

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

REVISED JURY PLAN FOR RANDOM JURY SELECTION

Adopted by the District Court:

November 29, 2011

Approved by the Tenth Circuit Court of Appeals:

December 9 , 2011

Effective Date:

December 15 , 2011

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

REVISED JURY PLAN FOR RANDOM JURY SELECTION

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C. §§ 1861-1878), this court adopts the following Revised Jury Plan for Random Jury Selection (Jury Plan). This Jury Plan is subject to the approval of the reviewing panel of the Judicial Council of the Tenth Circuit Court of Appeals. Once approved, this Jury Plan supersedes the previous Jury Plan in effect in the District of Colorado.

JURY PLAN POLICY

1. Declaration of Policy

The policy of the United States District Court for the District of Colorado is that all litigants within the district entitled to trial by jury have the right to grand and petit juries selected at random from a fair cross section of the communities wherein the court convenes. Further, all citizens in the district shall have the opportunity to be considered for service on grand and petit juries in the district and shall have an obligation to serve as jurors when summoned for that purpose.

2. Discrimination Prohibited

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

3. Applicability of Plan

The United States District Court for the District of Colorado adopts this plan for random selection of prospective grand and petit jurors to achieve the objectives of 28 U.S.C. §§ 1861 and 1862. Pursuant to 28 U.S.C. § 85, Colorado constitutes one judicial district, and court is held at Boulder, Colorado Springs, Denver, Durango, Grand Junction, Montrose, Pueblo and Sterling. For purpose of jury selection, a master jury wheel shall be maintained in support of the jury divisions of the district. This plan shall serve as guidance for the management of the jury selection process.

4. Jury Plan Management

The clerk of the court shall manage the prospective jury selection process, subject to the supervision and control of the chief judge or other designated district court judge. The clerk may authorize designated deputies to assist with the performance of functions under this plan. The chief judge may authorize non-court personnel to assist the clerk in the performance of the clerk’s functions under this plan.

5. Public Access

The clerk shall retain and provide public access to the Jury Plan. A notice for public review shall be posted in the clerk’s office and on the court’s website explaining the process by which names are periodically and randomly drawn. To the extent authorized or limited by law, the court may use appropriate measures to protect the identity and personal information of jurors.

MASTER JURY WHEEL ADMINISTRATION

6. Jury Divisions

The district is divided into four jury divisions for jury selection.

Jury Division One consisting of twenty-four (24) counties

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

Jury Division Two consisting of five (5) counties

Archuleta	La Plata	Montezuma
Dolores	San Juan	

Jury Division Three consisting of fourteen (14) counties

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

Jury Division Four consisting of twenty-one (21) counties

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

7. Jury Selection Source

- a. The source from which names of prospective jurors shall be selected at random shall be the Colorado General Election Voter Registration List, maintained by the Colorado Secretary of State's office for all counties within each jury division of the district.
- b. The voter registration list represents a fair cross section of the communities in this district. To foster the policy and protect the rights secured by the Jury Selection and Service Act, this plan provides for a supplemental source list that shall include the list of licensed drivers and state issued adult identification records maintained by the Colorado Department of Revenue for all counties within each jury division of the district.
- c. The lists shall be merged with one another and referred to as the "source list." Duplicate names from the lists shall be eliminated by using a properly programmed electronic data processing system.
- d. The names of prospective grand and petit jurors for the master jury wheel will be selected from the source list.

8. Names Selected from Source List for Master Jury Wheel

- a. The selection of names from the source list for the master jury wheel shall be conducted through the use of an authorized properly programmed electronic data processing system that can accomplish the systematic randomized selection of jurors.
- b. To calculate the total number of registered voters within a respective jury division, the clerk shall add the totals from each county within the division. The total number for each county will be based on an electronic data processing method designed to achieve a mechanized count of all names on the voter registration list.
- c. The number of names to be drawn for the master jury wheel from each county shall be in the same substantial proportion as to the total number listed on the voter registration list for each county as to the total number on the voter registration lists for all counties within the division.
- d. The random selection process shall be accomplished by randomizing the source list for each county and drawing a starting number for each county from a electronic random number generator program.

- e. After determining the total number of names required for the master jury wheel and the proportionate number of names to be drawn from the source list for each county, the clerk shall make the initial selection of names.
- f. Commencing with the starting number, the first name is selected, with remaining names selected at equally-spaced increments to produce a total number of names required for the master jury wheel.
- g. The automated random selection of names described in this section ensures that each county within each jury division is proportionally represented in relation to the total number of registered voters, in accordance with 28 U.S.C. § 1863(b)(3). The process of selecting names from the source list for the master jury wheel shall also ensure that the mathematical odds of any single name being selected are substantially equal.
- h. The total number of prospective juror names will be based on historical jury usage needs and projected workloads.

9. Master Jury Wheel

- a. The clerk shall maintain the master jury wheel for the district. The master jury wheel is an electronic database.
- b. Names of all persons randomly selected from the source list for each county shall be placed in the master jury wheel.
- c. The chief judge or designated judge may order additional names to be selected and placed in the master jury wheel periodically as may be necessary.
- d. The master jury wheel will be emptied and refilled between January 1 and October 1 in every odd-numbered year.
- e. The minimum number of names to be placed in the master jury wheel for the district:

Jury Division One: whichever is greater, thirty thousand (30,000) names or at least one-half of one percent of the total number of persons on the source list for the designated counties;

Jury Division Two: whichever is greater, two thousand (2,000) names or at least one-half of one percent of the total number of persons on the source list for the designated counties;

Jury Division Three: whichever is greater, three thousand (3,000) names or at least one-half of one percent of the total number of persons on the source list for the designated counties;

Jury Division Four: whichever is greater, six thousand (6,000) names or at least one-half of one percent of the total number of persons on the source list for the designated counties.

10. Names Drawn from Master Jury Wheel

Names of prospective jurors shall be randomly drawn from the master jury wheel upon order of court. The number of names to be randomly drawn shall be determined by the clerk, based on anticipated juror needs by the court, plus a margin of additional names sufficient to compensate for the estimated number of jurors that are not available or ineligible.

The following methods may be used when drawing names from the Master Jury Wheel for selection of either a grand or petit jury:

- a. names may be drawn from the master jury wheel for all four jury divisions, on a pro-rata basis from each jury division;
- b. names may be drawn from the master jury wheel from a combination of jury divisions on a pro-rata basis from each jury division; or
- c. names may be drawn from the master jury wheel for a single jury division.

11. Summoning Petit Jurors

- a. Pursuant to 28 U.S.C. § 1878, the court uses a one-step procedure to summon and qualify petit jurors.
- b. The clerk shall randomly draw from the master jury wheel a designated number of persons to be summoned for petit jury service.
- c. When ordered by a judicial officer, the clerk shall geographically limit the selection of prospective jurors to a specific county or counties within a jury division.
- d. Names of prospective jurors shall be kept confidential and shall not be disclosed to the public or media, except pursuant to this plan or pursuant to 28 U.S.C. §§ 1867 or 1868.
- e. The term of petit jury service shall be one month, or as otherwise ordered by the court.

12. Summoning Grand Jurors

- a. Pursuant to 28 U.S.C. § 1878, the court uses a one-step procedure to summon and qualify grand jurors.
- b. The clerk shall randomly draw from the master jury wheel a designated number of persons to be summoned for grand jury service. Grand juries drawn for one division, a combination of divisions, or all divisions may indict for any offense in any division of the district.
- c. The clerk shall prepare a separate list of names of persons assigned to each grand jury. The names of grand jurors shall remain confidential unless otherwise ordered by the court.
- d. Pursuant to Federal Rule of Criminal Procedure 6(g), the term of grand jury service shall be no more than eighteen (18) months. An extension may be granted when the court determines it is in the public interest. An extension may be granted for no more than six (6) months or as otherwise provided by statute.

13. Unanticipated Shortage of Jurors

Pursuant to 28 U.S.C. § 1866(f) when there is an unanticipated shortage of available petit jurors drawn from the master jury wheel, the chief judge or designated judge may require the United States Marshal to summon a sufficient number of petit jurors. Jurors shall be selected at random from the source list as specified in the Jury Plan in a manner ordered by the court consistent with 28 U.S.C. §§ 1861 and 1862.

14. Master Jury Wheel Records

As required by law, the clerk shall maintain a record for each jury division, with the names of all persons drawn from the master jury wheel. Records shall not be disclosed except by order of court. The clerk shall preserve these records as required by 28 U.S.C. § 1868.

JUROR QUALIFICATION, DISQUALIFICATION, EXEMPTION and EXCUSES

15. 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.

16. Completion of Juror Questionnaire

- a. The clerk, or an approved designated mailing service, shall mail to each prospective juror whose name is drawn a juror summons and a juror qualification questionnaire accompanied with instructions.
- b. The questionnaire, duly signed and sworn, shall be returned to the clerk by mail or by electronic format within ten days.
- c. A person who is unable to fill out the questionnaire shall ask for another person's assistance. That person shall indicate that he or she has provided assistance and explain why it was necessary.
- d. If an omission, ambiguity, or error appears in a completed questionnaire, the clerk shall return the questionnaire with instructions to the person to make the required additions or corrections and return the questionnaire within ten days.
- e. The clerk may summon any person who fails to return a completed juror qualification questionnaire, as instructed, to appear before the clerk to complete the questionnaire.

17. Determination of Qualification, Disqualification and Exemption

The chief judge or designated judge, or the clerk under the supervision of the court, shall determine qualification, disqualification, exemptions and excuses. The determination shall be based on the information provided on the juror qualification questionnaire and other competent evidence. The clerk shall enter the determination of disqualification, exemption or excuse in the appropriate court records.

a. Disqualification

Pursuant to the provisions of 28 U.S.C. § 1865(b), a person shall be qualified to serve on grand and petit juries in the district court unless he or she:

1. is not a citizen of the United States;
2. is not yet eighteen years old;
3. has not resided within the district for a period of one year;
4. is unable to read, write, and understand the English language with a degree of proficiency sufficient to satisfactorily fill out the juror qualification form;
5. is unable to speak the English language;
6. is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
7. has a criminal charge pending against him or her for the commission of, or has been convicted in a state or federal court of, a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

b. Exemption

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, as set forth in this plan.

Pursuant to the provisions of 28 U.S.C. § 1863(b)(6), the following persons are exempt from jury service:

1. members in active service in the Armed Forces of the United States;
2. members of the fire and police departments of any state, the District of Columbia, any territory or possession of the United States, or an subdivision of a state, the District of Columbia, or such territory or possession; and
3. public officers in the executive, legislative, or judicial branches of the government of the United States, or any state, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties. As defined in 28 U.S.C. § 1869(l), a “public officer shall be defined as a person who is either elected to public office or who is directly appointed by a person elected to public office.”

18. Excused From Jury Service On Individual Request

All matters of discretion to excuse from jury service are reserved for determination by the chief judge or the designated judge. The chief judge may authorize the clerk to make such determinations under the supervision of the court.

Pursuant to 28 U.S.C. § 1863(b)(5), the court finds that jury service by the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof. Excusing such members is not inconsistent with the Jury Selection and Service Act and shall be granted upon individual request of the following:

- a. a person who has served as a grand or petit juror in any court, within the last two years;
- b. a person over 70 years of age;
- c. a person who is essential to the care of a child or children under ten years of age wherein undue hardship exists;
- d. a person who is essential to the care of an aged or infirm person wherein undue hardship exists;
- e. a person who resides outside the jury division from which he or she was summoned; or
- f. volunteer safety personnel serving a public agency, in an official capacity without compensation, such as a firefighter or member of a rescue squad or ambulance crew.

19. Impaneling Jurors

When directed to do so, summoned jurors shall report to the designated jury assembly room of the jury division. Persons reporting that have not completed a juror questionnaire, if determined to be qualified, may be included in the jury panel for jury selection.

PENALTIES ASSOCIATED WITH JURY SERVICE VIOLATIONS

20. Penalty For Failure To Respond Or Appear for Jury Service

Any person summoned for jury service who fails to respond or appear as directed, or willfully misrepresents a material fact for the purpose of evasion of jury service, may be ordered by the court to appear and show cause for failure to comply with the summons. Any person who fails to show good cause for non-compliance with a summons may be fined, imprisoned, ordered to perform community service, or any combination thereof, as provided by law.

21. Penalty for Employers Who Retaliate Against Employee

No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service. Any employer who violates the provisions of this section:

- a. shall be liable for damages;
- b. may be enjoined from further violations;
- c. shall be subject to a civil penalty as provided by law for each violation as to each employee;
- d. may be ordered to perform community service, as provided by law;
- e. may be ordered to reinstate the employee to his position and restore benefits;
- f. may be subject to attorney fees and expenses incurred by a prevailing employee in an action brought pursuant to 28 U.S.C. § 1875.

The court shall have a procedure in place for investigation and resolution of juror complaints of retaliation by an employer.

JURY COSTS, FEES, AND EXPENSES

22. Jury Costs Assessment

As governed by the court's local rules, jury costs may be assessed against any of the parties and/or counsel when any civil action is settled in a manner that prevents the clerk from halting a jury impanelment.

23. Fees and Expenses

Payment of expenses as to jury service shall be governed by guidelines and regulations promulgated by the Administrative Office of the United States Courts.

This Revised Jury 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.

Adopted by the United States District Court, District of Colorado, at Denver, Colorado, on the 29th day of November.

Dated this 2nd day of December, 2011.

s/ Wiley Y. Daniel _____

Wiley Y. Daniel, Chief Judge
United States District Court
for the District of Colorado

**MINUTES OF THE JUDICIAL COUNCIL
OF THE TENTH CIRCUIT**

December 9, 2011

On this date, the Judicial Council approved the *Jury Selection Plan* of the United States District Court for the District of Colorado as submitted by Chief District Judge Wiley Daniel, on December 2, 2011. The amended plan shall be made effective at a date of the court's choosing, which must be within 90 days of the date of this order. *See* 28 U.S.C. §1863(c). The Jury Plan will supersede the previous Jury Plan. A copy of the final published plan should be sent to the Circuit Executive.

Entered on behalf of the Judicial Council
Of the Tenth Circuit

By:



Victoria M. Parks
Deputy Circuit Executive

for David Tighe
Circuit Executive and Secretary to the
Judicial Council of the Tenth Circuit