

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

August 17, 2009

On this date, the Judicial Council approved the request of the District of Wyoming, as submitted by Chief District Judge William F. Downes on July 30, 2009, to amend Sections 3(a), 3(b), 3(c), 3(d), 4(c), 5(b), 7(d), 8(b), and 11 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

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August 18, 2009

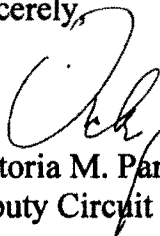
Honorable William F. Downes
Chief U.S. District Judge
111 Wolcott, Suite 210
Casper, WY 82601

Re: Approval of Changes to Jury Plan

Dear Chief Judge Downes:

Attached is a copy of the Judicial Council's order approving changes to the Jury Plan for the District of Wyoming. Please let me know if you have any questions.

Sincerely,



Victoria M. Parks
Deputy Circuit Executive

VMP:kwl
Encl.

cc: Stephan Harris, Clerk
Maggie Botkins, Chief Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
JUL 30 2009

AMENDED DISTRICT PLAN FOR RANDOM
SELECTION OF GRAND AND PETIT JURORS

Stephan Harris, Clerk
Cheyenne

Pursuant to the General Order of this Court dated, July 30, 2009 the Court hereby amends its Jury Selection Plan.

NOW, THEREFORE, The District Plan for the Random Selection of Grand and Petit Jurors shall read as follows:

1. DISCRIMINATION PROHIBITED.

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

2. APPLICABILITY OF PLAN

This Plan is applicable to the selection and service of both the grand and petit jurors in the United States District Court for the District of Wyoming.

3. PLACES FOR HOLDING COURT AND DESIGNATION OF DIVISIONS

(a) Divisions Within District. To ensure impartial trials and at the same time avoid incurring unnecessary expense and unduly burdening citizens of any part of the District with jury service, the District of Wyoming is hereby divided into four divisions for jury selection purposes; namely, Cheyenne Division, Casper Division, Jackson Division and Fremont County Division.

(b) Fremont County. The Wind River Indian Reservation is located in Fremont County, Wyoming. As a result, Fremont County has a high concentration of

Native American population¹. Fremont County is designated as a fourth division within the District of Wyoming. The presiding Judge may direct that names from Fremont County Division be included in a division or a combination of divisions within the District for petit jury selection.

(c) Combining Divisions. The Presiding Judge may direct that names of petit jurors be drawn randomly from all divisions, a select division and/or a combination of divisions within the District. A minimum of forty-five (45) days prior to jury selection shall be given to ensure that the proper percentage of each division is properly reconstituted within the division for petit jury selection.

(d) Counties within Divisions. The following counties from which jurors will be drawn for each division or place of holding court are hereby designated:

<u>Divisions and Cities Where Court is Held:</u>	<u>Counties from Which Jurors are Drawn:</u>
Cheyenne	Goshen Platte Laramie Albany Carbon Sweetwater
Jackson	Uinta Lincoln Sublette Teton
Casper	Sheridan Johnson Campbell Crook

¹The 2000 Census reported 28.9% of Fremont County's population is Native American (6,728).

Weston
Niobrara
Converse
Natrona
Park
Hot Springs
Big Horn
Washakie

Fremont

Fremont

4. **CLERK OF COURT**

- (a) **Authority of Clerk of Court.** Pursuant to 28. U.S.C. 1863(b)(1), the Clerk of Court is hereby authorized to manage the jury selection process. The Clerk shall act under the supervision and control of the Chief Judge of this Court or any other active or senior active judge as the Chief Judge may designate. (Section 1863 (b)(1)).
- (b). **Authorization of Clerk to Grant Excuses.** For purposes of the selection of persons for jury service on grand and petit panels, the Clerk of Court or the Chief Deputy is hereby authorized to grant said jurors temporary excuses from service on the grounds of “undue hardship or extreme inconvenience.” The names of all jurors granted temporary excuses by the Court or the Clerk of Court shall be reinstated back into the qualified wheel.
- (c). **Permanent Excuses.** For purposes of the selection of persons for jury service on grand and petit panels, any District Judge and the Clerk of Court is hereby authorized to grant said jurors permanent excuses from service on the grounds of “undue hardship or extreme inconvenience.”

5. RANDOM SELECTION

- (a) Voter Registration List. Names of prospective jurors to serve on grand and petit jurors drawn for service commencing after the effective date of the Plan shall be selected at random from the voter registration lists of every county in Wyoming as designated in this Order, and placed in the Master Jury Wheel. This Court finds that the voter lists prepared by the State of Wyoming represent a fair cross section of the persons residing in said counties. The Clerk of Court shall make the random selection of not less than one thousand (1,000) names from said voter registration lists in each division.
- (b) Selection of Names. 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 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. The Clerk then will ensure that the Court's automated selection system randomly selects the appropriate number of names of registered voters 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.

In each of the following divisions, the following number of names shall be drawn from the voters' registration lists for each division:²

Cheyenne Division proportional to registered voters within the Division
Casper Division proportional to registered voters within the Division
Jackson Division proportional to registered voters within the Division
Fremont Division proportional to registered voters within the Division

6. QUALIFIED JURY WHEELS. FOR EACH DIVISION

- (a) Qualified Jury Wheel for Each Division. The Clerk of Court shall provide and maintain a Qualified Jury Wheel for each of the divisions in this District. The names of all persons randomly selected from the voter registration lists of the counties in each division shall be placed in the Qualified Jury Wheel for that division.
- (b) Minimum Names in Qualified Jury Wheel. Not less than one thousand (1,000) names shall be originally placed in each Qualified Jury Wheel. The Court may order additional names to be placed in the Qualified Jury Wheel when and as needed.
- (c) Creation of Separate Qualified Wheel in a Division. The Qualified Jury Wheels will be used by the Clerk as the source of names for the grand and petit jury panels for each division.
- (d) Refilling Master Jury Wheel. 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.
- (e) General Notice of Drawing. Every two years, as defined in this Plan and as needed

² The pro-rata number of names shall be based on the total number of registered voters listed in each division as compared to the total number of registered voters in the entire district.

or directed by the Chief Judge and the Clerk of Court, a notice shall be posted in the Clerk's Offices in Cheyenne and Casper, Wyoming and on the Court's website at www.wyd.uscourts.gov explaining the process at which names are randomly and periodically drawn for jury service.

7. **QUALIFYING AND SUMMONSING OF JURORS**

(a) **Qualifying, Summonsing and Creating Jury Panels.** The Clerk shall publicly draw at random from the Master Jury Wheel a number of names of persons, such numbers to be designated by the Court pursuant to an oral or written order, for qualifying grand and petit jury panels. The Clerk shall mail a juror qualification questionnaire to every person randomly selected with a request to fill out and return the form, duly signed and sworn, to the Clerk by mail or through the Court's internet website within 10 days.

On the basis of the information provided on the questionnaire and other competent evidence, the Clerk shall determine whether a person is unqualified for, or exempt from, or to be excused from jury service. The names of all persons drawn from the Master Jury Wheel who are determined to be qualified as jurors shall be put in a qualified jury wheel for each division for summonsing at a later date. In order to conserve funds, the Clerk of Court shall serve the questionnaires and summons to petit and grand jurors by first class mail, unless otherwise specifically ordered by the Court.

(b) **Disclosure of Juror Information.** The actual names so drawn from the Master Jury Wheel shall not be disclosed before date of appearance and qualification of such

jurors unless the Court shall otherwise direct. Furthermore, the Clerk of Court shall not allow any person to view the juror questionnaires without prior permission of the Court. The Clerk shall only divulge information on jury lists pursuant to the policies of the E-Government Act and the Judicial Conference of the United States.

- (c) The Clerk of Court shall not be required to prepare a list of the names drawn from the Master Jury Wheel for jury service.
- (d) No later than three (3) business days prior to the commencement of trial, a list of jurors shall be distributed to counsel and/or parties. Prior to distribution, the process used shall be reviewed by the Clerk of Court or designee, to ensure that the list represents a fair cross section of the persons residing in said counties within the division, and/or combination of divisions.

8. GRAND JURY

- (a) District-wide Selection of Grand Jury Array. Grand jury panels will be selected on a district-wide basis and may sit in any one of the statutory places of holding court in the district.
- (b) Proportional Selection of Grand Jurors. In order to assure that the registered voters living in each of the four divisions are proportionally represented on the grand jury panels, a pro-rata number of names shall be taken from the qualified wheel of each division and combined together to fill a grand jury panel. The pro-rata number of names shall be based on the total number of registered voters listed in each division as compared to the total number of registered voters in the entire district. The names of registered voters are those which were last drawn for refilling the Master Wheel.

- (c) Creation of Grand Jury Panels. The assignment of the names of persons to a grand jury panel shall be conducted in accordance with paragraph 7(a) above.

9. EXEMPTIONS FROM JURY SERVICE.

The following groups of persons or occupational classes are exempt from jury services:

1. Public official of the United States, state or local government who is elected to public office or who is directly appointed by a person elected to public office.
2. Member of any governmental police or regular fire department. (Not including volunteer or commercial departments).
3. Member in active service of the Armed Forces of the United States.

10. EXCUSES ON INDIVIDUAL REQUESTS.

- (a) Occupational Classes and Groups of Persons. The following occupational classes or groups of persons may be excused from jury service upon individual requests in the discretion of the Court:

1. Persons over 70 years of age.
2. A person who has served as a grand or petit juror within the last two (2) years.
3. A person having active care and custody of a child or children under ten (10) years of age whose health and/or safety would be jeopardized by their absence 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 enterprises, that it must close or cease to function if required to perform jury duty.
5. Actively practicing or engaged full-time in one of these occupations: Attorney,

Physician, Dentist; Registered Nurse; member of the Clergy or of a religious order.

6. Volunteer safety personnel who are defined as follows: Individuals serving a public agency (as defined in Section 1203(6) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

11. DURATION OF SERVICE

In any two-year period, no person shall be required to (a) attend court for prospective service as a petit juror for a total of more than twenty (20) days, except when necessary to complete service in a particular case, or (b) serve on more than one grand jury, or (c) attend as both a grand and petit juror.

Petit Jurors are required to attend for six (6) months from date of summons to appear unless permanently excused by a Judicial Officer after serving on a trial or upon discretion by a Judicial Officer.

Grand Jurors are required to attend for eighteen (18) months from date of selection unless the Grand Jury Panel's term has been extended in order to complete its work.

12. FORMS

The juror qualification questionnaire shall follow substantially the form required by law and approved by the Judicial Conference of the United States. Upon such approval, said form shall be adopted with any necessary modifications thereto to accommodate said form to the requirements of this District.

13. USE OF ELECTRONIC DATA PROCESSING

- (a) Method and Manner of Random Selection. The selection of names from source lists

for the master jury wheel shall be accomplished by a systematically randomized process through a properly programmed electronic data processing system. A properly programmed electronic data processing system for systematically randomized selection shall be used to select names from the master jury wheel for the purpose of summoning persons to serve as grand or petit jurors. Such random selection of names from the source lists for inclusion in the master wheel, either manually or through a combination of manual and computer methods, must ensure that the county is substantially proportionally represented in the master wheel in accordance with Title 28, United States Code, Section 1863(b)(3).

- (b) Random Drawing. Random Selection by computer accomplishes three objectives:
- i) It establishes the location on the voter name lists, or wheel, from which the first name is taken;
 - ii) It removes the possibility of human discretion or choice in selection of any individual's name (making individual name selections unpredictable and unpredictable), and
 - iii) It ensures that, at the outset of the drawing, mathematical odds of being picked are substantially equal for all names in the source from which drawn.

14. PUBLIC ACCESS TO DOCUMENTS.

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

The court's "Juror Selection Plan," including a verbatim description of the Rand function or, in the alternative, the method used in determining the "quotient" and "starting numbers,"

A verbal or graphically charted description of the procedure employed in the automated selection systems, and 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.

Any other information or documents will be disclosed only in accordance with 28 U.S.C.

Section 1867(f) and 1868.

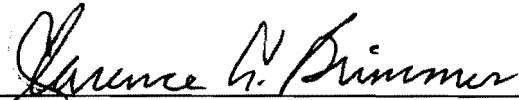
Dated this 30th day of July, 2009.



William F. Downes
Chief Judge



Alan B. Johnson
District Judge



Clarence A. Brimmer
District Judge