UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

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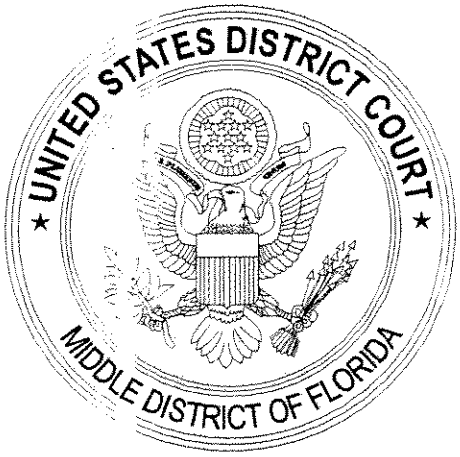

Plan for the Qualification and Selection

of Grand and Petit Jurors

Revised by the District Court – January 12, 2005
Approved by the 11th Circuit Panel – May 23, 2005

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

PLAN FOR THE QUALIFICATION AND RANDOM SELECTION OF GRAND AND PETIT JURORS

CHAPTER ONE

GENERAL POLICY MATTERS

1.01 ADOPTION AND IMPLEMENTATION

Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274), 28 U.S.C. Section 1861 et seq., the following Plan for the Qualification and Random Selection of Grand and Petit Jurors, hereinafter referred to as the Plan, is adopted, as amended, by this Court. The Plan shall be placed into operation upon approval by a reviewing panel of the United States Court of Appeals for the Eleventh Circuit.

This Plan is intended to conform to all relevant statutes and guidelines adopted by the Judicial Conference of the United States.

1.02 DECLARATION OF POLICY

This Plan is intended to incorporate and implement the policies set forth in 28 U.S.C. Section 1861, namely:

(a) That all litigants appearing before the United States District Court for the Middle District of Florida, who may be entitled to a 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 division wherein the Court convenes.

(b) That all citizens shall have the opportunity to be considered for service on grand and petit juries and shall have an obligation to serve when summoned for that purpose.

1.03 USE OF AUTOMATED DATA PROCESSING EQUIPMENT IN THE JUROR QUALIFICATION AND SELECTION PROCESS

The Court finds that automated data processing systems, to include the use of optical scanning technology, can be utilized effectively in the selection, copying, and processing of names from the individual county source lists identified in Section 4.04 of this Plan, and in all other aspects of the juror qualification and selection process.

Therefore, the Clerk may elect to utilize automated data processing systems, or a combination of a manual and automated data processing systems, to assist in the juror qualification and selection process.

1.04 USE OF NON-COURT PERSONNEL IN THE JUROR QUALIFICATION AND SELECTION PROCESS

(a) **Non-Court Personnel Defined:** The Court finds that it may be necessary, or otherwise advantageous, for the Clerk to secure the services of non-court personnel to assist in the juror qualification and selection process. Such non-court personnel may include, but are not limited to:

(1) The Florida Department of State, Division of Elections, county officials, and their employees, responsible for custody and maintenance of the source lists identified in Section 4.04 of this Plan.

(2) Operators of automated data processing and optical scanning facilities and their employees and/or agents.

(3) Other administrative or clerical persons whose services may be necessary to select, process, and/or mail the various documents and records involved in the juror qualification and selection process.

(b) **Direction of Non-Court Personnel:** If the Clerk determines that it is necessary to secure the services of such non-court personnel, the Clerk shall, at a minimum:

(1) Issue written instructions to the individual(s) describing the operations or activities to be conducted.

(2) Require non-court personnel to execute an affidavit, under penalty of perjury, certifying compliance with the written instructions.

(3) Receive the written instructions and affidavit into the jury records of the Court.

CHAPTER TWO

ESTABLISHMENT OF JURY DIVISIONS

2.01 ESTABLISHMENT OF JURY DIVISIONS

(a) **Authority:** In accordance with 28 U.S.C. Section 1869(e)(2), and Local Rule 1.02, the following jury divisions are established within the Middle District of Florida:

(1) Tampa Jury Division

(2) Ft. Myers Jury Division

(3) Orlando Jury Division

(4) Jacksonville Jury Division

(5) Ocala Jury Division

(b) **Composition of Jury Divisions:** In accordance with Local Rule 1.02(b), the counties which comprise the Middle District of Florida shall be grouped into the foregoing jury divisions as provided in such Local Rule.

CHAPTER THREE

SUPERVISION AND MANAGEMENT

3.01 RESPONSIBILITY FOR SUPERVISION OF THE JUROR QUALIFICATION AND SELECTION PROCESS

In accordance with 28 U.S.C. Section 1863(b)(1), the Chief Judge of the Court shall be responsible for the overall supervision of the District's juror qualification and selection process.

Notwithstanding the responsibility vested in the Chief Judge, it is the intention of this Plan that supervision of the divisional juror qualification and selection process shall be separately accomplished within each of the jury divisions by a District Judge appointed by the Chief Judge.

3.02 MANAGEMENT OF THE JUROR QUALIFICATION AND SELECTION PROCESS

In accordance with 28 U.S.C. Section 1863(b)(1), the Clerk shall act under the supervision and control of the Chief Judge to manage the District's juror qualification and selection process, and under the supervision and control of the individual Supervising Judges to manage the day-to-day divisional juror qualification and selection process.

In accordance with 28 U.S.C. Section 1869(a), the Clerk may delegate responsibility for the day-to-day management of the district or divisional juror qualification and selection process to any authorized deputy clerk.

CHAPTER FOUR

ESTABLISHMENT OF MASTER JURY WHEELS

4.01 MASTER JURY WHEEL DEFINED

In accordance with 28 U.S.C. Section 1869(g), a "master jury wheel" shall mean any device or automated data processing system into which shall be placed the names of all the individuals randomly selected from the various source lists in accordance with Chapter Five of this Plan.

4.02 ESTABLISHMENT OF DIVISIONAL MASTER JURY WHEELS

In accordance with 28 U.S.C. Section 1863(b)(4), the Clerk shall establish and maintain a master jury wheel for each jury division established pursuant to Section 2.01 of this Plan.

4.03 EMPTYING AND REFILLING THE MASTER JURY WHEELS

Unless otherwise ordered by the Court, the Clerk is directed to empty and then refill the divisional master jury wheels between January 1, 1989, and October 31, 1989, and every odd numbered year thereafter between January 1 and October 31.

4.04 SOURCE LISTS TO BE UTILIZED IN FILLING THE MASTER JURY WHEELS

(a) **Primary Source Lists:** In accordance with 28 U.S.C. Section 1863(b)(2), voter registration lists shall be utilized as the primary source lists for filling the divisional master jury wheels.

(b) **Alternate Source Lists:** In accordance with 28 U.S.C. Section 1863(b)(2), if the Clerk determines that a particular county does not maintain a voter registration list, then the Clerk shall utilize the list of actual voters as an alternate source list for selecting names of prospective jurors to be placed in the master jury wheels.

CHAPTER FIVE

FILLING THE MASTER JURY WHEELS

5.01 FILLING THE MASTER JURY WHEELS

In accordance with 28 U.S.C. Section 1863(b)(4), the Clerk shall initially fill the divisional master jury wheels with the minimum number of names indicated below. The Court finds that these totals are sufficient to meet the administrative requirements associated with the juror qualification and selection process and that additional names would be cumbersome and unnecessary.

(a)	Tampa Master Jury Wheel	70,000 names
(b)	Ft. Myers Master Jury Wheel	25,000 names
(c)	Orlando Master Jury Wheel	50,000 names
(d)	Jacksonville Master Jury Wheel	40,000 names
(e)	Ocala Master Jury Wheel	20,000 names

5.02 PLACEMENT OF ADDITIONAL NAMES IN THE MASTER JURY WHEELS

From time to time it may be necessary to supplement the names within a particular divisional master jury wheel. In such a case, either the Chief Judge, or a Supervising Judge, may order the Clerk to obtain additional names from the primary or alternate source lists identified in Section 4.04 of the Plan to be placed into the divisional master jury wheel.

5.03 PROCEDURES TO ENSURE PROPORTIONAL REPRESENTATION AND RANDOM SELECTION OF NAMES FROM THE SOURCE LISTS

(a) Calculation of an Interval Number: The Clerk may employ the following minimum steps to ensure that substantial proportional representation exists between the counties comprising a particular jury division:

(1) Identify for each of the individual counties comprising a particular jury division, the state, local, and/or federal official having custody, possession, or control of the source lists identified in Section 4.04 of this Plan.

(2) Communicate with the appropriate official identified in the preceding subsection to determine:

(A) Whether the particular county maintains current voter registration lists, and if such lists are maintained, the total number of names contained on the voter registration

lists as of the most recent general election.

In the event that the particular county periodically updates its voter registration lists, then the Clerk shall determine the total number of names on the voter registration lists as of a date to be specified by the Clerk following the most recent general election; or

(B) In the event that a particular county does not maintain current voter registration lists, the total number of actual voters who voted in the most recent general election.

In the event that the county periodically updates and corrects its list of actual voters, then the Clerk shall determine the total number of names on the list of actual voters as of a date to be specified by the Clerk following the most recent general election.

(3) After determining the total number of names for each county, segregate the counties into the jury divisions defined in Section 2.01 of this Plan.

(4) Calculate the total number of names for all of the counties with a particular jury division.

(5) Divide the total number of names contained on all of the source lists in a particular jury division by the total number of names required to be initially placed in that jury division's master jury wheel pursuant to Section 5.01 of this Plan. The resultant value produced by this calculation shall be referred to as the **interval number**. The interval number represents the interval between selected names on the various source lists, e.g.:

Assume that there are 660,000 names on the combined source lists for the counties comprising a particular jury division, and the total number of names required to be placed into that division's master jury wheel is 6,000, then the Clerk would divide 660,000 by 6,000. This calculation would produce an **interval number** of 110.

(6) **Selection of a Random Starting Number:** After calculating the interval number for each jury division, the Clerk would then publicly draw at random a **starting number** from a range of numbers which shall include the number one through the interval number for each particular jury division. The starting number represents the first name to be selected from each county's source list.

(7) **Use of the Starting Number and Interval Number to Randomly Select Names From the Source Lists:** After calculating the interval and starting numbers, the Clerk shall arrange to select the first name from each county's source list which corresponds to the starting number, and thereafter, shall select every subsequent name throughout the remainder of the source list which corresponds to the interval number, e.g.:

Assuming that the starting number for a particular jury division was 10, and the interval number for that jury division was 110, the Clerk would arrange that the tenth name from each county's source list be selected, and thereafter every 110th name throughout the remainder of the source lists for each county be selected, e.g. 10, 120, 230, 340, etc.

(b) **Alternative Method of Random Selection:** At the Clerk's option, and after consultation with the Court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the Clerk and after consultation with the Court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 United States Code, Section 1863 (b)(3). The selections of names from the source list, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

5.04 PLACING NAMES INTO THE MASTER JURY WHEELS

Each name selected pursuant to Section 5.03 shall be placed into the appropriate divisional master jury wheel.

CHAPTER SIX

DRAWING NAMES FROM THE MASTER JURY WHEELS

6.01 DRAWING OF NAMES FROM THE MASTER JURY WHEELS

In accordance with 28 U.S.C. Section 1864(a), the Clerk shall publicly draw at random from the master jury wheels the names of as many persons as may be required for jury service.

6.02 MAILING OF JUROR QUALIFICATION QUESTIONNAIRES

In accordance with 28 U.S.C. Section 1864(a), the Clerk shall mail a juror qualification questionnaire to every person whose name is drawn from a master jury wheel.

6.03 ACTIONS TO BE TAKEN WHEN A QUESTIONNAIRE HAS BEEN RETURNED AS "UNDELIVERABLE"

When a questionnaire is returned as undeliverable, the Clerk shall verify the address on the questionnaire with the address for the particular juror contained in the records of the master jury wheel.

If the address on the questionnaire is not the same as that contained in the master jury wheel, the Clerk shall re-issue a new questionnaire with the corrected address; otherwise, the Clerk shall recommend, and the Court may find, that the person is not qualified for jury service pursuant to Section 7.01 of this Plan.

6.04 ACTIONS TO BE TAKEN WHEN A QUESTIONNAIRE HAS NOT BEEN RETURNED

In accordance with 28 U.S.C. Section 1864(a), any person who fails to return a completed questionnaire may be summoned by the Clerk to appear before the Clerk in order to fill out a questionnaire. However, it is not the intention of the Court to require the Clerk to summon every person who has failed to return their questionnaire.

In order to determine whether any particular person shall be summoned, the Clerk should first determine whether there have been sufficient numbers of returned questionnaires to permit the Court to qualify sufficient jurors for placement into the appropriate qualified jury wheel established pursuant to Section 8.01 of this Plan.

If the Clerk determines that sufficient numbers of questionnaires have been returned, the Clerk shall recommend, and the Court may order, that the name of the person who failed to return the questionnaire be returned to the appropriate master jury wheel.

CHAPTER SEVEN

DETERMINING QUALIFICATION FOR JURY SERVICE

7.01 DETERMINING QUALIFICATION STATUS OF PROSPECTIVE JURORS

In accordance with 28 U.S.C. Section 1865(a), the Chief Judge or Supervising Judge, on his or her initiative or upon recommendation of the Clerk, or the Clerk under supervision of the court, shall determine, solely on the basis of information provided on the questionnaire and other competent evidence, whether a person is qualified, unqualified, exempt from, or should be excused from jury service.

To assist the Court in evaluating the qualification status of prospective jurors, the Clerk shall initially review all returned questionnaires and shall evaluate each questionnaire in accordance with the qualification criteria established in this Plan.

After such review, the Clerk shall recommend a qualification determination for each prospective juror to either the Chief Judge or the Supervising Judge, who in turn shall be responsible for a final ruling upon the qualification of each prospective juror.

7.02 ACTIONS TO BE TAKEN WHEN THE QUESTIONNAIRE HAS ERRONEOUS, AMBIGUOUS OR OMITTED ANSWERS

In accordance with 28 U.S.C. § 1865(a), if the Clerk determines that a questionnaire has been returned with erroneous, ambiguous or omitted answers, and that such answers are essential to determining the qualification status of a prospective juror, the Clerk shall return the questionnaire to the prospective juror with instructions to explain, complete or correct the appropriate answer, and to return the questionnaire by mail within ten (10) days.

7.03 QUALIFICATIONS FOR JURY SERVICE

In accordance with 28 U.S.C. § 1865(b), the Clerk shall recommend, and the Chief Judge or the Supervising Judge shall find, that every person is qualified for jury service unless that person:

(a) Is not a citizen of the United States eighteen (18) years old who has resided for a period of one year within the Middle District of Florida; or

(b) Is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the questionnaire; or

(c) Is unable to speak the English language; or

(d) Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(e) Has a charge pending against him or her 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 that his or her civil rights have not been restored.

7.04 EXEMPTION FROM JURY SERVICE

In accordance with 28 U.S.C. Section 1863(b)(6), the Court finds that individuals who comprise the following groups of persons or occupational classes shall, in the public interest, be exempt from performing jury service, and that their exemption is not inconsistent with the policies set forth in 28 U.S.C. Sections 1861 and 1862.

(a) Members in active service in the Armed Forces of the United States;

(b) Members of the fire or police departments of any state, district, territory, possession, or subdivision thereof; or

(c) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or any state, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of their official duties.

7.05 PERSONS WHO MAY BE EXCUSED FROM JURY SERVICE

(a) **Permanent Excuse Upon Individual Request:** In accordance with 28 U.S.C. Section 1863(b)(5), the Court finds that service by the following persons or members of the following occupational classes would entail undue hardship or extreme inconvenience to such individuals, and that granting individual requests for permanent excuse from such persons would not be inconsistent with the policies set forth in 28 U.S.C. Sections 1861 and 1862.

(1) Persons over 70 years of age; or

(2) Persons having responsibility for providing in-home care and custody of a child or children under the age of ten (10); or

(3) Persons who are essential to the care of aged or infirm persons; or

(4) Persons who have served as a grand or petit juror in a federal court within the past two years; or

(5) Voluntary safety personnel serving a public agency as a non-compensated fire fighter or member of an ambulance or rescue squad; or

(6) Persons with arrest powers who are not otherwise exempt pursuant to Section 7.04 of this Plan.

(b) **Temporary Excuse Upon Individual Request:** In accordance with 28 U.S.C. Section 1866(c)(1), the Court, or the clerk under supervision of the Court, may temporarily excuse any qualified juror from jury service. Requests for temporary excuse by individual jurors should ordinarily be presented in writing, and should present a showing of undue hardship or extreme inconvenience.

The name of any juror temporarily excused shall be returned to the qualified jury wheel, unless otherwise ordered by the Court.

CHAPTER EIGHT

ESTABLISHMENT OF QUALIFIED JURY WHEELS

8.01 QUALIFIED JURY WHEEL DEFINED

In accordance with 28 U.S.C. Section 1869(g), a "qualified jury wheel" shall mean any device or automated data processing system, into which shall be placed the names of all persons determined to be qualified for jury service pursuant to Chapter Seven of this Plan.

8.02 ESTABLISHMENT OF DIVISIONAL QUALIFIED JURY WHEELS

In accordance with 28 U.S.C. Section 1866(a), the Clerk shall establish and maintain a qualified jury wheel for each jury division established pursuant to Section 2.01 of this Plan.

8.03 EMPTYING AND REFILLING THE QUALIFIED JURY WHEELS

Unless otherwise ordered by the Court, the Clerk shall empty and refill the qualified jury wheels between January 1, 1989, and October 31, 1989, and every odd year thereafter between January 1 and October 31.

When delays occur between the emptying and refilling of the master and qualified jury wheels, the Court may order that names of qualified jurors presently in the qualified jury wheels be retained and summoned for jury service until the Clerk can complete the operations necessary to refill the qualified jury wheels.

8.04 PLACING NAMES IN THE QUALIFIED JURY WHEELS

In accordance with 28 U.S.C. Section 1866(a), the names of all persons determined to be qualified for jury service shall be placed into the appropriate qualified jury wheel.

If a person relocates within the district, that person's name may be transferred to the divisional jury wheel in which they now reside since the statutory residency requirement has not been compromised.

CHAPTER NINE

SELECTING AND SUMMONING JURORS FOR JURY SERVICE

9.01 DRAWING OF NAMES FROM THE QUALIFIED JURY WHEELS

In accordance with 28 U.S.C. Section 1866(a), the Clerk shall publicly draw at random from the qualified jury wheels the names of as many persons as may be required from time to time for assignment to grand and petit jury panels.

9.02 SUMMONING JURORS

The Clerk may issue a summons to each juror in any manner permitted by 28 U.S.C. Section 1866(b).

CHAPTER TEN

SELECTION AND IMPANELMENT OF REGULAR AND SPECIAL JURIES

10.01 SELECTION AND IMPANELMENT OF GRAND JURIES

(a) **Regular Grand Juries**

(1) **Fort Myers Jury Division**: In accordance with Fed.R.Cr.P. 6(a), the Court shall order that one or more regular grand juries be publicly drawn at random, and summoned to serve the Fort Myers Jury Division.

(2) **Jacksonville Jury Division**: In accordance with Fed.R.Cr.P. 6(a), the Court shall order that one or more regular grand juries be publicly drawn at random, and summoned to serve the Jacksonville Division.

(3) **Ocala Jury Division**: In accordance with Fed.R.Cr.P. 6(a), the Court shall order that one or more regular grand juries be publicly drawn at random, and summoned to serve the Ocala Jury Division.

(4) **Orlando Jury Division**: In accordance with Fed.R.Cr.P. 6(a), the Court shall order that one or more regular grand juries be publicly drawn at random, and summoned to serve the Orlando Jury Division.

(5) **Tampa Jury Division**: In accordance with Fed.R.Cr.P. 6(a), the Court shall order that one or more regular grand juries be publicly drawn at random, and summoned to serve the Tampa Jury Division

(b) **Special Grand Juries**

(1) **Authority to Convene:** In accordance with 18 U.S.C. Section 3331, the Court may order that a special grand jury be empaneled to sit in a particular jury division, however, any such special grand jury shall be empowered to serve throughout the entire district.

(2) **Selection Procedures:** Unless otherwise ordered by the Court, when selecting names of jurors to be summoned for a special grand jury venire, the Clerk shall first determine the division in which the special grand jury will be empaneled, and thereafter, shall publicly draw at random a sufficient number of prospective jurors from that division to serve on impanelment day.

(c) **In Camera Proceedings Relating to Grand Jury Impanelment:** In accordance with 28 U.S.C. Section 1863(b)(7), and unless otherwise directed by the Court, the actual impanelment of either a regular or special grand jury shall not be held in open Court or within public view.

CHAPTER ELEVEN

DISCLOSURE OF JURY SELECTION RECORDS

11.01 DISCLOSURE OF JUROR NAMES

(a) **Names of Jurors Assigned to Petit Jury Panels:** In accordance with 28 U.S.C. Section 1863(b)(7) and the Rules of this Court, and subject to 18 U.S.C. Section 3432 dealing with capital cases, the names of persons assigned to petit jury panels may be disclosed by the Clerk to counsel at the time of assignment. The Clerk may provide the names to the parties and to the public only after receiving permission from the presiding judge. The Court shall allow the names to be disclosed to the parties and to the public unless the Court specifies on the record or in a written order the reason that the interest of justice requires that the names remain confidential.

(b) **Names of Jurors Assigned to Grand Jury Panels:** In accordance with 28 U.S.C. Section 1863(b)(7), the names of jurors selected for either a grand jury venire, or for actual service on a particular grand jury, shall not be disclosed to any person except upon written order of the District Court, and only then upon a showing that exceptional circumstances have created a demonstrated need for disclosure.

11.02 DISCLOSURE OF INFORMATION AND RECORDS RELATING TO THE JUROR QUALIFICATION AND SELECTION PROCESS

(a) **Prior to the Emptying and Refilling of the Master Jury Wheel(s):** In accordance with 28 U.S.C. Section 1867(f), the contents of records and papers used by the Clerk in connection with the juror qualification and selection process shall not be disclosed, except upon written order of the District Court.

(b) **Subsequent to the Emptying and Refilling of the Master Jury Wheels:** In accordance with 28 U.S.C. Section 1868, the Clerk shall keep all records and papers relating to the juror qualification and selection process for four years following the emptying and refilling of the master jury wheels, or for such longer period of time as the Court may require.

Upon written request from any person attempting to determine the validity of the selection of any jury, the Court may order the Clerk to make such records available during normal business hours.

DONE AND ORDERED on behalf of the Court in Orlando, Florida this 24th day of January, 2005.

PATRICIA C. FAWSETT
CHIEF UNITED STATES DISTRICT JUDGE