse of a prospective juror and discharge the juror or release the juror from jury service until a specified day of the term. *See* TEX. GOV'T CODE § 62.110.
- C. Neither the judge presiding over a trial nor the person designated as a court designee by the Board of District Judges of Harris County may excuse a prospective juror for an economic reason unless each party of record is present and approves the release of the juror for that reason. *See* TEX. GOV'T CODE § 62.110(c).

XVI. OPTIONAL PLAN FOR ALTERNATIVE RESPONSE TO JUROR SUMMONS

- A. In accordance with Section 62.0111 of the Texas Government Code, the Board of District Judges may, in its sole discretion, authorize the District Clerk to establish a procedure by which a prospective juror may appear in response to a summons by: (1) contacting the county officer responsible for summoning jurors by computer; (2) calling an automated telephone system; or (3) appearing

before the court in person (“Electronic Response Procedure”). See TEX. GOV'T CODE § 62.0111.

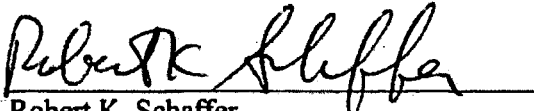
- B.** The Electronic Response Procedure may allow for a prospective juror to provide information to the county officer responsible for summoning jurors or for the county officer to provide information to the prospective juror by computer or automated telephone system, including:
1. Information that permits the court to determine whether the prospective juror is qualified for jury service under Section 62.102 of the Texas Government Code;
 2. Information that permits the court to determine whether the prospective juror is exempt from jury service under Section 62.106 of the Texas Government Code;
 3. Submission of a request by the prospective juror for a postponement of or excuse from jury service under Section 62.110;
 4. Information for jury assignment under Section 62.016 of the Texas Government Code, including:
 - a. the prospective juror’s postponement status;
 - b. if the prospective juror could potentially serve on a jury in a justice court, the residency of the prospective juror; and
 - c. if the prospective juror could potentially serve on a jury in a criminal matter, whether the prospective juror has been convicted of misdemeanor theft;
 5. Completion and submission by the prospective juror of the written jury summons questionnaire under Section 62.0132 of the Texas Government Code;
 6. The prospective juror’s electronic mail address; and
 7. Notification to the prospective juror by electronic mail of:
 - a. whether the prospective juror is qualified for jury service;
 - b. the status of the exemption, postponement, or judicial excuse request of the prospective juror; or
 - c. whether the prospective juror has been assigned to a jury panel.

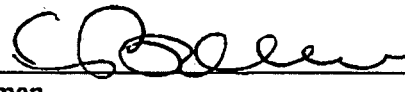
- a. Harris County sends the person payment for jury service; or
 - b. Harris County would otherwise send the person payment for jury service if the person has donated the payment under Section 61.003 of the Texas Government Code; or
2. If the prospective juror does not serve on a jury, the District Clerk must purge the prospective juror's electronic mail address not later than the 30th day after the date that the court releases the person from jury service.

XVII. ORDER OF THE HARRIS COUNTY DISTRICT COURTS

The Board of District Judges of Harris County **ORDERS** the District Clerk of Harris County to file this JURY SELECTION PLAN in the SPECIAL MINUTES OF THE DISTRICT COURTS.

Adopted by the Board of District Judges of Harris County, Texas, June 12, 2018.


Robert K. Schaffer
Chair, Board of Judges
Local Administrative District Judge

ATTEST: 
Clay Bowman
Secretary, Board of District Judges
Harris County District Courts