

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

DEC 12 2006

IN THE MATTER OF:

MATTHEW J. DYKMA
CLERK

ADOPTION OF THE COURT'S
MODIFIED JURY PLAN

Misc. No. 6175

ORDER ADOPTING MODIFIED JURY PLAN

This Order Adopting Modified Jury Plan replaces the Court's Miscellaneous Order No. 6175, filed January 25, 2005, which is hereby rescinded.

The following Jury Selection Plan (the "Plan") is adopted by the United States District Court for the District of New Mexico in accordance with the Jury Selection and Service Act of 1968, as amended, 28 U.S.C. § 1861, *et seq.* (the "Act").

1. Declaration of Policy

It is the policy of the United States District Court for the District of New Mexico (the "Court") that all litigants in the Court entitled to trial by jury will have the right to grand juries and petit juries selected at random from a fair cross section of the community in each jury division and that all qualified registered voters will have the opportunity to be considered for service on grand juries and petit juries and will have an obligation to serve as jurors when summoned for that purpose. No qualified person will be excluded from the opportunity to serve as a grand juror or as a petit juror because of race, color, religion, sex, national origin, or economic status.

2. Jury Divisions

The Court finds that establishing within the District jury divisions, composed of counties from which jurors will be drawn for each place of holding court, will result in impartial trials, will avoid unnecessary expense, and will reduce burdens on persons reporting for jury service. The Court, therefore, establishes petit jury and grand jury divisions.

a. Petit Jury Divisions.

There will be three petit jury divisions:

- (1) The Northern Division which includes Colfax, Curry, De Baca, Guadalupe, Harding, Los Alamos, Mora, Quay, Rio Arriba, San Miguel, Santa Fe, Taos, Roosevelt, and Union Counties;
- (2) The Central Division which includes Bernalillo, Cibola, McKinley, Sandoval, San Juan, Socorro, Torrance, and Valencia Counties; and
- (3) The Southern Division which includes Catron, Chaves, Dona Aña, Eddy, Grant, Hidalgo, Lea, Luna, Lincoln, Otero, and Sierra Counties.

b. Grand Jury Divisions.

There will be two grand jury divisions:

- (1) The Northern/Central Division which includes the same counties that are included in the Northern and Central petit jury divisions; and
 - (2) The Southern Division which includes the same counties that are included in the Southern petit jury division.
3. **Management and Supervision of Jury Selection Process and the Plan.**

The Clerk of the Court, any authorized deputy clerk, or any other person authorized by the Court to assist the Clerk, will manage the jury selection process and the Plan under the supervision of the Chief Judge of the Court or other active district judge designated by the Chief Judge. In the event the Chief Judge, or another judge designated by the Chief Judge, is unable to perform duties required by the Plan, those duties will be performed by the judge specified in 28 U.S.C. § 136(e).
4. **Persons Eligible for Jury Service**

Persons who are named in voter registration lists maintained by each county in the State of New Mexico and who are qualified under the terms of the Plan will be eligible to be selected for jury service under a computerized random selection process.
5. **Computerized Random Selection Process**

In each jury division, persons eligible for jury service will be selected randomly by a computer program to form two successive jury wheels: the Master Jury Wheel and the Qualified Jury Wheel.

 - a. **Master Jury Wheel**
 - (1) **Formation and Duration.** A two-year Master Jury Wheel will be emptied and refilled for each division by March of every odd-numbered year, and persons selected for inclusion in a Master Jury Wheel will be subject to being chosen for a Qualified Jury Wheel and for jury service during the existence of the Master Jury Wheel, i.e., until it is replaced by a succeeding Master Jury Wheel.
 - (2) **Public Notice.** A written announcement of a proposed random selection of names from applicable voter registration lists to form a Master Jury Wheel will be posted in a place accessible to the public in a United States Courthouse located in the jury division for which a Master Jury Wheel is to be formed. The notice will be posted for at least ten consecutive days prior to the date of the selection of names to form the Master Jury Wheel.
 - (3) **Proportionality.** The number of names selected from the voter registration list of each county within a jury division will be such to ensure that each county in the jury division is substantially proportionately represented in the Master Jury Wheel that is being formed.
 - (4) **Numbers of Names Selected and Supplementation.** The names of at least one thousand persons will be randomly selected to be placed initially in a Master Jury Wheel for the Northern Division; the names of at least one thousand persons will be randomly selected to be placed initially in a Master Jury Wheel for the Central Division; and

the names of at least one thousand persons will be randomly selected to be placed initially in a Master Jury Wheel for the Southern Division. The Chief Judge, or other judge designated by the Chief Judge, may order that the names of additional persons be randomly selected and placed in the Master Jury Wheel for a division if that becomes necessary to assure an adequate number of names in a Master Jury Wheel.

b. **Qualified Jury Wheel.**

- (1) **Formation and Duration.** A Qualified Jury Wheel for a division will be formed by including in it the names of all persons who the Clerk has not disqualified, exempted or excused, and the Qualified Jury Wheel will continue in existence until it is replaced by a Qualified Jury Wheel that will be drawn from a succeeding Master Jury Wheel.
- (2) **Number of Names Drawn and Supplementation.** One-half of the names in a Master Jury Wheel of a jury division will be randomly drawn to form a Qualified Jury Wheel for that jury division. The Chief Judge, or other judge designated by the Chief Judge, may order that the names of additional persons be randomly drawn from the Master Jury Wheel and placed in the Qualified Jury Wheel for a division if that becomes necessary to assure an adequate number of names in the Qualified Jury Wheel.
- (3) **List of Names Drawn.** In accordance with 28 U.S.C. § 1864(a), the Clerk will prepare an alphabetical list of the names of the persons drawn from the Master Jury Wheel to form a Qualified Jury Wheel. Except by written order of the Chief Judge, or other active judge designated by the Chief Judge, or as required by statute, the list of names drawn will not be disclosed to anyone other than the judges of the Court, the Clerk, or any other person authorized by the Court to assist the Clerk in management of the jury selection process.
- (4) **Juror Qualification Forms.** In accordance with 28 U.S.C. § 1864(a), the Clerk will mail to each person whose name is drawn from the Master Jury Wheel, for the purpose of forming a Qualified Jury Wheel, a juror qualification form prescribed by the Administrative Office of the United States Courts.
- (5) **Summons for Additional Information.** A person who fails to reply timely to a juror qualification form or who submits a reply requiring further investigation may, if necessary, be summoned for a personal interview by the Clerk in accordance with 28 U.S.C. § 1864(a).
- (6) **Determination of Persons to be Included in a Qualified Jury Wheel.** The Clerk is authorized and directed to determine which persons should be included in a Qualified Jury Wheel. A person whose name is in the Master Jury Wheel is presumed to be qualified to be in the Qualified Jury Wheel, but may be omitted from the Qualified Jury Wheel if the Clerk determines that the person does not satisfy the qualification requirements of 28 U.S.C. § 1865(b), or is

statutorily exempted from service under 28 U.S.C. § 1863(b)(6), or is excused by the Clerk for one of the special reasons set forth in this Plan. Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to appropriate election officials for verifying voter registration eligibility.

(7) Excuses for Special Reasons.

(a) In accordance with 28 U.S.C. § 1863(b)(5)A), the Court finds that jury service by a member of the following groups of persons would entail undue hardship or extreme inconvenience and an excuse from jury service would not be inconsistent with 28 U.S.C. § 1861 or 28 U.S.C. § 1862:

- i. Persons over 70 years of age;
- ii. Persons who have served as a grand juror or a petit juror in any federal court within the last two years;
- iii. Other persons who show “undue hardship or extreme inconvenience” as defined in 28 U.S.C. § 1869(j).

The Clerk must excuse from jury service any member of these groups of persons who requests to be excused.

(b) In accordance with 28 U.S.C. § 1863(b)(5)(B), the Clerk must excuse from jury service persons who are “volunteer safety personnel” and who request to be excused from jury service.

(8) Temporary Excuses.

In accordance with 28 U.S.C. § 1866(c), the Clerk may, because of undue hardship or extreme inconvenience, temporarily excuse a person summoned for jury service.

(9) Source of Jurors for Petit Jury Panels and Grand Jury Panels.

The Qualified Jury Wheel will be the source of persons who will be drawn randomly to report for assignment on petit jury panels and on grand jury panels.

6. Summoning of Jury Panels

The Clerk is authorized and directed to summons persons whose names are in the Qualified Jury Wheel of a jury division for assignment to grand jury panels and petit jury panels in the division in accordance with the procedures of 28 U.S.C. § 1866.

7. Disclosure of Names of Panel Members

a. Petit Jurors

(1) The Clerk may disclose the names drawn from the Qualified Jury Wheel to form a Petit Jury Panel to the parties in a case upon request of a party; however, a judge may order that the names be kept confidential in any case in which the interests of justice require confidentiality.

(2) Names of prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the Court. A request for disclosure of petit juror names to the media or public must be made to the presiding judge.

b. Grand Jurors

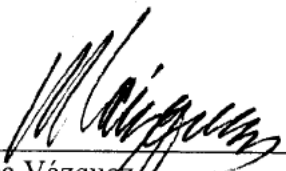
The names of grand jurors drawn from the Qualified Jury Wheel must not be disclosed to the public or maintained in a public record, unless the judge in charge of the grand jury orders disclosure for a demonstrated need based on a showing of exceptional circumstances.

8. Computer Services for Random Selections

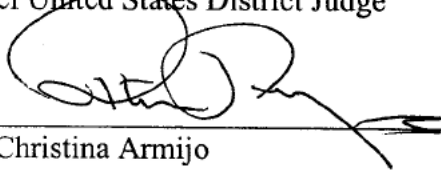
The Court authorizes and directs the Clerk to contract with a provider of computer services to operate a computer program to carry out this Plan. The Clerk will give the computer service provider written instructions for a computer program that will carry out the random selection features of the Plan. The Clerk must require the computer service provider to execute, under penalty of perjury, a declaration that the computer service provider has complied with the Clerk's written instructions and that the computerized random selection procedures set forth in the Plan have been followed and carried out by the computer service provider in making computerized random selections.

9. Records

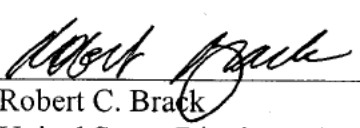
The Clerk must keep in the permanent records of the Court a copy of the written instructions given to the computer service provider and the computer service provider's sworn declaration of compliance with the instructions and the procedures of the Plan.



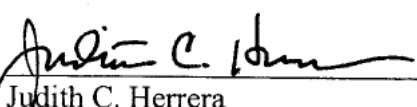
Martha Vázquez
Chief United States District Judge



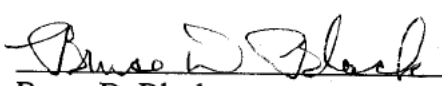
M. Christina Armijo
United States District Judge



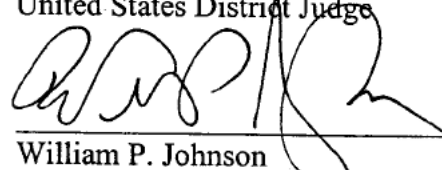
Robert C. Brack
United States District Judge



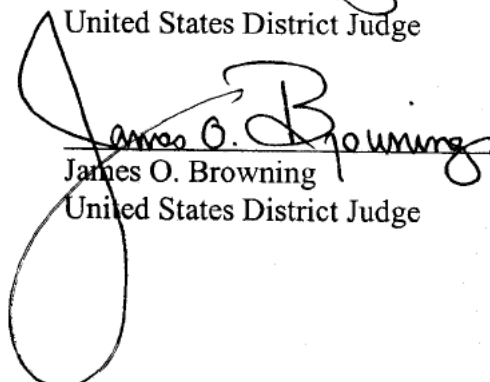
Judith C. Herrera
United States District Judge



Bruce D. Black
United States District Judge



William P. Johnson
United States District Judge



James O. Browning
United States District Judge