

ADMINISTRATIVE ORDER
NO. 2014-05

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ORDER GOVERNING THE JURY SELECTION PLAN,
ORANGE COUNTY

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

WHEREAS, pursuant to section 40.001, the chief judge of each judicial circuit is vested with overall authority and responsibility for the management, operation, and oversight of the jury system within his or her circuit; and

WHEREAS, pursuant to section 40.225(2), Florida Statutes, the clerk of the court, or the chief judge of the circuit if performing the duties of juror candidate selection as provided in section 40.02, Florida Statutes, shall submit for approval a plan for the selection of juror candidates as required in this section to the Chief Justice. The plan must be reapproved whenever required by a change in the law, a change in the technical standards and procedures, or a change in the approved hardware or software used in the automated system of jury venire selection; and

WHEREAS, the Chief Judge of the Ninth Judicial Circuit performs the duties of juror candidate selection as provided in section 40.02, Florida Statutes; and

WHEREAS, it has become necessary to implement changes to the technical standards and procedures, and in the approved hardware and software used in the automated system of jury venire selection in Orange County to facilitate an improved system consistent with technological advancements; and

WHEREAS, this automated system of jury venire selection for Orange County, as set forth in this Administrative Order, was submitted to the Chief Justice for approval on April 3, 2014. Authorization was granted by Florida Supreme Court Administrative Order attached hereto as Attachment C;

NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, do hereby order as follows, **effective immediately upon approval and authorization of the Chief Justice**, and to continue until further order, that Local Rule No. 1, approved on December 14, 2005, of the Ninth Judicial Circuit for procedure in all courts of Orange County in which jury trials are held is hereby vacated once all jurors who were selected to serve under the juror selection procedures stated in Local Rule No. 1 have completed jury service. The procedures established in this Administrative Order shall constitute the method in Orange County for the selection of persons for grand jury or petit jury service. This method is as follows:

1. Equipment:

- a. The primary Jury Management System (JMS) SQL database runs on an VMMware ESX virtual server. This server is located in a computer room of the Orange County Courthouse, a secured facility under control of the Ninth Judicial Circuit's Office of

Court Administration. This is also the site where criminal and civil jury trials are heard. There are both test and production instances of the JMS application and both run under Windows 2012 R2 and Microsoft SQL 12.

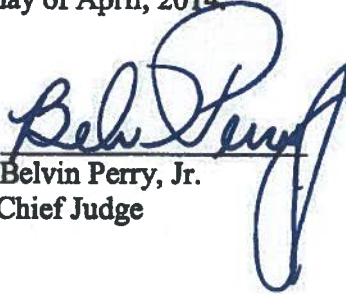
- b. The primary JMS web/application server will be located at the Orange County Courthouse in the same computer room as the JMS database server.
- c. The main jury database is replicated to a secondary jury server at the Orange County Courthouse. This secondary server is VMWare ESX virtual server running Windows 2012 R2. In addition to the replicated JMS database, this server will be configured as a secondary web/application server to execute the JMS application in the event of a failure.
- d. In the event of a network failure, users in the Orange County Courthouse will execute the application from a replicated database residing on the local server.
- e. Court Administration will back up the JMS database (full backup) nightly using Veem backup for VMWare ESX servers stored to offsite disk and the backups are kept for one month.
- f. All hardware and software associated with the jury application will be upgraded on an as needed basis.

2. Method of Selecting Venire:

- a. The sources from which names shall be taken:
 - i. A quarterly updated list of Florida Department of Highway Safety and Motor Vehicle (DHSMV) licensed drivers and identification card holders, 18 years of age or older, who are citizens of the United States, and legal residents of Florida residing in Orange County.
 - ii. Persons filing affidavits pursuant to section 40.011 of the Florida Statutes.
- b. The Clerk of Court for Orange County is designated the official custodian of the copy of the driver license list provided specifically for venire selection and shall ensure that it is not accessible to anyone other than those directly involved in the selection of venires, as herein provided.
- c. The Court Administrator shall cause Orange County petit and grand jury venires to be selected from the list programmed into Court Administration's computer network using the method described in Attachment A (Process for Maintaining and Updating Prospective Juror File) and Attachment B (Juror Selection Process) in accordance with directions received from the Chief Judge or the designated representative of the Chief

Judge. Court Administration jury personnel may draw the venires and perform any other functions allowed by statute.

DONE AND ORDERED at Orlando, Florida, this 3rd day of April, 2014.



Belvin Perry, Jr.
Chief Judge

Copies provided to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

Attachment A

Process for Maintaining and Updating Prospective Juror File

1. Each calendar quarter, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) sends an electronic file of licensed drivers and ID card holders to the Florida Association of Court Clerks (FACC). After separating the records into multiple files based on "county of residence" and excluding drivers and ID card holders under 18 years of age, the FACC transmits the appropriate county's file to the Clerk of Court for that county via email attachment.
2. A software utility from Courthouse Technologies, Ltd., is used to match and merge the new FACC file with existing juror records stored in the Courthouse Jury Management System (JMS), an application also from Courthouse Technologies, Ltd. The JMS database includes juror personal data, service history and excusal status. Jurors who are temporarily or permanently excused are flagged as ineligible but not deleted from the database. The records from the FACC file are compared to the existing juror records in the JMS database using driver's license number. Where no match is found against either driver's license number or social security number, the FACC records are matched to the JMS records using the last name, suffix, first name and date of birth as a set of matching criteria. Where a match is found, the addresses are compared and, if different, the DHSMV address replaces the JMS address. Records that exist in the FACC file but not in the JMS database, are added to the JMS database. Records that exist in the JMS database but not in the FACC file, are flagged as inactive in the JMS database unless they were created as a result of the filing of an affidavit pursuant to section 40.011, Florida Statutes. Records that are flagged as inactive remain in the JMS database indefinitely but are bypassed by the system during the jury pool selection process.
3. Maintenance is conducted on a regular basis to update JMS juror records in accordance with section 40.022, Florida Statutes, (e.g., identifying convicted felons, deceased persons and legally incapacitated persons, and processing them according to statute). New maintenance procedures will be developed and employed to comply with other relevant statutes when implemented, assuming that data and/or processes from external agencies are available.
4. Persons filing affidavits pursuant to section 40.011, Florida Statutes, will be added to the JMS database through an on-line process within two working days.

Attachment B

Juror Selection Process

1. The selection of candidates for weekly petit jury pools is done at least five weeks in advance of the reporting date. For Grand Jury, selection of candidates is done twice a year, three months in advance of the reporting date.
2. Using JMS, the Jury Pool Manager or his/her respective designees, enter the jury pool location and the number of jurors required (minimum of 250 per section 40.02, Florida Statutes) for the serve date specified. No other information is supplied by the user. The JMS will select and summons the number of jurors requested. Data associated with the selection of a juror pool (e.g., date, number of jurors requested) is stored for future retrieval and reporting.
3. Prior to invoking the process for randomly selecting jurors, JMS determines the number of jurors previously postponed, deferred or re-summoned to the serve date specified and subtracts this number from the total number requested. The result is the number of jurors that JMS must randomly select from the juror database. This step in the selection process does not apply to Grand Jury selection.
4. The JMS random selection process is then invoked for each jury pool requested. For this process, Courthouse JMS uses the Microsoft Enhanced Cryptographic Service Provider (CSP) which implements a cryptographically strong random number generator that uses many unpredictable inputs to create the random seed. By providing many unpredictable inputs to generate the random seed, the algorithm is able to generate an unpredictable random starting point for any random number generator. Microsoft's System Security Cryptography RNG Crypto Service Provider is the most cryptographically strong random number generator available on the Windows platform.
5. In Microsoft's CSP, the CryptGenRandom function uses the same random number generator used by other security components. This allows numerous processes to contribute to a system-wide seed. CryptoAPI stores an intermediate random seed with every user. To form the seed for the random number generator, a calling application supplies bits it might have - for instance, mouse or keyboard timing input - that are then added to both the stored seed as well as various system data and user data such as the process ID and thread ID, the system clock, the system time, the system counter, memory status, free disk clusters, the hashed user environment block, and potentially many others.

Courthouse JMS uses Microsoft's CSP to generate 512 random seeds which are then used to seed the Mersenne Twister algorithm to produce the random stream for jury selection. The Mersenne Twister algorithm (developed in 1997 and updated in 2002), was designed with consideration of the flaws in various other generators. It is a twisted

generalized feedback shift register (or TGFSR for short) and is considered to be the random number generator of choice for many software applications. The “twist” is a transformation which assures equidistribution of the generated numbers in 623 dimensions (linear congruential generators can at best manage reasonable distribution in 5 dimensions). The Mersenne Twister has the following desirable properties:

- a. It was designed to have a colossal period of $2^{19937} - 1$ (the creators of the algorithm proved this property). This period explains the origin of the name: it is a Mersenne prime, and some of the guarantees of the algorithm depend on internal use of Mersenne primes. In practice, there is little reason to use larger ones.
- b. It has a very high order of dimensional equidistribution. Note, this means, by default, there is negligible serial correlation between successive values in the output sequence.
- c. It is faster than all but the most statistically unsound generators.
- d. It is statistically random in all the bits of its output, and passes the stringent Diehard tests (a battery of statistical tests for measuring the quality of a set of random numbers developed by George Marsaglia collectively considered one of the most stringent such tests known).

A step by step summary of the JMS random selection process is as follows:

1. Use Microsoft’s crypto random generator to generate 512 random values to be used as random seeds.
2. Generate a new random stream using Mersenne Twister seeded with the 512 random numbers created in step 1.
3. Select the next number from the stream created in step 2 in the range of 1 to the total number of jurors in the jury source (or “master”) list. While the Mersenne Twister algorithm provides a number of functions to return random numbers, we use the `gen_rand_int32` function which returns 32 bit integer values.
4. Get the individual from the jury source list that corresponds to the number created in step 3.
5. Evaluate whether or not the juror is eligible to serve. This is done by evaluating data fields associated with each juror, specifically:

- a. "Last serve date" - If the jurors "last serve date" is greater than the serve date for which the selection is being made minus 365 days, the individual is skipped (ineligible) because he/she has either served or is scheduled to serve within the year prior to the date of the pool for which the selection is being made.
 - b. "Permanent disqualification" - If the "permanent disqualification" field equals "yes," the juror is skipped. The "undeliverable" field has an associated "reason code" that indicates permanent disqualification, the individual is skipped.
 - c. "Undeliverable" - If the "undeliverable" field equals "yes," the juror is skipped. The "undeliverable" field is associated with each potential juror and is updated to "yes" by the jury pool staff whenever the U.S. Postal Service returns a previously sent summons that was not deliverable. Note: The "undeliverable" status of a juror record is updated to "no" by the system if and when a different address is found for the individual in the next or any subsequent DHSMV file.
6. If the individual selected is eligible for jury service, go to step 7. If the individual is not eligible for service, do not add individual to the pool and return to step 3 above.
 7. Add juror to pool selection, increment counter, set "last serve date" to date of jury pool for which juror was selected and update juror status to "selected." Note: Juror status remains as "selected" until such time that the juror actually serves, then the juror status is updated to "served."
 8. If the total number of required jurors has been selected then end, else go to step 3.

The jury pool selection process also includes the storing of the seed values in the jury pool record. This allows the randomness of the selection process to be verified.

6. Prior to printing and sending summonses, juror addresses are processed by Summons Direct software from Courthouse Technologies. Summons Direct performs address verification, a process of checking an address to ensure that it is properly formatted and conforms to address structure standards. If Summons Direct cannot resolve an address, it is left unchanged.
7. A jury summons, specifying the jury service location and date and time to appear, is then produced and mailed to each individual selected.

Supreme Court of Florida

No. AOSC14-24

IN RE: JUROR SELECTION PLAN: ORANGE COUNTY

ADMINISTRATIVE ORDER

Section 40.225, Florida Statutes, provides for the selection of jurors to serve within the county by “an automated electronic system.” Pursuant to that section, the chief judge of the circuit must review and consent to the juror selection process, and the clerk of the circuit court must submit to the Supreme Court of Florida a description of the method for selecting jurors. Section 40.225(3), Florida Statutes, charges the Chief Justice of the Supreme Court with the review and approval of the proposed juror selection process, hereinafter referred to as the “juror selection plan.”

The use of technology in the selection of jurors has been customary within Florida for more than 20 years and the Supreme Court has developed standards necessary to ensure that juror selection plans satisfy statutory, methodological, and due process requirements. The Court has tasked the Office of the State Courts Administrator with evaluating proposed plans for compliance with those standards.

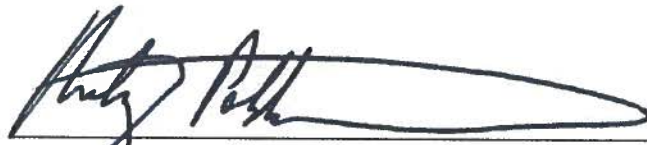
On April 3, 2014, The Honorable Belvin Perry, Jr., Chief Judge of the Ninth Circuit submitted the Orange County Juror Selection Plan for review and approval

in accordance with section 40.225(2), Florida Statutes. The proposed plan reflects changes to both hardware and software used for juror pool selection in Orange County.

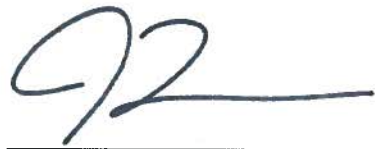
The Office of the State Courts Administrator has completed an extensive review of the proposed Orange County Juror Selection Plan, including an evaluation of statutory, due process, statistical, and mathematical elements associated with selection of jury candidates. The plan meets established requirements for approval.

Accordingly, the attached Orange County Juror Selection Plan, submitted on April 3, 2014, by The Honorable Belvin Perry, Jr., Chief Judge of the Ninth Judicial Circuit, is hereby approved for use.

DONE AND ORDERED at Tallahassee, Florida, on April 21, 2014.


Ricky Polston, Chief Justice

ATTEST:


John A. Tomasino, Clerk of Court

