

FILED  
U.S. DISTRICT COURT

1989 FEB 13 AM 9:18

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO  
GENERAL ORDER #51

DISTRICT OF IDAHO  
JERRY L. CLAPP, CLERK

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, Public Law 90-274, as amended April 6, 1972, Public Law 92-269, and the Jury System Improvements Act of 1978, Public Law 95-572, as amended by Title VIII of HR 4807, the following amended Jury Plan is hereby adopted by this Court subject to the approval of the reviewing panel for the 9th Circuit Court of Appeals, and to such rules and regulations as may be adopted by the Judicial Conference of the United States. When approved, this Amended Plan will supersede the Jury Plan now in effect in the District of Idaho.

APPLICABILITY OF PLAN

The District of Idaho is divided into divisions for jury selection purposes, pursuant to Section 1869(e) of the Act, as follows:

Southern Division, consisting of the counties of:

Ada	Cassia	Minidoka
Adams	Elmore	Owyhee
Blaine	Gem	Payette
Boise	Gooding	Twin Falls
Camas	Jerome	Valley
Canyon	Lincoln	Washington

Northern Division, consisting of the counties of:

Benewah	Clearwater	Latah
Bonner	Idaho	Lewis
Boundary	Kootenai	Nez Perce
		Shoshone

Eastern Division, consisting of the counties of:

Bannock	Caribou	Jefferson
Bear Lake	Clark	Lemhi
Bingham	Custer	Madison
Bonneville	Franklin	Oneida
Butte	Fremont	Power
		Teton

The provisions of this Plan shall apply to all the counties within each of these divisions.

### DECLARATION OF POLICY

It is the policy of this Court that all litigants in the Court, entitled to trial by jury, shall have the right to grand and petit jurors selected at random from a fair cross section of the community in the division where the Court convenes and that all qualified citizens who reside in the district and are not exempt or disqualified, 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 this Court on account of race, color, religion, sex, national origin, economic status, or physical handicap.

### 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 by him to perform his 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, may be used to select mater 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 may be prescribed by the Court.

In the event of computer malfunction, or any overt or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Court, shall manually proceed from the last step correctly implemented.

### 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 the counties within the relevant division, and does further fund that such lists, as described above, represent a fair cross section of the community within the district.

Accordingly, names of grand and petit jurors serving in this

Court shall be selected by randomized procedures from the lists of registered voters in each presidential general election as maintained in the books, lists, or automated voter registration systems of each county, and are certified as being the correct number by the Secretary of State.

Should the Court find it necessary, pursuant to Section 1863(b)(2) of Title 28 U.S. Code, it may authorize the Clerk to draw names of prospective jurors from supplemental source lists in addition to the voter registration lists. The selection of names from such lists shall be done in a manner consistent with the selection procedures described in this Plan.

This Plan's reference to random selection shall mean that in any selection procedure only the first name shall be chosen by a purely random method and that each subsequent name for that drawing may be systematically taken at regular intervals throughout the remainder of the source list.

This randomized selection procedure which is described in the next section insures (a) that the names chosen will represent all segments of the source file from which drawn, (b) that the mathematical odds of any single name being picked are substantially equalized, and (c) that the possibility of human discretion or choice affecting the selection of any individual's name is eliminated.

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

The Judges of this Court find that the initial selection of persons to be considered for service as grand and petit jurors from the lists of voters and other lists that may supplement this list, shall be made at random in such a total number as may be deemed sufficient for a four (4) year period.

The number of names 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 the voter registration lists for all counties within the division. For example, if there are exactly 180,000 names on the voter registration lists of all counties within the division and there are 36,000 names on county "A's" list, (twenty percent of the total) then the number of county "A's" names initially selected should be substantially twenty percent of the total number selected from all counties within the division.

For the purpose of calculating the total number of registered voters in the respective divisions within the District, the Clerk will add together the total obtained from each county as certified by the Secretary of State. 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 county's list or upon such total number as is certified by the Secretary of State.

After first determining the total number of names needed for the master jury wheel and then the proportionate share of names to be drawn from the source lists for 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.

The sequence in which voter lists from various counties are to be obtained for the purpose of selecting names will, at the option of the Clerk, be any administratively convenient order, such as the chronological order in which the lists were obtained, or in alphabetical sequence by county name, or in a simple randomized sequence.

#### METHOD AND MANNER OF RANDOM SELECTION

A) Determining a "Quotient". For each division, the Clerk shall make the randomized selection by taking the total number of names on the voter registration lists of the counties in that division and dividing that number by the minimum number of names to be placed in the master wheel. The number obtained will be the "quotient". For example, if the Clerk should determine that to supply Court jury requirements for four (4) years, he will need 10,000 names in the master wheel and if there are a total of 1,000,000 names on all county voter registration lists within the division, the "quotient" to be used would be 1,000,000 divided by 10,000 or 100. The Clerk would therefore take every 100th name from the lists of registered voters for the master wheel.

In order to ensure the exercise of proper supervision and management over the automated aspects of jury selection, and in accordance with statutory requirements, the Clerk of the Court shall issue to the operator of the computer facilities written instructions describing the operation which shall be performed by the computer equipment. The instructions to computer personnel are attached as Exhibit "A" to this Plan. In addition, the Court shall require the execution of an affidavit by the agency providing the computer service. Such affidavit shall state under penalty of perjury that the procedures set down by the Court governing the selection process have been fully met in the automated phase of the selection process. This affidavit is attached as Exhibit "B" to this Plan. These two attachments shall be made a part of the permanent records of the Clerk of Court.

B) Determining a "Starting Number". The starting number

will be manually drawn by numbered cards placed in a jury wheel or similar device. Cards used for the drawing shall begin with a card containing the number one 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 list 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 picked by lot at a public drawing. The procedure described above shall be utilized for selecting a starting number for both the master and qualified wheels.

#### SELECTING THE NAMES BY MANUAL METHODS

When selection from the county voter registration lists is made manually, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered or, if they are not numbered, in any other logical consistent sequence. For this counting and selecting process the entire list must be covered and the specific names picked will be according to the established quotient and starting number formula described above.

#### SELECTING THE NAMES BY MACHINE METHODS

The Judges of this Court find that electronic data processing methods can be advantageously used for selecting and copying names from the voter registration lists of those counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes, or magnetic discs. It is further found that in smaller counties currently maintaining their voter registration lists in handwritten or printed forms, it may be advantageous to employ a combination of methods whereby names are initially selected from the voter registration lists manually and then recorded on punched cards and tapes for subsequent handling and copying of these names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may, at the Clerk's option and after consultation with the Chief Judge, be used to select master wheel names from voter lists of any or all counties in the District, provided that the required proportions of names for each county are maintained and that the above described quotient and starting number formula is followed.

Similarly, the Judges of this Court find that an electronic data processing system or a combination electronic and manual system may be used to select names from the qualified wheel of persons to be summoned to serve as grand or petit jurors, and for

the recording of names of prospective jurors on any papers and records needed by the Court to administer the selection and payment of jurors.

If the Court elects to use electronic machine methods in connection with any or all of the Districts' voter records, master jury wheels or qualified jury wheels, the name selection system shall be planned and programmed according to a starting number and quotient formula.

#### MASTER JURY WHEELS

The Clerk shall maintain a master jury wheel or a device similar in purpose and function for each division within the District. The names and addresses of all persons randomly selected from the source lists shall be placed in the master wheel for that division. The physical form of record on which names for the master wheels are kept may include such electronic data storage devices as punched cards, magnetic tapes, or magnetic disk files. Pursuant to Section 1863(b)(4) of the Act, the minimum number of names to be placed in the master jury wheels shall be at least one-half of one percent of the total number or names on the source lists within the division or as may be prescribed by the Clerk under the direction of the Chief Judge. Therefore, the number of names to be selected for each division's master wheel will be as follows:

Southern Division 5000  
Northern Division 3000  
Eastern Division 3000

The Judges of this Court may order additional names to be placed in the master jury wheel for said divisions from time to time as necessary and in accordance with the formula described above.

The master jury wheels currently in full force and effect shall be emptied and refilled every four (4) years, not later than September 1 of the year following a general presidential election year.

#### DRAWING OF NAMES FROM THE MASTER JURY WHEELS: COMPLETION OF JUROR QUALIFICATION FORMS

The Clerk, either all at one time or at periodic intervals, shall publicly 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 qualified wheels. The number of names to be drawn shall be determined by the Clerk based upon

anticipated juror demands 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 shall have prepared, by manual or computer means, alphabetized lists of the names drawn. These lists shall not be exhibited to any person except as provided herein and in Section 1867 and 1868 of the Act, as amended. The Clerk shall prepare and have mailed to every person whose name is so drawn, a juror qualification form, accompanied by instructions to execute and return the questionnaire duly signed and sworn, to the Clerk of Court within ten (10) days. The Court shall utilize the juror qualification forms prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States for this purpose.

If a person is unable to fill out the juror qualification questionnaire, another person shall do it for him and shall indicate that he has done so and the reason therefore. In any case in which it appears that there is an omission, ambiguity, or error in form, the Clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary. Thereafter, the Clerk will instruct the person to return the completed form within ten (10) days of the receipt of the questionnaire.

The remaining sections of Section 1864 of the Act, as amended, in regard to the penalties provided for therein in relation to any person failing to appear and any person who wilfully misrepresents a material fact on a juror qualification form, are by reference made a part hereof as though the same were set forth at length herein.

#### EXCUSES ON INDIVIDUAL REQUEST

The Judges of this Court find 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, as amended, and shall be granted upon individual request to those:

- 1) Persons over 70 years of age.
- 2) Persons 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.
- 3) Actively practicing attorneys, physicians, dentists, or registered nurses.

4) Persons who have served as a grand or petit juror in the State or Federal Court within the past two (2) years.

5) Persons making a showing of facts otherwise constituting undue hardship or extreme inconvenience pursuant to 28 USC 1869(4)(2)(j), as amended by Public Law 95-572. Undue hardship or extreme inconvenience shall mean great distance, either in miles or travel time, from the place of holding Court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the Court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty (30) days of service, the Court may consider as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service. This excuse from jury duty would be a temporary excuse only, and the juror shall be summoned again for jury service in accordance with 28 USC 1866(b)(c).

6) Volunteer safety personnel. These are personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency". "Public agency" for this purpose means the United States, any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or other territory of the United States, or "any unit of local government, department, or instrumentality of any of the foregoing."

#### EXEMPTION FROM JURY SERVICE

The Court hereby finds that exemptions of the following groups of persons of occupational classes is in the public interest and would not be inconsistent with the Act, as amended, and accordingly such groups are exempted 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 any state, district, territory, possession, or subdivision thereof.

3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or any state, district, territory, or possession, or subdivision thereof, who are 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 a public office.

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

The Court, upon their initiative, or upon recommendation of the Clerk, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. Only objective criteria may be used to determine if any person is unqualified for jury service or whether a basis exists for exempting or excusing any person from jury service. 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.

In making such determination, the Court shall deem any person qualified to serve on grand and petit juries in the District Court unless he:

1) is not a citizen of the United States, eighteen (18) years of age who has resided within the Judicial District for a period of one (1) year;

2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

3) is unable to speak the English language;

4) is incapable, by reason of mental or physical infirmity, of rendering satisfactory jury service;

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 separate qualified jury wheels for each division and shall place in such wheel the names of all persons drawn from the master wheel which are not disqualified, exempt, or excused pursuant to the Plan. He shall insure that at all times at least two hundred (200) names are maintained in each such wheel. The Clerk may maintain these wheels through the use of a properly programmed data computer. Whenever a qualified wheel is maintained on a data computer, the persons to be

summoned for a particular array will be selected by a quotient arrived at by dividing the number of persons needed on the array into the number of names in the qualified wheel. The Clerk will publicly draw a starting number by lot and the computer center will be instructed to follow the starting number and quotient in the machine selection of these persons and the reporting of their names and addresses on the summons form.

#### SUMMONING OF JURORS

Upon Court order, the Clerk shall randomly select from the designated qualified jury wheel, by machine or manual methods, the designated number of persons to be summoned for a specific date. The Clerk shall have prepared an alphabetical list of all persons summoned. Names drawn from the qualified jury wheel shall not be made public until the panel of jurors have been summoned and have appeared at the courthouse, provided that the Court may order that the names be made public at an earlier date or that they may be kept confidential in a case or in cases when the interests of justice so require. Jurors summoned may be excused upon written request to the Clerk of Court, who is authorized to grant requests for temporary excuse on the grounds of undue hardship or extreme inconvenience. The Clerk of Court or his designee shall approve or disapprove such request subject to Public Law 94-972, Section (4)(2)(j).

#### GRAND JURY PANEL

The Court finds that periodic sessions of the grand jury should be held for the entire District at the United States Courthouse in any of the three divisions. 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 total number of persons on the voter registration lists of each division as compared to the total number of persons on the voter registration lists of all divisions as certified by the Secretary of State. For instance, if the list of registered voters in all the counties in the Southern division comprised fifty percent (50%) of the total of all registered voters in the state, then when selecting a grand jury, approximately fifty percent (50%) of those summoned must come from the qualified wheel in the Southern division. The Clerk shall prepare a separate list of names of persons assigned to each grand jury. All other provisions of Section 1866 of the Act, as amended, in regard to the selection and summoning of jury panels, are incorporated by reference as through the same were set forth at length herein.

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

Random drawings of starting numbers shall be publicly made in the Office of the Clerk of the Court at times to be publicly announced on the bulletin board in the Office of the Clerk, Room 612, United States Courthouse, 550 West Fort Street, Boise, Idaho.

Drawing of names of prospective jurors by automated selection methods shall be made at the designated computer center. The location and approximate time of such drawings shall be publicly announced in a 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 Jury Selection Plan.
- 2) 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.
- 3) A copy of the affidavit completed by the computer service which sets forth their compliance with the Court's order.
- 4) A verbal or graphically charted description of the procedure employed in the automated selection system.

IMPANELLING JURORS

The panel of jurors summoned as petit jurors shall report in the jury assembly room of their division. Names of persons summoned and not excused by the Court may be inserted into a total jury panel wheel from which the jury pool for a given day or week may be selected. The Clerk shall prepare, for the use of Court and counsel, a separate list of names of persons assigned to each petit jury.

On the day of trial, the names of persons impanelled for that trial drawn from the qualified jury wheel shall be made public provided that any district judge in a case where the interest of justice so requires, may order that the names be kept confidential until the time of voir dire examination.

### UNANTICIPATED SHORTAGE OF JURORS

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

### OBLIGATION TO SERVE AND PERIOD OF SERVICE

When summoned to serve as a juror, every person shall be obliged to serve unless determined to be disqualified, exempt, excluded, or entitled to be excused. Failure to appear as directed will be subject to the penalties set forth in 28 USC 1864(b). Petit jurors shall serve for a six (6) month term of service and grand jurors shall serve for a term not in excess of eighteen (18) months. During these terms of service no person shall be required to serve or attend Court for prospective service as a petit juror for a total of more than thirty (30) days, except when necessary to complete service in a particular case; nor shall any person be required to serve upon more than one grand jury or to serve as both a grand and petit juror.

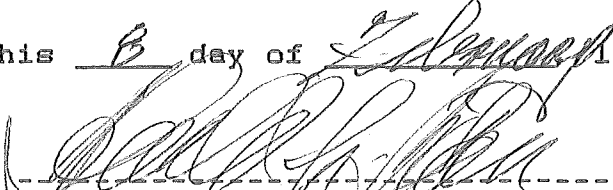
Grand and petit jurors shall initially be summoned in the manner provided in Section 1866(c) of Title 28 USC for service until the next general panel is drawn or until relieved by order of the Court. As needed thereafter, the Clerk shall, unless otherwise directed by the Court, notify jurors of the time, date, and place to report by mail, in person, by telephone, through the United States Marshal, or by whatever method he feels appropriate under the particular circumstances.

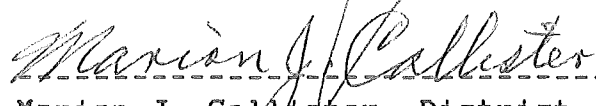
### DURATION OF PLAN AND EFFECTIVE DATE

This Plan shall remain in full force and effect until approval of one or more modifications by the reviewing panel of the 9th Circuit Court of Appeals. Modifications may be initiated by the Court and submitted to the reviewing panel or by such rules and regulations as may be adopted by the Judicial Conference of the United States.

This amended Plan shall become effective upon approval by the reviewing panel of the Judicial Conference of the 9th Circuit Court of Appeals, or at such time thereafter as the panel shall direct.

DATED at Boise, Idaho, this 8 day of February 1989.

  
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Harold L. Ryan, Chief Judge

  
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Marion J. Callister, District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

In the Matter of Authorization and )  
Instructions to Non-Court Officials)  
for Automated Selection of Names of ) COURT AUTHORIZATION  
Prospective Federal Jurors )

In order to comply with the provisions of the Jury Selection and Service Act of 1968, as amended by the Jury Systems Improvements Act of 1978, Public Law 95-572, and pursuant to this Court's Jury Plan which authorizes use of electronic data processing methods for the selection and recording of names for the master jury wheels and for summoning jurors from the qualified jury wheels, this Court hereby authorizes the current Data Processing Manager of Ada County Data Processing, or his authorized representative, as an officer of this Court, to carry out by automated methods the instructions and orders of this Court relating to

Names for Master ) the selection and recording of prospective  
Wheels ) ( ) names to be extracted from the voter  
registration lists of each county within  
the division as certified by the Secretary  
of State, for the master wheels of the  
(a) \_\_\_\_\_ (b) \_\_\_\_\_  
(c) \_\_\_\_\_ divisions of this Court.

Names to Summon ) the selection and recording of names from  
From Qualified ) ( ) the qualified wheels for (a) \_\_\_\_\_  
Wheels ) (b) \_\_\_\_\_ (c) \_\_\_\_\_  
divisions of this Court, of persons to be  
summoned for jury duty.

You are to commence with the selection and recording of the  
\_\_\_\_\_ name on said list or wheel, and then to select every \_\_\_\_\_ name  
thereafter, continuing in this manner through the entire designated

list or wheel in accordance with procedures specified in the Jury Plan of the District of Idaho, a copy of which has been furnished.

DATE \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

AFFIDAVIT OF NON-COURT OFFICIAL

I hereby certify that the selection and recording of names from the designated counties, or designated qualified wheel(s) was carried out strictly according to procedures specified in the Court's "Juror Selection Plan" and that they have been carried out upon specific instructions of the Clerk of Court as specified in the attached Court authorization and instruction form.

\_\_\_\_\_  
Date of Drawing

\_\_\_\_\_  
Authorized Representative  
Ada County Date Processing