

Supreme Court of Florida

No. AOSC07-48

IN RE: JUROR SELECTION PLAN: COLLIER COUNTY

ADMINISTRATIVE ORDER

Section 40.225, Florida Statutes, provides for the selection of jurors to serve within the county by “mechanical, electronic, or electrical device.” Pursuant to that section, a majority of judges within the circuit in which the county resides must approve, and the chief judge of the circuit must submit, a description of the method for selecting jurors to the Supreme Court of Florida. Section 40.225(3), Florida Statutes, charges the Supreme Court with the review and approval of the proposed juror selection process, hereinafter referred to as the “juror selection plan.”

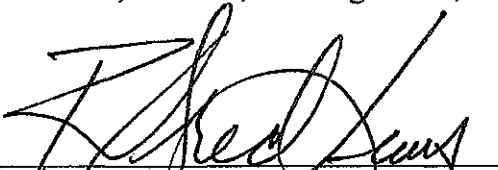
The use of technology in the selection of jurors has been customary within Florida for well over a decade, and the Supreme Court has developed standards necessary to ensure that juror selection plans satisfy statutory, methodological, and due process requirements. The Court has tasked the Office of the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

On March 27, 2007, the Chief Judge of the Twentieth Judicial Circuit submitted the Collier County Juror Selection Plan (originally submitted as Twentieth Judicial Circuit Local Rule #V Amended) 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 Collier County.

The Office of the State Courts Administrator has completed an extensive review of the proposed Collier 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 Collier County Juror Selection Plan, submitted by Chief Judge Hugh Hayes on March 27, 2007, is hereby approved for use.

DONE AND ORDERED at Tallahassee, Florida, on August 28, 2007.

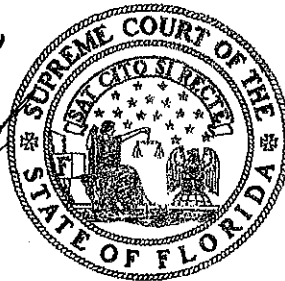


Chief Justice R. Fred Lewis

ATTEST:



Thomas D. Hall, Clerk of Court





TWENTIETH JUDICIAL CIRCUIT OF FLORIDA

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HUGH D. HAYES
CHIEF JUDGE

L. CARON JEFFREYS
COURT ADMINISTRATOR

March 27, 2007

Honorable R. Fred Lewis
Chief Justice, Florida Supreme Court
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1925


Re: Amended Local Rule #V – Selection of Jurors by Computer in Collier County

Dear Chief Justice Lewis:

Enclosed please find a proposed amended Local Rule #V, In re: Selection of Jurors by Computer in Collier County. The purpose of the amendment is to update the hardware and randomization software to be used by the Collier County Clerk of Courts in selecting jurors. The rule remains essentially the same in all other respects. Please note that the Office of the Clerk of Courts and its contractor have worked closely with the Office of the State Courts Administrator to ensure that the randomization software meets the appropriate standards.

Your consideration for approval is greatly appreciated.

Very truly yours,


Hugh D. Hayes
Chief Judge

HDH/sje

enclosure: Amended Local Rule #V with Attachments

cc: Clerk of the Florida Supreme Court
Lisa Goodner, State Courts Administrator

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

LOCAL RULE #V

- Amended -

IN RE: SELECTION OF JURORS BY COMPUTER IN COLLIER COUNTY

WHEREAS, the present method of selecting jurors can be expedited without additional expense or loss of the sanctity of random selection by the use of an electronic computer available for use by Collier County, and

WHEREAS, in accordance with Florida Statute § 40.011, the source of such selection is from the database of names from the Department of Highway Safety and Motor Vehicles, restricted to Collier County, which is in a computer compatible form and in the custody of the Collier County Clerk of the Circuit Court, and

WHEREAS, in accordance with Florida Statute § 40.011, the source of selection is also from the list of those whose names do not appear on the Department database, but who have filed with the Collier County Clerk of the Circuit Court an affidavit prescribed in the cited statute, it is therefore,

RESOLVED that the Rules of the Twentieth Judicial Circuit for procedure in all courts of Collier County in which jury trials are held shall be amended to include this additional Rule adopting the following alternative plan for the selection of persons for grand or petit jury service:

1. **EQUIPMENT:** The equipment used in jury selection will be a Gateway 975 Salaiden Server, 5- 150 gig ScSi HD 1500 rpm, Dual 2.8 ghz intel Xeon processors, 2gig Ram, Redundant power supplies and fans, OS Windows 2003 server Standard Edition, Veritas Backup Software, MS SQL 2000, or a compatible server of an equal or greater efficiency, located in the secured computer room of the Collier County Clerk of the Circuit Court's Data Processing Center.

2. ALTERNATIVE METHOD OF SELECTING VENIRE:

a. The source from which names shall be taken is the same as that which is described above in accordance with Florida Statute § 40.011. On a quarterly basis, the Collier County Clerk of the Circuit Court shall obtain a computerized listing of names from the Department of Highway Safety and Motor Vehicles. The Collier County Clerk of the Circuit Court will protect the listing and tapes and keep them securely stored.

b. The Collier Clerk of the Circuit Court is designated the official custodian of the computer records of the lists to be used in jury selection and shall ensure they are not accessible to anyone other than those directly involved in selection of venires, as herein provided.

Functions of the Collier County Clerk of the Circuit Court may be performed by deputy clerks.

c. The entire list of drivers license holders, identification card holders, and those who have filed affidavits pursuant to Florida Statute § 40.011 (hereinafter "eligible jurors") shall comprise the master jury list from which venires will be selected according to the provisions of paragraph 2(d) below.

d. The Collier County Clerk of the Circuit Court shall cause jury venires to be selected from the final jury list programmed into the Collier County computer using the method described in Attachments "A" and "B", and in accordance with directions received from the Chief Judge or his designated representative.

e. The initial jury selection programming may exclude persons who have been previously excluded for physical infirmities or inability to comply with other non-correctable statutory qualifications. A detailed description as to how the list of excluded persons is developed and maintained is set forth in Attachment "A".

f. Attachments "A" and "B" shall be incorporated into this Local Rule as if fully set forth herein.

IN RE: SELECTION OF JURORS BY COMPUTER IN COLLIER COUNTY

STATE OF FLORIDA
COUNTY OF COLLIER

CERTIFICATE

I HEREBY certify that, pursuant to Florida Statute § 40.225, a majority of judges authorized to conduct jury trials in Collier County, Florida, have consented to the use of the electronic system which is described in an attachment hereto, and requests the approval of the Supreme Court of Florida for the use of such system in Collier County, Florida.

DATED this 27th day of March, 2007.

Hugh D. Hayes
Hugh D. Hayes
Chief Judge
Twentieth Judicial Circuit

History.- Local Rule #V (March 20, 1998).

Attachment "A"

METHOD OF JURY SELECTION FOR COLLIER COUNTY

Collier County juror source list processing:

Candidates for Collier County petit and grand jury venires are drawn from a list of licensed Collier County, Florida residents as provided by the Florida Department of Highway Safety and Motor Vehicles (i.e., drivers list) combined with a list of all Collier County residents indicating a desire to serve as a juror (i.e., affidavit list) in accordance with Ch. 40.011, Florida Statutes.

The drivers list is drawn quarterly by the Clerk of the Circuit Court for Collier County from the Department of Highway Safety and Motor Vehicles (DHSMV) via the Florida Association of Court Clerks (FACC) (see notes 1 and 2) and is maintained by the Clerk in accordance with Ch. 40.011 and 40.022, Florida Statutes.

The Clerk of the Circuit Court shall purge the jury selection list of those persons statutorily excluded from juror service as specified in Ch. 40.013 and 40.022, Florida Statutes. Additionally, the Clerk of the Circuit Court shall, at least once a month, purge the jury selection lists of names of those persons:

1. Adjudicated mentally incompetent;
2. Convicted of a felony; or
3. Deceased.
4. Other persons as the Chief Judge directs.

The ACS Juror system provides functionality for the purging of a person described above. A person can be purged individually, or by using the ACS Juror data utility, deceased persons can be marked as "permanently disqualified - deceased" in bulk if the Collier County Clerk is able to receive the deceased persons data from the Department of Vital Statistics in an electronic form. All persons marked as disqualified are no longer eligible for any future selection unless the disqualification is removed (functionality is provided for removal of disqualifications). All persons that are marked as disqualified or excused have detailed history captured to reflect when and who entered the disqualification/excusal. All records are maintained in the ACS Juror database in a list referred to as the "current list".

Records are also maintained within the ACS Juror system for persons not able to serve for other reasons, and are also maintained in the ACS Juror database in the "current list". All persons who have been previously selected are marked with a "date selected", and are not eligible for reselection until the exemption period for selection has expired. The exemption period is a user defined value based on Ch. 40.013(7), Florida Statutes and is maintained in the system as a field in the court location table. Other persons that are excused or their jury service postponed, are also maintained in the ACS Juror system in the "current list". These persons have history captured that defines the reasons for excusals/postponements, new dates for service, who entered these statuses, etc..

The Clerk of the Circuit Court for Collier County or designate will enter into the ACS Juror system all requests that have been received for residents indicating a desire to serve as a juror

(i.e., affidavit list) in accordance with Ch. 40.011, Florida Statutes. The ACS Juror system provides functionality to enter these names and other relevant data directly into the ACS Juror database. These persons will also form part of the ACS Juror current list.

Once a quarter, ACS will receive the DHSMV list (referred to as the "new list") from the Collier County Clerk. The Collier County Clerk will transfer the relevant data using ACS' secure FTP (File Transfer Protocol) site. The Collier County Clerk will be assigned a unique account name and password ensuring safe and secure transfer of data between ACS and the Collier County Clerk.

ACS will also receive the source list in use by the Collier County Clerk (referred to as the "current list"). Both lists are formatted to ensure compatibility with the ACS Juror system. Based on previously agreed to business rules, ACS will merge the new list and the current list together, creating the "refreshed list". The business rules will define what address should be used in the event that each list contains different address data, and what matching criteria should be used.

The data (both new and current lists) are imported into an Oracle database, and an ETL tool - Data Integrator by Pervasive Inc., is used to perform the data conversion. Once the data conversion is completed, the refreshed list is extracted into a delimited text file in a format compatible with the ACS Juror system. ACS will remove any record from the list that contains a zip code that does not match a list of zip codes provided by the Collier County Clerk that represents a list of all County wide zip codes. ACS can also provide a National Change of Address process (optional) that will provide updated address data if applicable.

If a person is in the new list, and is also in the current list, any new data will be applied (primarily address data), and any historical data is maintained. If the person is in the new list, but not in the current list, the new person is then appended to the current list, and the current list, now refreshed, is returned to the County via the secure FTP site and is loaded back into the ACS Juror database. The lists are not sorted in any way, and the order received is the order in which the lists are maintained throughout the merge process.

When the refreshed list is loaded into the ACS Juror database, part of the load process is the assignment of a record number (rec_num) to each record loaded. This number is not visible through the application, and the sole purpose of this number is in relation to the randomization process during pool creation (see Attachment "B"). The number(s) generated by the random number generator are subsequently matched to the record that has the same rec_num. The system then determines if the record is valid (no disq.flag, date_select is beyond exemption period, no active pool record).

Note: The timeframe for the completion of the "refresh list" is approximately two weeks (this is the time that it takes ACS to perform the services related to the refreshing of the list used for jury selection). Once the "refresh list" is returned to the Court, the process to load the "refresh list" takes approximately one hour.

The data elements below are provided by (DHSMV) and all elements are maintained by the ACS Juror system.

Driver License Number

First Name

Middle Name

Last Name

Name Suffix

Street Address

City

County Code

Zip Code

Date of Birth

Race

Sex

Age

Social Security Number

The ACS Juror system (application and database) will be housed at all times on site in the Collier County Clerk's Office. Once a week, the Jury staff will create a jury venire of a minimum of 250 jurors via the ACS Juror system from the source list stored within the ACS Juror system and will print and mail summons to those persons selected three weeks prior to the jury service week. The summons provides reporting instructions for each person during their jury service week.

The ACS Juror system will require the entry of seed values prior to the pool creation process being initiated as follows:

From the most recent New York Stock Exchange most actively traded stock list; create a 10 digit random number seed using the hundreds digit (3rd digit to the left of the decimal or implied decimal point). Use the most active stock for digit 1; use the second most active stock for digit 2; etc,

The list should be published by the editors of a daily newspaper with national circulation (for example; Wall Street Journal or USA Today).

Should multiple pulls need to be done on the same day:

Pull 2 - use the 6th digit

Pull 3 - use the 1st digit

Pull 4 - use the 5th digit

Pull 5 - use the 2nd digit

Pull 6 - use the 4th digit

Use a "0" to replace any digit that is absent.

If more than six pulls are needed, select any other day available and repeat the above process.

Notes:

1. The Florida Association of Court Clerks is merely a "pass-through" used by the Department of Highway Safety and Motor Vehicles to distribute the licensed driver file. The Florida Association of Court Clerks performs no manipulation, filtration, purging, etc. to the file received from the Department of Highway Safety and Motor Vehicles. The Department of Highway Safety and Motor Vehicles purges those on the list under the age of 18 and filters out all non-Collier County residents prior to forwarding the list to the Florida Association of Court Clerks.
2. All name lists are provided to ACS as ASCII text in no particular sequence or order

Attachment "B"

The rules outlined below will explain the process ACS Juror Randomization will follow. These rules will provide consistent randomization necessary for pool generations that will meet the standards mandated by the State of Florida Supreme Court.

- A. Juror candidates are indexed by the initial row position within the application database. Thus, if the index value is calculated to be x , then the name located at row x in the database is chosen. This is accomplished by assigning a sequence number to all rows starting with one, and inserting the value into a column called "rec_num".
- B. The names are not ordered in any way within the application data table.
- C. The determination of the Participants selected effectively relies on three separate processes; First to generate seed values, Second to initialize the Random Number Generator (RNG), with the seeds, and Third to generate the required random numbers.
 1. *Generate the seed values:* To form the seed for the RNG, the CryptGenRandom function found in the advapi32.dll of the Microsoft Crypto API is called to create a list of 624 seed values [will ultimately be used for the Mersine Twister RNG (MT), which uses the values for the numbers 0 through 623].

The seed values will be 32-bits (4-bytes) as prescribed by Takuji Nishimura and Makoto Matsumoto. (Nishimura & Matsumoto improved MT and documented so on 1/26/2002. Full disclosure of their process documentation can be found at <http://www.math.sci.hiroshima-u.ac.jp/~m-mat/MT/MT2002/CODES/readme-mt.txt>.)

The CryptGenRandom (further documentation explaining this is found at <http://msdn.microsoft.com/library/default.asp?url=/library/en-us/seccrypto/security/cryptgenrandom.asp>) will be seeded using a combination of mouse and/or keyboard timing input along with specific user input at the time the user requests the Juror for Windows application to create a jury pool. The value of the seed integer is created using an algorithm whereby the user completes the pool creation by following application prompts. This algorithm is a basic formula derived by the user committing the following actions within the application at the time of jury pool creation.

- i. *When the user is ready to create a pool, he/she is prompted to click "Accept" to acknowledge their specifically defined parameters of the new pool.*
- ii. *The user MUST then click "Yes" at the next application driven prompt to verify the application should create the new pool. There is an alternative of "No". If the user selects "No", the application ceases the process of jury pool creation and returns the user to redefine their pool parameters or continue with other application features.*
- iii. *The final action the user must complete for the jury pool creation is the entry of ten random numbers using their keyboard. The user is prompted:*

"To assure juror randomness, please enter ten (10) numbers at random using your keyboard" (this prompt's text is modifiable). Upon the tenth keyed entry, the application will complete the pool's creation.

Note: The following process will be performed by the Jury Management staff Collier County Court to input the 10 random numbers required for Step iii.
Random Number Seed

From the most recent New York Stock Exchange most actively traded stock list; create a 10 digit random number seed using the hundreds digit (3rd digit to the left of the decimal or implied decimal point). Use the most active stock for digit 1; use the second most active stock for digit 2; etc

The list should be published by the editors of a daily news paper with national circulation (for example; Wall Street Journal or USA Today)

Should multiple pulls need to be done on the same day:

Pull 2 - use the 6th digit

Pull 3 - use the 1st digit

Pull 4 - use the 5th digit

Pull 5 - use the 2nd digit

Pull 6 - use the 4th digit

Use a "0" to replace any digit that is absent

If more than six pulls are needed, select any other day available and repeat the above process.

The RNG seed value will be derived by calculating the time duration in microseconds between the two clicks (steps i & ii) using the mouse and/or keyboard strokes multiplied by the total value of the ten numbers (numeric key strokes typed on the user's keyboard selected by the user when prompted to enter ten numbers randomly using their keyboard). This user supplied value (result of this calculation) will be applied to the CryptGenRandom function.

Formula:

Seed = (step i - step ii) x step iii

2. *Initialize RNG:* These 624 seeds values are placed into an array and used to initialize the Mersine Twister RNG. The seed values are stored in a table, identified by the associated pool so that they could be retrieved in the future, if called for.
3. *Generate Random Numbers:* The resulting random numbers are used to select candidates, based on their "rec_num".

By using these functions, the supporting PowerBuilder code becomes much less complex. An example is shown below. This is only an example:

```

ulong ll_input //Microseconds between the two clicks using the mouse and/or keyboard strokes
Integer li_seeds = 1000 //Number of seeds to be generated
ulong ll_seeds[] //Array of 32-bit numbers used for seeds
long ll_random //from -2147483648 to +2147483647.
long ll_max //from -2147483648 to +2147483647.
//Because of the part_no definition, the max number is 999999999, this size is
more than sufficient.
Integer li_count //Used for iteration FOR...NEXT
Integer li_pool //Number of participants to be selected.
//Because of the pool creation restriction, the max numbers is 3500
li_pool = 1000 //It will be the number entered in the pool creation window
ll_max = 78000 // It will come from system_file.voters_count

```

Step 1: Get 32-bit number array using Crypto API
If fw_get_seeds(ll_seeds,li_seeds, ll_input) = -1 Then return

Step 2: Initialize array of seeds to be used by genrand_real2
init_by_array(ll_seeds, li_seeds)
fw_stored_seeds(ll_seeds,li_seeds)

Step 3: Generate numbers using genrand_real2
dw_1.Reset() //Clean screen
For li_count = 1 to li_pool
 ll_random = 1 + truncate((ll_max * genrand_real2()),0) //generate the number
 dw_1.InsertRow(0);dw_1.SetItem(li_count, "num", ll_random) //Show the number
Next

In summary, random numbers between 1 and the number of rows in the "voter" table (inclusive) are generated using the processes described throughout this document. The corresponding rows, as identified by the rec_num column containing a sequence value, are selected and evaluated one-by-one for selection by examining disqualification codes and date of prior selection as compare to the court-defined exemption period. Random numbers are used sequentially and are generated as needed, and no unneeded random numbers are generated. Each evaluation and potential selection is based on a generated random number and no starting, stopping, or skipping factors are applied. Once the requested number of acceptable jurors are added to the pool, selection stops.

Jurors who have been granted a deferral to a future date are included in the new selection automatically on the date the deferral expires, and subsequently the number of jurors randomly selected is reduced by that number.

In order to address the need for verification of the selection process, the following information will be logged to tables within the ACS Juror database: date of selection, user requesting selection, number of jurors requested, initialization or seed values used, pool number, and list of jurors selected.