

Supreme Court of Florida

No. AOSC17-4

IN RE: JUROR SELECTION PLAN: PINELLAS 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.

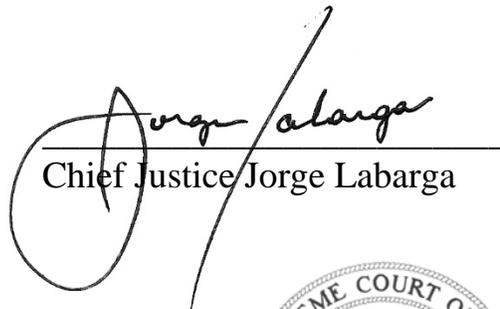
On September 14, 2016, the Clerk of the Circuit Court for Pinellas County submitted the Pinellas County Juror Pool Selection Plan for review and approval in

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

The Office of the State Courts Administrator has completed an extensive review of the proposed Pinellas 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 Pinellas County Juror Selection Plan, submitted on September 14, 2016, by The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County, and approved by The Honorable Anthony Rondolino, Chief Judge of the Sixth Judicial Circuit, is hereby approved for use.

DONE AND ORDERED at Tallahassee, Florida, on January 19, 2017.



Chief Justice Jorge Labarga

ATTEST:



John A. Tomasino, Clerk of Court





KEN BURKE

CLERK OF THE CIRCUIT COURT & COMPTROLLER — PINELLAS COUNTY, FLORIDA

Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
County Auditor
Clerk of the Water and Navigation Control Authority

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September 14, 2016

Court Services
Office of the State Courts Administrator
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399

Dear Court Services:

Enclosed for your review is the Juror Pool Selection Plan for Pinellas County. Included is the proposed hardware, software, random number generator program, and algorithms to be used in the jury selection process. We are seeking Office of the State Courts Administrator review and Supreme Court approval of this process.

Chief Judge Anthony Rondolino has reviewed the attached documentation. A signed statement indicating his review is attached.

Please let me know if there is any other information that I may provide to you. I look forward to the Court's approval of the proposed Jury Pool Selection Plan. Thank you.

Sincerely,

Ken Burke

KB/SW

Attachments

xc: The Honorable Anthony Rondolino, Chief Judge
Gay Inskeep, Trial Court Administrator



State of Florida
Sixth Judicial Circuit of Florida

COUNTIES OF PINELLAS AND PASCO
545 - 1ST AVENUE NORTH, ROOM 400
ST. PETERSBURG, FLORIDA 33701
(727) 582-7272

ANTHONY RONDOLINO
CHIEF JUDGE

PEGGY HUGHES
JUDICIAL ASSISTANT

August 26, 2016

Court Services
Office of the State Courts Administrator
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399

Dear Court Services:

In accordance with section 40.225(1), Florida Statutes, I have reviewed the juror pool selection plan for Pinellas County and consent to its use within my circuit.

Sincerely,

Anthony Rondolino, Chief Judge
Sixth Judicial Circuit

Enclosure:
Jury Pool Selection Plan
For Pinellas County

**THE 6th JUDICIAL CIRCUIT PINELLAS COUNTY
FLORIDA JUROR POOL SELECTION PLAN
October 24th, 2016**

Pursuant to F.S. 40.225, this Juror Pool Selection Plan describes the alternative process to that authorized by law for obtaining jury venires in all courts of Pinellas County in which jury trials are held. A majority of the judges authorized to conduct jury trials in Pinellas County have consented to this alternative process which utilizes computer technology that expedites the selection of jurors with no loss of the sanctity of random selection. The plan applies to selection of jurors for petit jury, grand jury and statewide grand jury service.

MASTER LIST PROCESS AND MAINTENANCE

Quarterly, DHSMV provides the Florida Association of Court Clerks and Comptrollers (FCCC) with a data file that contains all persons holding a valid Florida Driver License or Identification Card. FCCC acts as a distribution agent, grouping the data by County and dispersing it to the Clerk. Pinellas County receives this data from FCCC quarterly via dedicated network connection and the file is placed into a secure folder on a server for processing. Once received, the DHSMV data is parsed by Odyssey Jury and used to update the Master List in the Jury Management System database where new persons are added and existing persons are updated (address, etc.).

If a person has filed an affidavit pursuant to 40.011 F.S. requesting to serve as a Juror, the record is manually added to the Master file in the JMS system.

Pursuant to F.S. 40.022 a bimonthly file or report is received on the 1st and 15th of each month from the Department of Health containing records of deceased individuals. The master list in the system is then updated to exclude these records from being selected for the Jury pool.

Pursuant to F.S. 40.022 a monthly file or report is received from the County Case Management System containing records of individuals that were adjudicated mentally incompetent. The master list in the system is then updated to exclude these records from being selected for the Jury pool.

Pursuant to F.S. 40.022 a monthly file or report is received from the County Case Management System containing records of individuals are convicted of a felony. The master list in the system is then updated to exclude these records from being selected for the Jury pool.

INITIAL CANDIDATE LIST

Pursuant to F.S. 40.011, the initial juror candidate list is derived from the name sources and is the same list as the master list as described in the Master List Process and Maintenance section described in the above section.

FINAL CANDIDATE LIST

Pursuant to F.S. 40.011, the final juror candidate list shall contain a list of those persons, drawn from the initial candidate list, who are to be summoned as a pool for possible juror service.

On a scheduled basis, jury clerks schedule dates on a jury calendar to summon jurors for service. Pursuant to 40.02 (1) this final juror candidate list must contain at least 250 persons.

As the “pool” or “venire” date draws near, jury clerks will populate jurors. If a juror was previously randomly selected using the process outlined below, had requested postponement to a later date pursuant to F.S. 40.23 (2) and was granted a postponement to the pool or venire date, that juror is included in the final candidate list for the jury pool and the remainder of the final candidates are randomly populated using the random algorithm as stated in II.D.7. of Checklist B from the master list onto the scheduled jury pool. Jurors are randomly populated onto the jury pool and continue to populate until the requested number of jurors are met in the jury pool.

During the pool population process, as each juror is randomly selected from the master list, matching criteria check for existing juror records for those that have already served. Matching criteria can be based on name, residence address, and date of birth along with any additional criteria that is configured. If a match is found, a new service entry is marked on the matched juror record. If no match is found, a new juror record is created that is used through the jury process for this particular service.

During the pool population process, as each juror is randomly selected from the master list, each juror record is either included or excluded from the final candidate list based upon the juror’s zip code and the reporting location of the jury pool pursuant to administrative order.

Pursuant to F. S. 40.23 – Each juror included in the final candidate list is summoned by mail to attend court as a juror at least 14 days prior to date of jury service unless the Court orders specifically orders that the jurors may be summoned with less than 14 days’ notice

Pinellas Jury Selection Attachment B

The following checklist provides additional specific information about the Pinellas Juror Pool Selection Plan that is being submitted for Office of the State Courts Administrator review and Supreme Court approval.

I. Creation of the Initial Candidate Selection List

A. Source Lists

1. What are the sources of names used in generating jury selection lists?

1. The quarterly list of names provided by the Department of Highway Safety and Motor Vehicles (DHSMV) pursuant to F.S. 40.011. This data file is imported and used as the Master Candidate List with the ability to add new names and update existing information, such as addresses on an as needed basis. (see below)

2. The list of names of persons who have filed affidavits pursuant to 40.011 F.S. requesting to serve as a Juror. The JMS provides the capability for the Clerk to manually add individuals to the Master Candidate table as required.

3. An exclusion list containing persons unable to serve, persons who have already served or persons who are otherwise excused or postponed pursuant to F. S. 40.013, 40.022, and 40.23. The JMS provides the capability for the Clerk to *exempt* someone from service (i.e. over 70), to *exclude* someone from serving on an individual venire (i.e. a caretaker), and to *postpone* someone so that they will be included in a later venire. For example: If an individual was postponed to a date in the future due to a scheduling conflict that postponement date is stored in their master candidate record, and the venire that is created

for that date will automatically include that individual in addition to those who were selected at random.

2. In what format are they submitted? How are the source lists transmitted, compiled, or merged? If the lists contain more information than needed for jury candidate selection, what information is retained?

The format of the input file is text, record length 150 bytes. Its contents include the following:

DL/ID Number	13 bytes
First Name	16 bytes
Middle Name	16 bytes
Last Name	20 bytes
Name Suffix	01 bytes
Street Address	30 bytes
City	20 bytes
County	02 bytes
Zip	09 bytes
DOB	08 bytes
Race	01 bytes
Sex	01 bytes
Age	03 bytes
SSN	09 bytes
Filler	01 bytes

Although State value is not included in the file, the State value in the system is populated with FL (Florida)

No files are compiled or merged prior to import into the jury system. Pinellas will be provided a DHSMV file from the state with a valid list of names that will be imported into the system on a quarterly basis. Once received, the DHSMV data is parsed by Odyssey Jury and used to update the Master List in the Jury Management System database where new persons are added and existing persons are updated (address, etc.).

The DHSMV file contents are queried when a request for a juror is placed in the summons workflow. A name is selected randomly, a search is performed against existing Odyssey Jury juror records and a match is either found (1), or not found (2). (1) If a match is found, the workflow rules for eligibility are checked to verify if the juror can serve

or not (ex, prior service indicated they were deceased, convicted of a felony or incapacitated). If the juror does not meet the eligibility requirements based on user defined juror configuration in Odyssey Jury, it ignores that juror that was randomly found, and seeks another name from the input file.

3. **Chapter 40, Florida Statutes provides that a minimum of three name sources be used in the selection of juror candidates: (1) a licensed driver or identification holder list (section 40.011, F.S.); (2) an affidavit list (section 40.011, F.S.); and (3) an exclusion list containing those persons who are unable to serve, have already served, or those whose service is otherwise excused or postponed (sections 40.013, 40.022, and 40.23 F.S.).**

OdysseyJury imports the singular DMV file that is received by Pinellas from the State. In the event Pinellas encounters a new resident that wishes to serve that is not contained in the DMV file, the affidavit is then filled out by the prospective juror candidate. Once completed, the juror can then be entered into the system for use in future venires. The new resident of the county will also eventually be picked up by the State in subsequent downloads of the DMV file once State records have been updated with corrected resident information. The master list can be updated with software integrations from the Odyssey Case Management system and the Department of Health that identify jurors who are convicted of a felony, adjudicated mentally incompetent, or deceased that must be excluded from service.

4. **Are supplemental name lists not specifically described by statute used to build the *Initial Jury Selection Candidate List*?**

No

B. Source Data Adjustments

1. **Are the source lists used as when received? Are the source lists sorted? If so, by what elements?**

Quarterly, DHSMV provides the Florida Association of Court Clerks and Comptrollers (FCCC) with a data file that contains all persons holding a valid Florida Driver License or Identification Card. FCCC acts as a distribution agent, grouping the data by County and dispersing it to the Clerk. Pinellas County receives this data from FCCC quarterly via dedicated network connection and the file is placed into a secure folder on a server for processing. Once received, the DHSMV data is parsed by

OdysseyJury and used to update the Master Candidate table in the JMS where new persons are added and existing persons are updated (address, etc.).

2. Are the source lists imported into a database or spreadsheet?

The merged single list (.csv) is imported into the jury application database.

3. If more than one name list is used in the preparation of a final candidate list, are the multiple lists used separately or merged?

There is not more than one name list used.

4. Are the names in this list numbered or indexed in any way?

The source list is ordered by DL or ID number.

5. Are any names excluded at this point? If so, by what criteria?

Update records with an excusal code (reason): 40.022
Convicted Felon - Odyssey Case Manager, FDLE
Incapacitated - Odyssey Case Manager
Deceased - Department of Health

C. Time Frame

a. How often are the source lists updated?

The DHSMV file is provided by FCCC quarterly in January, April, July and October. The product allows user import of the main juror list at the jurisdictions discretion.

b. If any adjustments are made, how often does this occur?

The Deceased Report is provided by Department of Health twice per month on the 1st and 15th. The Incapacitated Report is provided by Probate Department (Odyssey Case Manager) monthly. The Convicted Felon Report is provided monthly by Odyssey Case Manager. The Source List is updated by OdysseyJury with these reports' information upon receipt by matching name (first, middle initial*, last) and Date of Birth. Persons requesting to serve by affidavit are entered manually as received. Persons who are

excused or postponed are updated on-demand.

**Since Florida Driver's License and Florida Identification Card records allow the use of a female's maiden name as their middle name, this creates an issue with using the middle name as match criteria. Matches are currently made by using last name, first name, middle initial and DOB. If all the data matches BUT the middle initial, the middle initial is excluded and the address along with the remaining criteria (first name, last name, date of birth) is then used as the match criteria.*

As jurors respond that they are unable to attend on specific jury dates, a variety of actions can occur to reschedule/postpone them within Odyssey Jury.

Jurors can be reset to another date on the calendar as long as a jury pool exists on the date at which they are being moved. Jury departments generally schedule their jury days yearly on a calendar, and those dates are represented with jury pools within Odyssey Jury, on a calendar, in the same manner. A clerk can manually move a juror to another jury pool, on a different date, to be held there as a viable candidate until a specific time period before the jury pool is scheduled to appear.

Jurors can request to be postponed via web response. As those requests are entered, they can either be automatically rescheduled, or placed into a review queue for a clerk to make a decision on a date(s).

See Section I.A.1 for further details on postponement.

c. How often is the source data converted into an *Initial Jury Selection Candidate List*? For example, the licensed driver list must be drawn quarterly from the Department of Highway Safety and Motor Vehicles (DHSMV) (section 40.011, F.S.) and purged monthly (section 40.022, F.S.).

The source list from DHSMV is merged quarterly.

II. Name Selection

A. Equipment/Software

The county should provide a brief description of the hardware and software used to complete the name selection process including

the operating system and juror application name and version if purchased from a vendor. (This may be OK as Tyler is listing their hardware / software)

Version of Jury Software:
Tyler Technologies Odyssey Jury 1.1.17

Odyssey Jury currently supports:

Windows 7, Windows 8.1, Windows 10 for the client application

Odyssey Jury Server Compatibility

The following list identifies compatibility for current release of Microsoft software for Odyssey Jury.

Odyssey Application Servers, Job Servers, Public Access Servers

- Windows 2008 Std./Ent. Edition, 32/64-bit
- Windows Server 2008 R2 Std./Ent., 64-bit
- Windows Server 2012 Std./Ent. 64-bit

Odyssey Database Servers, Domain Controllers, Image Storage Servers

- Windows 2012 Std./Ent., 64-bit

Odyssey Database Servers

- SQL Server 2008 R2, 64-bit
- SQL Server 2012 R2 64-bit
- SQL Server 2014, 64-bit
- SQL Server 2016, 64-bit

.NET Framework

- 4.5.1 Required
- 4.6.1 Required (future release)

Odyssey Jury Workstation Compatibility

Odyssey Standard Workstation	Minimum	Recommended
Windows Operating Systems	32-bit*	64-bit*
CPU	2 Core	4 Core
Memory	2 GB	4 GB or better
Hard disk space	20GB free disk space	20GB free disk space
Screen resolution (pixels)	1280 x 1024 res	1900 x 1200
Network card	100 Mbps	1000 Mbps

Operating System *64-bit recommended to for future compatibility

- Windows 7 Professional 32/64-bit*
- Windows 8 32-bit

- Windows 8.1 Professional 32/64 bit*
- Windows 10 64 bit

Web Browser (Internal Court Users)

- Internet Explorer 11

Word Processor

- Word 2010, 2013 32/64-bit

Please note that minor version releases and updates by a vendor will not require a revision of the Juror Pool Selection Plan provided that the updates do not substantially change the name selection algorithm. However, any major change to the random number generating algorithm will require a resubmission of the Juror Pool Selection Plan. Changes in hardware or operating system can be harder to judge. The OSCA has seen algorithms that were highly dependent on hardware timings or used features available to a specific operating system. If you are unsure as to whether changes to hardware or operating systems may affect the process, you are encouraged to contact the OSCA to discuss the matter.

OdysseyJury uses the Microsoft Windows Operating System.
OdysseyJury is currently publishing release 1.1.17.

B. Security

The county should describe any measures taken to safeguard the process including mechanisms that ensure the process is verifiable after the fact. At a minimum, a mechanism should exist for securely storing the *Final Jury Candidate List* for a period of time as well a mechanism for recording the random number generator initialization (seed) values for each selection cycle so that the selection process can be recreated for audit purposes at a later date.

The OdysseyJury system will be installed behind a secure firewall within Pinellas County, using their internal network protocols. The core system and its database do not live outside of the secure network. OdysseyJury is designed with encrypted database “messages” back and forth to the OdysseySQL database instance, which adds additional protection in the event any sort network hacking occurs, in the rare event the internal network of Pinellas was compromised.

OdysseyJury has an external facing web application for juror response. The web application utilizes SSL encryption for transmission of data back into the core Jury system as jurors respond. IIS certificates are generated at installation and configuration time in order for the system to function properly. HTTPS is a widely accepted secure mechanism for the transmission of sensitive information.

The system will not allow the reproduction of selecting the same juror repeatedly.

It was originally discussed that OdysseyJury could store a “seed” value so that the randomization order can be reconstructed. However, a new algorithm will replace the default >Net RNG component with a more advanced option. The “seed” value will not be retrieved because the new RNG component does not depend on single seed value.

C. Process Overview for Name Selection

The county should provide a general discussion of the name selection process. If software is employed, the county should provide a brief summary of the steps the program goes through to select a name.

Please see the algorithm sent by Tyler Technologies below.

OdysseyJury executes the name selection process on a per-request basis. When there is a need to create summonses, a request with the number of summonses to populate is sent to the Pool Population process. The process will first shuffle all the candidates in the Initial Jury Selection Candidate List using the randomization algorithm detailed in II.D.7. Once shuffling is complete, the process will go through the shuffled names one by one from the beginning and run a set of filters to determine if the juror is eligible to serve. The filters include permanent exemption check, prior service check, etc. If the juror is determined eligible to serve, the juror will be added to the summons list and the process repeats until the number of summons request has been fulfilled.

D. Name Selection Algorithm

- 1. The county should provide a detailed description of the algorithm used to select names from the *Initial Jury Selection Candidate List*.**

When the Initial Jury Selection Candidate List is imported into the database, each record is assigned a record ID. The first step of the selection process is to randomize the records. The process would first load every record ID into memory to form a list, then use .NET RNGCryptoServiceProvider as random number generator to perform a Fisher-Yates shuffle (see code below). The randomized record ID list will then be the reference list used in next step, which is to go through the records and run juror eligibility tests.

2. **If a pseudo-random number generator (RNG) is to be used, this section should contain a detailed description of the generator including the number of initialization (seed) values required and the range of those seed values.**

The seed value of the new proposed algorithm is no longer obtained, and it no longer comes from one source.

Reference: <https://msdn.microsoft.com/en-US/aa379942>

3. **If the county proposes to use a named generator, it should provide the name and author. For example, the *Universal Random Number Generator* by George Marsaglia or the *Mersienne Twister* by Takuji Nishimura and Makoto Matsumoto.**

The RNG OdysseyJury utilizes is a Microsoft .NET component.

System.Security.Cryptography.RNGCryptoServiceProvider

More information can be found here:

<https://msdn.microsoft.com/en-us/library/system.security.cryptography.rngcryptoserviceprovider%28v=vs.110%29.aspx>

The RNG is a wrapper of Windows cryptographic service provider (CSP).

The algorithm of the component is not disclosed.

More information can be found here:

<https://msdn.microsoft.com/en-US/aa379942>

4. **References such as URLs or copies of journal articles describing the algorithm are extremely helpful.**

[https://msdn.microsoft.com/en-](https://msdn.microsoft.com/en-us/library/system.security.cryptography.rngcryptoserviceprovider%28v=vs.110%29.aspx)

[us/library/system.security.cryptography.rngcryptoserviceprovider%28v=vs.110%29.aspx](https://msdn.microsoft.com/en-us/library/system.security.cryptography.rngcryptoserviceprovider%28v=vs.110%29.aspx)

<https://msdn.microsoft.com/en-US/aa379942>

5. **If the class of generator is known, the county should report that information such as whether it is a linear congruential generator or a lagged Fibonacci generator. The characteristics of many RNGs have been extensively studied and this information could help reduce the time necessary to evaluate the specific RNG used.**
6. **Since the algorithm is evaluated by the OSCA for suitability to this process, a complete copy of the code should be provided or referenced. If the code**

cannot be provided, the county should contact Court Services to arrange for a testing cycle.

7. The county should also describe how the results of the random number generator are used to select names from the *Initial Jury Selection Candidate List*.

Note: the more information that is provided in this section, the faster and more reliable the evaluation will be.

Please see below:

The input, "jurorIDs" is a list containing a record ID of the whole Initial Candidate Juror List. The "for loop" performs a Fisher-Yates shuffle. The routine goes through the record list from the bottom to the top row, within each row it uses the RNG to calculate a random row index number then swap itself with the random row.

```
private static void RandomizeJurors(IList<int> jurorIDs)
{
    using (var rngCsp = new RNGCryptoServiceProvider())
    {
        var randomBytes = new byte[4 * jurorIDs.Count];
        rngCsp.GetBytes(randomBytes);

        for (var i = jurorIDs.Count - 1; i > 0; i--)
        {
            var j = (int)((double)(BitConverter.ToInt32(randomBytes, (i - 1) * 4) &
0x7fffffff) / int.MaxValue * (jurorIDs.Count - 1));

            var temp = jurorIDs[j];
            jurorIDs[j] = jurorIDs[i];
            jurorIDs[i] = temp;
        }
    }
}
```

E. Initialization

1. The county should provide a detailed discussion of how the pseudo-Random Number Generator (RNG) is initialized (i.e., how the seed values are

determined). Note: since these initial seed values uniquely determine the sequence of numbers produced by the RNG, it is critical that an accurate and reliable mechanism be established for selection and subsequent verification of these numbers.

See Above.