

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

2010 AUG 19 P 2:49

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

GENERAL ORDER 10-003

ADOPTION OF AMENDED JURY PLAN

The attached jury plan, having been approved by the judges of the court and reviewed by the Judicial Council of the Tenth Circuit Court of Appeals, is adopted to be effective upon the date of this order. The plan shall be published on the court's website.

Dated this 19 day of August, 2010



Tena Campbell
Chief Judge

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

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

July 2010

Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274), hereinafter "Act," the United States District Court for the District of Utah hereby adopts this Amended Plan For The Random Selection Of Grand And Petit Jurors, hereinafter "Plan," subject to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

A. Applicability of Plan. The District of Utah, hereinafter "District," for the purposes of grand and petit jury selection, shall be considered as one District with no divisional distinctions, pursuant to Section 1869(e) of the Act, consisting of the following counties:

Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Wayne, Washington, and Weber.

Provisions of this Plan apply to the entire District unless specifically indicated otherwise.

B. Policy. Section 1861 of the Act (Chapter 121, Title 28, United States Code) states the policy of the United States that all litigants in federal trial courts 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, and, further, that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

Section 1862 of the Act provides that no citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status.

C. Management and Supervision of Jury Selection Process. The Clerk of the Court shall manage the jury selection process under the supervision and authority of the Chief Judge. To facilitate the efficient management and operation of the selection process, and subject to the provisions of the Act, this Plan, and the oversight of the Court, the Clerk is authorized to utilize automated systems and accurate electronic databases of currently registered voters distinguished by county.

D. Random Selection from Voter Registration Lists. Voter registration lists represent a fair cross-section of each community in each of the counties that comprise the District. Accordingly, names of grand and petit jurors serving pursuant to the provisions of this Plan shall be selected at random by the Court's automated selection system from the voter registration lists of all the counties within the District. When the names of persons are randomly selected as hereinafter provided from the county voter registration lists and are placed in the District's master jury wheel, the registered voters in each county will be proportionally represented in that master jury wheel.

The Chief Judge shall instruct the Clerk as to the total number of names to be selected and placed in the master jury wheel from the voter registration lists.

The Clerk shall ensure that the number of registered voters selected from each county's

list for the master jury wheel reflects the same proportion that each county's registered voters comprise of registered voters of all counties in the District. For example, if the registered voters in a particular county reflect 5% of all of the state's registered voters, then the Clerk shall ensure that the total number of names selected from that county's list of registered voters is equal to 5% of the total number of names so selected from the lists of all counties in the District.

Under the oversight of the Chief Judge, the Clerk shall determine how many names of registered voters from each county should be placed in the master jury wheel. The Clerk then will ensure that the Court's automated selection system randomly selects the appropriate number of names from each county's list. The Clerk shall ensure that the system, in randomly selecting the appropriate number of names for the master jury wheel, is programmed to cycle completely through each county's voter registration list at least once to ensure that each name on the list, regardless of its position relative to the other names on the list, has an equivalent probability of being selected.

The voter registration list of each county, as incorporated into the electronic data base, shall consist of the most current official registers of voters of all election districts in the county arranged in the order (alphabetical, numerical, or otherwise) in which the official registers are customarily kept by the county clerk.

E. Voter Registration Lists and Other Records to be Available. As provided in subsection 1863(d) of the Act, State of Utah and local government officials having custody, possession, or control of voter registration lists, lists of actual voters, or other appropriate records, shall make such lists and records available to the Clerk, or any deputy clerk, for inspection, reproduction, and copying at all reasonable times as the Clerk may deem necessary and proper for the performance of duties under the Act.

F. Master Jury Wheel. The Clerk shall maintain one master jury wheel for the District. The names of all persons randomly selected from the voter registration lists of all the counties in the District shall be placed in the master jury wheel. The minimum number of names to be placed initially in the master jury wheel shall be 20,000.

The Chief Judge may order additional names to be placed in the master jury wheel

from time to time as necessary.

The Court's master jury wheel shall be purged of all names and refilled every two years, specifically during each odd numbered year following a general election.

G. Public Notice of Drawings for the Master and Qualified Jury Wheels. Every two years, as defined in this Plan and as directed by the Chief Judge, the Clerk shall place a public notice on the bulletin board in the main lobby of the courthouse indicating the date and time at which the automated system will be utilized to draw at random from the county voter registration lists the names of as many persons as may be required to fill the master jury wheel for the subsequent two-year period. In addition, every four months, as directed by the Chief Judge, the Clerk shall place a public notice on the bulletin board in the main lobby of the courthouse indicating the date and time at which the automated system will be utilized to draw at random from the master jury wheel the names of as many persons as may be required for jury service for the subsequent four-month period.

H. Excuses on Individual Request. The District Court hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act, and shall be granted upon individual request to:

1. Persons over 70 years of age;
2. A person who has served as a grand or petit juror in a state or federal court within the past two (2) years;
3. A person having active care of custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by absence of a person for jury service; or a person who is essential to the care of aged or infirm persons;
4. A person whose services are so essential to the operation of a business, commercial or agricultural enterprise that it must close or cease to function if the person is required to perform jury duty;
5. Volunteer safety personnel, i.e. individuals serving in a public agency in

an official capacity, without compensation, as fire fighters or members of a rescue squad or ambulance crew. "Public Agency" for this purpose means the United States, the State of Utah, or any unit of local government, department, or instrumentality of any of the foregoing; and,

6. A person residing in an area where private or public transportation to the place of holding court is not readily available.

I. **Exemption from Jury Service.** The District Court finds that exemption of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with the Act. Accordingly, on the grounds that they are exempt, members of such groups are barred from jury service:

1. Members in active service in the Armed Forces of the United States;
2. Members of the fire or police departments of the State of Utah and any of its counties and municipalities; and
3. Public officers in the executive, legislative, or judicial branches of the Government of the United States, or the State of Utah and its subdivisions 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.

J. **Determination of Qualifications, Excuses, and Exemptions.** The Judges of the Court, on their own initiative or upon recommendation of the Clerk, shall determine on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or to be exempted or excused from jury service. The Clerk shall enter such determination in the space provided on the juror qualification form or on the juror record in the Court's data base. If a person, having been summoned and qualified, does not appear in response to a notice to appear for a particular case or for grand jury service, such fact shall be communicated promptly by the Clerk to the assigned judge. The Clerk is authorized to grant temporary excuses to prospective jurors on the grounds of undue hardship or extreme inconvenience. At the Clerk's discretion, the names of individuals

temporarily excused may be reinserted into the qualified wheel for possible re-noticing.

In making a determination as to qualification, the Court shall deem any person qualified to serve on grand and petit juries in the District Court unless that person:

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 complete 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 by pardon or amnesty.

K. Qualified Jury Wheel. The Clerk shall maintain a qualified jury wheel for the District, and shall place in such wheel the names of all persons drawn from the master jury wheel and summoned for the subsequent four-month period who have been determined to be qualified and not exempted disqualified, or excused pursuant to this plan. At the conclusion of each four-month period, the Clerk shall purge the qualified wheel of all existing names prior to refilling it with the roster of new names selected for the subsequent four-month period. The Clerk shall ensure that a minimum of 300 names is contained in the qualified wheel at any time. When any judge of the Court requests a jury panel, the Clerk shall draw such panel from the qualified wheel using an automated random selection process that ensures equivalent selection probability for each name in the qualified wheel. When ordered by a judicial officer upon stipulation by the parties, the clerk shall geographically limit the selection of prospective jurors to a specific county or counties within the district to minimize travel of juror panels during inclement weather or in circumstances where juror panel travel would be unreasonable.

Persons whose names are drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to them at their usual residence or business address. Unless otherwise ordered by the Court, the Clerk shall address and mail the summons/qualification forms via first class mail.

Unless otherwise ordered by the Court, the Clerk will make available to the parties in the case at the time of voir dire the names of jurors on the panel. The assigned judge retains the discretion to disclose additional juror information to the parties, such as that collected through use of a pre-voir dire questionnaire. Unless otherwise ordered by the Court, names drawn from the qualified jury wheel shall not be made a part of the Court's public record, neither in paper nor electronic format. A request for disclosure of juror names to the media or public may be made of the judge to whom the case is assigned. The Clerk shall not release juror names to the media or public unless specifically authorized by the assigned judge.

When there is an unanticipated shortage of available grand or petit jurors drawn from the qualified jury wheel, the Court may require the Marshal to summon a sufficient number of petit jurors selected at random from the voter registration lists, or the directories herein specified, in a manner ordered by the Court consistent with Sections 1861 and 1862 of the Act.

Jurors shall be called to serve for a period not exceeding 120 days, unless (i) exempt or previously excused by the court for good cause, or (ii) currently serving on a case which has not been concluded upon the expiration of said period.

L. **One-Step Juror Summoning and Qualification Process.** The District of Utah has adopted the one-step juror summoning and qualification process whereby prospective jurors are summoned to serve and qualified for service through use of an official questionnaire form that combines into a single mailing the required elements of the summons and the qualification processes.

M. **Use of Automated Systems and Electronic Data Bases for Jury Administration.** The Court authorizes the Clerk to utilize automated systems and electronic data bases to perform the random selection procedures and processes set forth in this Plan, including a properly programmed electronic data processing system for the purely random selection of names from the master wheel for the purpose of qualifying and summoning persons and from

the qualified wheel to serve as grand or petit jurors. The selection of names from the master and qualified wheels must ensure that the mathematical odds of any single name being picked are substantially equal. To ensure that the selection process is truly random, the Clerk shall ensure that the automated system independently generates a new random number each time it selects a name (I) from the electronic data base of registered voters for purpose of refilling the Court's master wheel every two years, and (ii) from the master wheel for the purpose of refilling the qualified jury wheel every four months. In establishing the range of numbers within which the automated system performs its random selection functions for selecting names for the master wheel, the Clerk shall ensure that the number (I) at the low end of the range is sufficiently large to require cycling through the list of registered voters for any county at least once, and (ii) at the high end is not so high as to entail the possibility of cycling through any county list with unnecessary frequency to select the required number of prospective jurors.

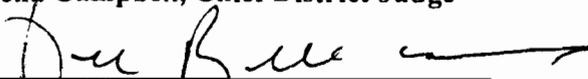
N. Public Access to Information Regarding the Jury Selection Process. The Clerk shall retain and, when requested, provide public access to the Court's Plan and a description of the Court's automated system for the random selection of jurors. The Clerk also shall make available for review, on request, technical documentation regarding the random number generation programming on which the Court's automated system relies for the selection process.

O. Effective Date. The foregoing Plan of the United States District Court for the District of Utah for the Random Selection of Grand and Petit Jurors, as amended is hereby adopted by this Court.

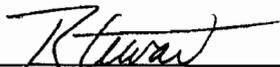
DATED this 29 day of June, 2010.



Tena Campbell, Chief District Judge



Dee Benson, District Judge



Ted Stewart, District Judge



Clark Waddoups, District Judge



Bruce S. Jenkins, Senior District Judge



David Sam, Senior District Judge



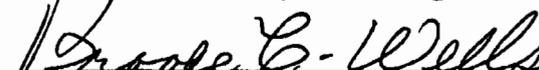
Dale A. Kimball, Senior District Judge



David Nuffer, Chief Magistrate Judge



Samuel Alba, Magistrate Judge



Brooke C. Wells, Magistrate Judge



Paul M. Warner, Magistrate Judge

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

August 12, 2010

On this date, the Judicial Council approved the request of the District of Utah, as submitted by Louise S. York, Chief Deputy Clerk of Court, on August 11, 2010, to amend section (K) of its jury plan. The amended plan may be made effective at a date of the court's choosing, upon approval of the court's chief judge or his designee. *See* 28 U.S.C. § 1863(a). 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