

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**AMENDED PLAN  
FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

Pursuant to the Jury Selection and Service Act of 1968, Public Law 90-274; the Jury System Improvements Act of 1978, Public Law 95-572, codified at 28 U.S.C. §§ 1861 - 1875; the Federal Court Administration Act of 1992, Public Law 102-572; and the Federal Courts Improvement Act of 2000, Public Law 106-518, the following Amended Plan is hereby adopted by the Court, subject to approval of the Reviewing Panel of the Judicial Council of the Tenth Circuit, and to such rules and regulations as may be adopted from time to time by the Judicial Conference. When approved, this Amended Plan will supersede the plan now in effect in this District.

**APPLICABILITY OF PLAN**

The District of Colorado is divided into divisions for jury selection purposes, pursuant to 28 U.S.C. § 1869(e) as follows:

DENVER DIVISION, consisting of the counties of:

Adams	Gilpin	Phillips
Arapahoe	Grand	Sedgwick
Boulder	Jefferson	Summit
Broomfield ( Effective November, 2001)		
Chaffee	Lake	Teller
Clear Creek	Larimer	Washington
Denver	Logan	Weld
Douglas	Morgan	Yuma
Elbert	Park	

GRAND JUNCTION DIVISION, consisting of the counties of:

Delta	Jackson	Ouray
Eagle	Mesa	Pitkin
Garfield	Moffat	Rio Blanco
Gunnison	Montrose	Routt
Hinsdale	San Miguel	

PUEBLO DIVISION, consisting of the counties of:

Alamosa	Custer	Lincoln
Baca	El Paso	Mineral
Bent	Fremont	Otero
Cheyenne	Huerfano	Prowers
Conejos	Kiowa	Pueblo
Costilla	Kit Carson	Rio Grande
Crowley	Las Animas	Saguache

DURANGO DIVISION, consisting of the counties of:

Archuleta	La Plata	Montezuma
Delores	San Juan	

## **DECLARATION OF POLICY**

It is the policy of this Court that all litigants in this Court 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.

It is further the policy of this Court that all citizens shall have the opportunity to be considered for service on grand and petit juries in the District Court, and shall have an obligation to serve as jurors when summoned for that purpose.

## **DISCRIMINATION PROHIBITED**

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

## **MANAGEMENT OF THE PLAN**

This Plan shall be managed by the Clerk of the Court under the supervision and control of the Chief Judge or such other judge as may be designated to perform these duties.

The Court finds 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 will be used to eliminate duplicated names (if necessary), select master wheel names, select names of persons to be sent questionnaires, select names of persons in the qualified wheel to be summoned, and to perform other clerical and record-keeping functions as the Court deems necessary.

In the event of computer malfunction or any overt and/or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Chief Judge or such other judge as may be designated, shall manually proceed from the last step correctly implemented.

Non-court personnel are authorized to accomplish the electronic data processing to comply with the random selection of prospective jurors for the Court.

## **JURY SELECTION SOURCES**

The Court finds that the source from which the names of petit and grand jurors shall be selected, at random, shall be the General Election Voter Registration lists from all counties within the relevant division.

The Court further finds that, while such lists represent a fair cross section of the community in this District, it is necessary to foster the statutory policy of 28 U.S.C. §§ 1861 and 1862 to supplement such lists in accordance with 28 U.S.C. § 1863(b)(2) with lists of the licensed drivers within each division.

Should the Court find it necessary to further supplement such lists, pursuant to 28 U.S.C. § 1863(b)(2), it may direct the Clerk to draw names of prospective jurors from other supplemental source lists. The other sources may be, but are not limited to, telephone directories within each

division and city directories within each division.

The selection of names from such additional lists shall be done in a manner consistent with the selection procedures described within this Plan.

The Court takes notice that, in the event two or more source lists are used, one person's name may appear more than once. A system will be developed, before any selection procedures begin, to eliminate as reasonably as possible such duplications.

The list or lists used to select names for the master wheel shall hereafter be referred to as the "source list." Accordingly, names of petit and grand jurors serving in this District shall be selected by randomized procedure from the aforementioned source list.

### **INITIAL SELECTION OF NAMES FOR THE MASTER WHEEL**

The Court finds that the initial selection of persons to be considered for service as petit and grand jurors from the source list shall be made at random in such a total number as may be deemed sufficient for a period of two years.

The number of names to be drawn from each county shall be substantially in the same proportion to the total number drawn from all counties within the division as the number of names on that county's voter registration list bears to the total number of names on the voter registration list for all counties within that division.

For the purpose of calculating from the voter registration list the total number of registered voters within a respective division within the District, the Clerk shall add together the totals obtained from each county. The number taken as the total for each county may be based, at the Clerk's option, upon either a manual or a mechanized count of the names on the voter registration list.

After first determining the total number of names needed for the master wheel and then the proportionate shares of names to be drawn from the source list of each particular county, the Clerk shall proceed, either manually or through a combination of manual and computer methods, to make the initial selection of names from the source list of each county.

### **METHOD AND MANNER OF RANDOM SELECTION**

The selection shall be accomplished first by randomizing the individual county source lists and then by drawing a starting number by lot for each county source list. Commencing with that starting number, the first name is selected, with the remaining names selected in increments as ordered by the Chief Judge or a designated judge, to produce the number of names required for the master wheel.

The starting number will be manually drawn by lot from numbered cards placed in a jury wheel or similar device. Cards used for the drawing shall begin with a card containing the number 1 and end with a card containing the final number of the multiple to be used in selecting the desired number of names. For example, if 1,000 names were to be selected from a source of 75,000 names, the multiple would be 75. Cards numbered 1 - 75 would be placed in a jury wheel or similar device and the starting number would be drawn.

At the Clerk's option, and after consultation with the Court, the selection of names from the complete source list databases in electronic media for the master jury wheels may be accomplished by a purely randomized process through the routines approved by the National Institute of Standards and Technology (NIST). 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 jury wheels for the purpose of summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master jury wheels by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheels in accordance with 28 U.S.C. § 1863(b)(3). The selection of names from the source list and master jury wheels must also insure that the mathematical odds of any single name being picked are substantially equal.

### **MASTER JURY WHEELS**

The Clerk shall maintain a master jury wheel or a device similar in purpose and function for each of the divisions within the District. The master jury wheels for each division and the qualified jury wheels for each division shall be physically retained in the Clerk's Office in Denver or at a designated automated data processing center.

The names of all persons randomly selected from the source lists of the counties in a division shall be placed in the master jury wheel for that division. The minimum number of names to be placed initially in these master jury wheels shall be as follows:

DENVER DIVISION: 4,000 names or at least one-half of 1 percent of the total number of persons on the lists used as the source of names for the designated counties, whichever is greater.

GRAND JUNCTION DIVISION: 1,000 names or at least one-half of 1 percent of the total number of persons on the lists used as the source of names for the designated counties, whichever is greater.

PUEBLO DIVISION: 1,000 names or at least one-half of 1 percent of the total number of persons on the lists used as the source of names for the designated counties, whichever is greater.

DURANGO DIVISION: 1,000 names or at least one-half of 1 percent of the total-number of persons on the lists used as the source of names for the designated counties, whichever is greater.

The Chief Judge or a designated judge may order additional names to be placed in the master jury wheel from time to time as necessary.

Names shall be obtained for the grand jury wheel from the four qualified jury wheels of the respective divisions on a pro-rata basis.

The master jury wheel for the Denver, Grand Junction, Pueblo, and Durango divisions shall be emptied and refilled as herein provided between January 1 and October 1 in every odd-numbered year, beginning in 2001.

### **DRAWING OF NAMES FROM THE MASTER JURY WHEEL; COMPLETION OF JUROR QUALIFICATION FORMS**

The Clerk, either at one time or at periodic intervals, shall draw at random from the master jury wheels the names of as many persons as may be required to maintain an adequate number of names in the qualified jury wheels. The number of names to be drawn shall be determined by the Clerk, based upon anticipated juror needs by the Court, plus a margin of extra names sufficient to compensate for the estimated number that will turn out to be unavailable or ineligible.

The Clerk may, upon order of the Court, prepare an alphabetized list of the names drawn. These lists shall not be exhibited to any person except as provided herein and in 28 U.S.C. §§ 1867 and 1868.

The Clerk shall prepare and have mailed to every person whose name is so drawn a juror qualification questionnaire form, accompanied by instructions to execute and return the questionnaire duly signed and sworn to the Clerk by mail within ten (10) days, in accordance with 28 U.S.C. § 1864.

### **JUROR QUALIFICATION FORM**

The juror qualification form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States shall be used.

The Court finds that jury service would not entail an undue hardship or extreme inconvenience to the members of any group of persons or occupational classes, except those exempted by statute.

### **EXEMPTIONS FROM JURY SERVICE**

The Court hereby finds that the following groups of persons or occupational classes are expressly required to be exempted by 28 U.S.C. § 1863(b)(6), and accordingly such groups are barred from jury service:

- A. members in active service in the Armed Forces of the United States;
- B. 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
- C. public officers in the executive, legislative, or judicial branches of the government of the United States, or of any state, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

Volunteer safety personnel shall be provided an automatic excuse from jury service upon individual request. These are personnel who serve without compensation as fire fighters or members of a rescue squad or ambulance crew for a public agency.

### **DETERMINATION OF QUALIFICATIONS, EXCUSES, AND EXEMPTIONS**

The Chief Judge or a designated judge on his/her initiative or upon recommendation of the Clerk, or the Clerk under the supervision of the Court, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, exempt, or to be excused from jury service under the provisions of 28 U.S.C. §1865.

The Clerk shall enter such determination in the space provided on the juror qualification form and the alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

Any person shall be deemed qualified to serve on grand and petit juries in the District Court unless he/she:

1. is not a citizen of the United States, eighteen years of age and who has resided within the judicial district for a period of one year;
2. is unable to read, write, and understand the English language with a degree of proficiency sufficient to satisfactorily fill out the juror qualification form;
3. is unable to speak the English language;
4. is incapable, by reason of mental or physical infirmity, to satisfactorily render 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.

### **QUALIFIED JURY WHEEL**

The Clerk shall maintain a separate qualified jury wheel or a device similar in purpose and function for each division and shall place in such wheel the names of all persons drawn from the master wheel and who have not been disqualified, exempt, or excused pursuant to this Plan.

The Clerk shall insure that at all times at least 300 names are maintained in each such wheel. The Clerk may maintain these wheels through the use of a properly programmed data computer.

### **SUMMONING OF JURORS**

Upon Court order, the Clerk shall randomly select from the designated qualified jury wheel the designated number of persons to be summoned for a specific date. The Clerk shall prepare an alphabetical list of all persons summoned. Names drawn from the qualified jury wheel shall not be made public until the panel of jurors has been summoned and has appeared at the courthouse, provided that the presiding judge may order that the names be made public at an earlier date or to be kept confidential in a case or in cases when the interests of justice so require.

Jurors summoned may be permanently excused upon written request to the Chief Judge or a designated judge who shall, at his/her discretion, approve or disapprove such requests.

The Clerk under the supervision of the Court is authorized to grant temporary excuses to prospective jurors on the grounds of undue hardship or extreme inconvenience.

### **ONE-STEP SUMMONING AND QUALIFICATION**

Pursuant to 28 U.S.C. § 1878, at the option of the District Court, jurors may be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by the Jury Selection and Service Act and this Plan.

### **PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME OF AUTOMATED SELECTION OF NAMES BY COMPUTER CENTER**

Random drawings of starting numbers shall be made publicly in the Office of the Clerk of the Court at times to be announced publicly on the bulletin board in the Office of the Clerk.

Drawing of names of prospective jurors by automated selection methods shall be made publicly at the designated computer center. The location and approximate time of such drawings shall be announced publicly in a public place such as the bulletin board in the Office of the Clerk.

The Clerk shall retain and when requested, provide public access to the following documents:

1. the Juror Selection Plan;
2. a verbal or graphically charted description of the procedure employed in the automated selection system; and
3. a copy of the Court's authorization and instruction order to the person or computer service organization which carries out automated name selection tasks for the Court.

### **IMPANELLING JURORS**

The panel of jurors summoned as petit jurors shall, when directed to do so, report to the jury assembly room of its division. Names of persons summoned and not excused by the Chief Judge or a designated judge may be inserted in a total jury panel wheel from which the jury pool for a given day and/or week may be selected.

### **GRAND JURY PANEL**

From time to time, as grand juries are required, the Court shall order the drawing from each division's qualified wheel, a pro rata share of the total number of grand jurors to be summoned. The pro rata share shall be based on the list used as the source of names for each division's registration list. The Clerk shall prepare a separate list of names of persons assigned to each grand jury. The names of grand jurors shall remain secret unless otherwise ordered by the grand jury presiding

judge.

### **UNANTICIPATED SHORTAGE OF JURORS**

When there is an unanticipated shortage of available petit jurors drawn from the qualified jury wheel, the Chief Judge or a designated judge may require the United States Marshal to summon a sufficient number of petit jurors selected at random from the voter registration lists, lists of actual voters, or other lists specified in the Plan in a manner ordered by the Court consistent with 28 U.S.C. §§ 1861 and 1862.

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

DATED at Denver, Colorado this 14th day of February, 2001.

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LEWIS T. BABCOCK  
CHIEF U.S. DISTRICT JUDGE

RICHARD P. MATSCH  
U. S. DISTRICT JUDGE

EDWARD W. NOTTINGHAM  
U.S. DISTRICT JUDGE

DANIEL B. SPARR  
U.S. DISTRICT JUDGE

WILEY Y. DANIEL  
U.S. DISTRICT JUDGE

WALKER D. MILLER  
U.S. DISTRICT JUDGE