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MEMORANDUM

TO: Clerks of Circuit and County Courts
Chief Judges of the Circuit Courts
Trial Court Administrators

FROM: Lisa Goodner

DATE: April 9, 2007

SUBJECT: Submission of Juror Pool Selection Plans (Formerly Known as
Local Rules for Automated Jury Selection)

This memorandum is to advise you that changes to the process used for the submission and review of juror pool selection plans formerly known as local rules for automated jury selection as allowed for by section 40.225 F.S. have been approved by the Supreme Court. The Supreme Court has authorized this process to be converted into an administrative review conducted by the Office of the State Courts Administrator (OSCA). This change is effective immediately.

This procedural change is in recognition of the fact that: (A) automated jury selection processes are the norm rather than the exception; (B) the review process is highly technical in nature requiring a considerable knowledge of statistics, mathematics, and computer systems; and (C) a less formal or administrative review process would better facilitate communication between the clerks and the OSCA thereby reducing plan review time.

There are four key provisions to the change: (1) jury pool selection plans will henceforth be treated as administrative matters with applications being sent directly to the OSCA. The Clerk of the Supreme Court will no longer receive these applications on behalf of the Supreme Court; (2) the Supreme Court has delegated the final approval authority of the jury pool selection plans to the chief justice; (3) the chief judge of a circuit must certify that a majority of judges within his or her circuit have voted to approve the jury pool selection plan; and (4) the Supreme Court has authorized the OSCA to develop and adopt a standard, well defined protocol for the submission of the plans.

Juror Pool Selection Plan Memorandum

The new procedures are intended to: (1) eliminate ambiguities associated with the jury pool selection plan submission process; (2) provide clear guidance and direction to the clerks on the contents and requirements for these juror selection plans; (3) provide a description of the review process; and (4) minimize the time from submission to approval. It is important to note that there are many different ways to satisfactorily meet the requirements of juror pool selection plans as outlined in statute. As such, a universal template for clerks to follow can not be provided. Moreover, section 40.225(5) F.S. explicitly states that “nothing herein shall be construed as requiring uniform equipment or methods throughout the state.” Accordingly, neither the Supreme Court nor the OSCA has established specific requirements for an automated jury selection process and clerks are afforded maximum flexibility for procuring and using software/hardware that best meets their jury selection needs.

However, the Supreme Court is charged with ensuring that juror selection processes are methodologically valid, that due process concerns are met, and that these plans satisfy the requirement for the “by lot and at random” selection of jurors. While there is no one single procedure that will satisfy both these requirements and the needs of each individual clerk of court, all juror pool selection plans do have many elements in common. The OSCA has distilled its experience in reviewing these plans into a checklist that provides the basic structure integral to all juror plans. The OSCA can also provide-expert assistance on this subject and encourages all clerks of court to contact the OSCA prior to formal submission of a jury pool selection plan to ensure that the plan meets statutory and methodological requirements.

The flexibility afforded to each county and the variability of the selection process requires that each plan submitted be evaluated on its own merit. The OSCA’s experience has been that even well established selection processes borrowed from one jurisdiction to another can be significantly altered by small changes unique to that jurisdiction. Consequently, the review process must be tailored to the specifics of each submitted plan. To implement the new review process for juror pool selection plan submission, the following items are attached:

- ❖ Guidelines for Submission (Attachment A)
- ❖ Checklist (Attachment B)
- ❖ Frequently Asked Questions (Attachment C)
- ❖ Clerk Transmittal Letter (Attachment D)
- ❖ Chief Judge Certification Letter (Attachment E)

Counties that are considering revising their juror pool selection plan are encouraged to contact PJ Stockdale of the Court Services division prior to formal submission of a juror selection plan. Mr. Stockdale is available to provide advice and assistance in its preparation. He may be reached at 850.410.1523 or via email at stockdap@flcourts.org. Once received, Court Services' conducts a statistical and mathematical review of all juror pool selection plans. The analysis involves those issues directly involved in the random selection of jury candidates as described in Chapter 40, Florida Statutes with a particular focus on name selection algorithms. Depending on the details of the plan submitted, this review may require anything from a simple reading to a detailed analysis of the algorithm involved. The review ensures that jurors are selected "by lot and at random" and, as importantly, that the process used produces maximum potential coverage of prospective jurors given the source list, hardware, and software employed.

Upon completion of the plan review, a formal recommendation will be sent by Court Services to the chief justice. The chief justice will then approve or disapprove the plan. Once the chief justice has acted upon the recommendation, his or her decision will be communicated to the clerk of court, chief judge, and trial court administrator of the submitting county via memorandum.

In the future, the OSCA will also be working on three additional long-term strategies to further clarify and streamline this process. First, we will conduct a review of chapter 40, F.S. to identify changes that could further streamline the process. Second, we will be updating the minimum standards (e.g., using multiple pseudo-random number generators) for juror selection algorithms including the establishment of programmatic benchmarks. This step should be complete by the end of 2008. Lastly, we will also be working with the counties to update any juror pool selection plans that have been in effect for ten or more years to ensure that maximum coverage is being produced given the state of technology, software, algorithms, and the availability of pseudo-random number generator programs.

This memorandum and all attachments are also located on the OSCA's website for easy reference at http://www.flcourts.org/gen_public/jury/jurorpool_plans.shtml. Further, all future materials and references (e.g., acceptable random number generator programs and statistical test suites) used in this process will also be made available. The OSCA will also load a PDF copy of all previously approved juror pool selection plans on to the website as they are scanned and converted.

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Questions about this memorandum should be directed either to Gregory Youchock 850.922.5108 or via email at youchocg@flcourts.org or PJ Stockdale 850.410.1523 or via email at stockdap@flcourts.org.

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