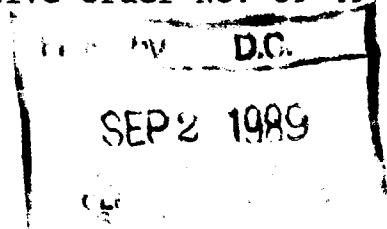


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Administrative Order No. 89-49

IN RE:

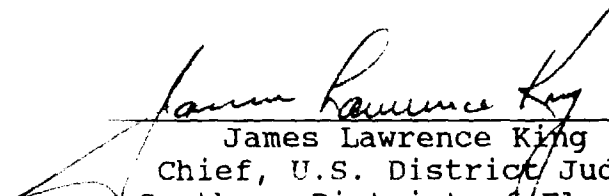
PLAN FOR THE RANDOM SELECTION
OF GRAND and PETIT JURORS



Pursuant to the approval of the Reviewing Panel of the Judicial Council of the Eleventh Circuit at Atlanta, Georgia, on the 22nd day of September, 1989, it is

ORDERED that the Plan for the Random Selection of Grand and Petit Jurors is hereby adopted by the Court and the Clerk of Court shall perform those procedures as outlined in the Plan under the supervision of the Court.

DONE and ORDERED in chambers at the United States District Courthouse, Federal Courthouse Square, Miami, Florida, this 27th day of September, 1989.


James Lawrence King
Chief, U.S. District Judge
Southern District of Florida

cc: Honorable Lenore C. Nesbitt
Robert M. March, Clerk of Court
Keenan G. Casady, District Court Executive
Pamela Thaggard, Jury Administrator

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274), a Jury Plan was adopted by this Court and approved by the Fifth Circuit Judicial Council on September 10, 1968. The Plan was amended in a number of respects and approved by the Fifth Circuit Judicial Council on April 20, 1971, December 20, 1972, April 17, 1973, February 1, 1974, July 12, 1977 and April 27, 1981. The Plan was subsequently amended and approved by the Eleventh Circuit Judicial Council through April 3, 1987.

Subject to approval by the Reviewing Panel of the Eleventh Circuit Judicial Council, the present Plan is hereby further amended in its entirety by substituting in lieu thereof the following Jury Plan for the Southern District of Florida:

This Court is a participant in the Judicial Conference's experimental use of a one-step summoning and qualification procedure, as authorized by section 805 of Pub. Law. No. 100-702, 28 U.S.C. Sec. 1878. Accordingly, upon the commencement of this experiment and for the duration thereof, jurors shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by the Jury Selection and Service Act and this Plan.

I. APPLICABILITY OF PLAN

This Plan is applicable to the Southern District of Florida, which consists of 9 counties, as follows:

County	County Seat
Broward	Fort Lauderdale
Dade	Miami
Highlands	Sebring
Indian River	Vero Beach

Martin
 Monroe
 Okeechobee
 Palm Beach
 St. Lucie

Stuart
 Key West
 Okeechobee City
 West Palm Beach
 Fort Pierce

Title 28, U.S.C., Section 89(c) provides that "Court for the Southern District of Florida shall be held at Fort Lauderdale, Fort Pierce, Key West, Miami and West Palm Beach." Special sessions may be held at such places in the district as the nature of the business may require (28 U.S.C. Sec. 141). Pursuant to this statutory requirement and in compliance with Section 1869(e) of the Jury Selection and Service Act of 1968, as amended, the Southern District of Florida is hereby divided into five (5) divisions as follows:

Miami Division, consisting of the County of Dade;
 West Palm Beach Division, consisting of the County of Palm Beach;
 Fort Pierce Division, consisting of the Counties of St. Lucie, Martin, Indian River, Okeechobee and Highlands;
 Key West Division, consisting of the County of Monroe;
 Fort Lauderdale Division, consisting of the County of Broward.

In conformance with the Local Rules of this Court, civil and criminal proceedings or trials may upon order of the Court, for the purpose of assuring compliance with the requirements of the Speedy Trial Act and for such other compelling, justiciable reasons as the Court may determine, be accordingly transferred and conducted within any of the foregoing divisions.

This Plan is applicable to all divisions throughout the District.

II. POLICY

This Plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

"Section 1861 Declaration of Policy"

"It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose."

"Section 1862 Discrimination prohibited"

"No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin or economic status."

III. MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS

The Clerk of this Court shall manage the jury selection process under the supervision and control of the Chief Judge of this District. The use of the word "Clerk" in this Plan contemplates the Clerk of this Court and any and all of his deputies, including duly authorized non-court officials. The phrase "Chief Judge of this District" wherever used in this Plan shall mean the Chief Judge of this District or in his absence, disability or inability to act, the active District Court Judge who is present in the district and has been in service the greatest length of time. Wherever the Jury Selection and Service Act of

1968, as amended, requires or authorizes the Plan to designate a District Court Judge to act instead of the Chief Judge, the above definition shall apply and such active District Court Judge above mentioned is hereby designated to act.

The United States District Judge of this Court who shall be designated by Order of the Chief Judge to preside over a particular jury division of this Court shall supervise and control the management, selection and impaneling process of both grand and petit jurors in that particular jury division.

The Chief Judge is also authorized to designate one or more other active judges of the district to supervise and control the management, selection and impaneling process of both grand and petit jurors of this district, including the determination of whether a person is unqualified for, or exempt, or to be excused from jury service as contemplated in 28 U.S.C. Section 1865 as amended.

IV. COMPOSITION, SUPPLEMENTATION AND DURATION OF MASTER JURY WHEELS

Voter registration lists represent a fair cross section of the community in each jury division of the Southern District of Florida. Accordingly, names of grand and petit jurors serving on and after the effective date of this Plan shall be selected at random for each jury division from the voter registration lists of all of the counties in that jury division. The Clerk shall obtain,

following the General Election held in 1988 and every four years thereafter, a list of registered voters for each county in each jury division.

The Clerk shall maintain, or cause to be maintained, a master jury wheel for each of the divisions within the District. The Clerk shall utilize electronic data processing technology to perform the selection procedures set forth in this Plan.

The Clerk shall make, or cause to be made, the random selection of names for the master jury wheels as follows. There shall be selected for the master jury wheel as a minimum for each division the following number of names:

Miami Division	-	180,000
Fort Lauderdale Division	-	62,000
West Palm Beach Division	-	52,000
Fort Pierce Division	-	12,000
Key West Division	-	12,000

The minimum number of names for each division shall be at least one-half of one per centum of the total number of registered voters for the division; but if this number of names is believed to be cumbersome and unnecessary, the Court may fix a smaller number of names to be placed in the master wheel, but in no event less than one thousand.

The minimum numbers of names listed herein for each division are as large as they are to allow for the possibility that some juror qualification forms, hereinafter mentioned, will not be returned, that some prospective jurors may be exempt by law or excused, and that some may not comply with the statutory

qualifications. The court may order additional names to be placed in the master jury wheels from time to time as necessary.

The Clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For example, if there are 600,000 registered voters in the Miami Division and if it is necessary to place 180,000 names in the master wheel for the Miami Division for the period in question, that number, 180,000, will be divided into 600,000, thus producing a quotient of 3 rounded off to the nearest integer. The Clerk shall then prepare and deposit into a closed container separate slips numbered 1 to 3 inclusive from which he shall draw by lot one of said numbers. Thus, if the starting number drawn is 2, the Clerk will designate the 2nd name appearing upon the voter registration list of each county for that division, and then the 5th, 8th, 11th and each and every 3rd name which appears thereafter to be placed into the master jury wheel for that Division.

Each master jury wheel for each jury division of this Court shall be emptied and refilled as hereinabove provided every four years between the date of the November General Election and September 1st of the following year with names obtained from the voter registration lists of each county within the respective jury division. The refilling of these wheels must not exceed four years from the date of the last refilling of these wheels.

As required by the Judicial Conference of the United States, a report will be made within six months after each periodic

refilling of the master jury wheel for each jury division, or upon implementation of any amendment such as to effect the composition of the qualified jury wheels hereinafter referred to, on forms approved by the Judicial Conference giving general data relating to the respective master jury wheel, the time and manner of juror name selection, the source and number of names placed in the wheel and related information, including an analysis of the race and sex of prospective jurors based on returns from a minimum of 300 juror qualification forms of those persons drawn at random from each master jury wheel; and also an analysis by race and sex of persons drawn at random from the qualified jury wheels of each jury division which, to the extent practicable, shall be comparable to the number of the questionnaire samples.

This Plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968, as amended, will be fully accomplished and implemented by the use of voter registration lists as the source of a random selection of prospective grand and petit jurors who represent a fair cross section of each of the five Jury Divisions of this District. This determination is supported by all the information this Court has been able to obtain after diligent effort on its part, and after full consultation with the Judicial Council of the Eleventh Circuit.

V. DRAWING OF NAMES FROM THE MASTER JURY WHEEL;
COMPLETION OF JURY QUALIFICATION FORM

This Plan hereby incorporates the provisions of 28 U.S.C.

Section 1864, which reads as follows:

(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk . . . may, upon order of the court, prepare an alphabetical list of the names drawn. . . The clerk . . . shall mail to every person whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk. . . by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk . . . shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk. . . within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk . . . forthwith to appear before the clerk . . . to fill out another juror qualification form in the presence of . . . the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk . . . may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order, or who fails to show good cause for noncompliance with the summons may be fined not more than \$100 or imprisoned not more than three days or both. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$100 or imprisoned not more than three days, or both.

**VI. DETERMINATION OF QUALIFICATIONS,
DISQUALIFICATIONS, EXEMPTIONS,
EXCUSES AND DEFERRALS**

This Plan hereby incorporates the provisions of 28 U.S.C. Section 1865, as amended, which reads as follows:

(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon the 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. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such facts shall be noted on said list.

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, 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 years old who has resided for a period of one year within the judicial district;

(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, to render satisfactory jury service; or

(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.

This Court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, consistent with the Act, and shall be automatically granted, pursuant to 28 U.S.C. Section 1863(6):

(1) Members in active service of 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, 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 an officer who is directly appointed by a person elected to public office).

This Court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excusal will not be inconsistent with the Act and may be claimed, if desired, and shall be granted upon individual request, pursuant to 28 U.S.C. Section 1863(b)(5):

(1) Persons over 70 years of age at the time they request excusal;

(2) Actively practicing attorneys, physicians, dentists and registered nurses (baccalaureate degree in nursing);

(3) Volunteer safety personnel who serve without compensation as firefighters, members of a rescue squad or ambulance crew of the

United States or any unit of a state or local government;

(4) Persons who have served as grand or petit jurors in a federal court during the past two years immediately preceding their call to serve;

Additionally, the Court may, in its discretion, excuse persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other ground of excusal as set forth in 28 U.S.C., Section 1866 (c) (1) and Section 1869 (j), for such a period of time as the Court may deem necessary and proper.

This Court finds and hereby states that the Clerk may, under the supervision of the Court, grant temporary excuses (deferrals) to persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other grounds for such period of time as the Court may deem necessary and proper. At the conclusion of the deferral period, these jurors shall be automatically re-summoned.

VII. QUALIFIED JURY WHEELS

The Clerk shall also maintain, or cause to be maintained, separate automated qualified jury wheels for each jury division of the district and shall place in such wheels, or cause to be placed, the names of all persons drawn at random from the master jury wheel for that jury division who are not disqualified, exempt, or excused pursuant to this Plan. The Clerk shall ensure that at all times at least 300 names are contained in each such qualified jury wheel.

The qualified jury wheel in each jury division of this district shall be emptied and refilled after the master jury wheel for that jury division has been emptied and refilled.

VIII. DRAWING OF AND ASSIGNMENT TO JURY PANELS

From time to time the Court, or the Clerk if so ordered by the Court, shall publicly draw or cause to be drawn at random from the qualified jury wheel of each jury division such number of names of persons as may be required for assignment to grand or petit jury panels within that jury division, and the Clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. These names may be disclosed by the Clerk to parties and the public after said list is prepared and the jurors have been summoned; provided, however, the Court may at any time or from time to time order generally, or with respect to any particular term or terms of court, that these names shall be kept confidential in any case where the interest of justice so requires. (28 U.S.C. Section 1863 (b) (7) and (8)).

IX. USE OF AUTOMATED DATA PROCESSING METHODS FOR JURY ADMINISTRATION

This Court finds that automated data processing methods are more efficient, effective and economical in performing many of the procedures outlined heretofore in this Plan. In addition, as authorized by 28 U.S.C. Section 1869(a) as amended, the Clerk may

employ a private computing firm to assist these automated functions.

Therefore, an automated data processing system shall be used to select names for the master wheel from voter registration lists of all counties in the District, provided that the required proportions of names from each county are maintained.

Similarly, an automated data processing system shall be used to select names from the master wheel, and from the qualified wheel for summoning persons to serve as grand or petit jurors, and for the creation of any documents or records required to administer the selection, qualification, summoning and payment of jurors.

In order to ensure the exercise of proper supervision and management over the automated aspects of jury selection and its accordance with statutory requirements, the operator of the computer shall comply with the instructions for random selection of grand and petit jurors by automated data processing methods contained in this Plan and such additional written instructions as provided by the Court.

X. PROCEDURE FOR RANDOM SELECTION OF NAMES

The name selection system shall be planned and programmed according to a "starting number" and "quotient" formula. This formula will insure that any group of names chosen will represent all segments of source files from which drawn and that the mathematical odds of any single name being picked are substantially

equal. The "quotient" is simply the number of names in the source list(s) or wheel, divided by the number of names wanted in any one drawing (in other words, it is the increment of names for each name to be taken). For example, if there are 200,000 names on a county voter list and the Court desires a master wheel comprised of 4,000 names, the "quotient" for this drawing would be 50 (i.e., 200,000 divided by 4,000 equals 50); or, if there are 4,000 names in the master wheel and the Court wishes to mail 2,000 questionnaires for the creation or supplementation of the qualified wheel, the "quotient" would be 2, (i.e., 4,000 divided by 2,000 equals 2); or if there are 2,000 names in the qualified jury wheel and the court wishes to summons 100 jurors, the "quotient" for this drawing would be 20 (i.e., 2,000 divided by 100 equals 20).

The "starting number" is a number drawn by lot from a wheel or box containing consecutively numbered slips covering the same range of numbers as the "quotient." For example, in the summons drawing mentioned above, the Clerk would place consecutively numbered cards from one to twenty in a wheel or box and randomly draw one number. If the drawn number was "5" the computer would be programmed to pick the 5th name in the wheel first and then select every 20th name thereafter... i.e. the 25th, the 45th, etc.

Randomly drawing a "starting number" by lot accomplishes three objectives:

- it establishes the location on the county voter list, or wheel, from which the first name is taken;
- it removes the possibility of human discretion or choice in selection of any individual's name (making individual name selections unpredictable); and

- it ensures that, at the outset of the drawing, the mathematical odds of being picked are substantially equal for all names in the source from which drawn.

**XI. PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME
WHEN AUTOMATED DRAWING OF NAMES WILL BE MADE**

Random drawings of starting numbers for all divisions shall be publicly made in the Miami, Florida office of the Clerk at times which shall be announced by public notice at least three business days prior to the date of the drawing. The notice shall be posted on the Clerk's bulletin board in the public areas of the Clerk's Offices in Miami, Fort Lauderdale and West Palm Beach. This public drawing requirement shall apply only to the selection of a starting number which shall govern the random selection of juror names from the source lists. It shall not be deemed to require any public observance of the actual computer operations.

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

- the Court's "Plan for the Random Selection of Grand and Petit Jurors";
- a verbal or graphically charted description of the procedure employed in the automated selection system;
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.

XII. EFFECTIVE DATE

The effective date of this Plan shall be established by a separate Order of this Court after this Plan has been approved by the Judicial Council of the Eleventh Circuit.

The current Jury Plan of this Court, as approved by the Fifth Circuit Judicial Council on September 10, 1968, together with the amendments thereto, shall remain effective and operative until the effective date of this revision.

Nothing in this Plan shall affect the composition or preclude the service of any juror duly summoned or empaneled on or before the date upon which this Jury Plan shall become effective.

juryplan