

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

UNITED STATES OF AMERICA

Case No.: 9:22-cr-00658-RMG

v.

RUSSELL LUCIUS LAFFITTE,
Defendant.

**DEFENDANT RUSSELL LUCIUS LAFFITTE'S MOTION FOR SUPPLEMENTAL
JURY QUESTIONNAIRE**

Defendant Russell Lucius Laffitte (“Mr. Laffitte”), by and through undersigned counsel, respectfully moves for a supplemental jury questionnaire to be distributed to the entire prospective jury panel to make efficient strikes for cause and to be allowed to appropriately conduct *voir dire* given the heightened and prejudicial media coverage of Mr. Laffitte’s case.

INTRODUCTION

As the Court has previously noted, the “prosecutions of Richard Alexander Murdaugh have generated extensive, nationwide attention, including nationally broadcast documentaries and at least thirteen books.” ECF No. 370 at 2. While the Court then noted that alleged co-conspirators of Mr. Murdaugh have received “less attention,” the media coverage specifically targeting Mr. Laffitte’s case is particularly concerning given the overall tone of contempt towards Mr. Laffitte and the extended breadth and depth of coverage regarding his first trial, his appeal, and now even the pretrial motions for his upcoming re-trial. Because of this, Mr. Laffitte requests that a supplemental jury questionnaire (attached as *sealed Exhibit A*)¹ is necessary to protect his Sixth

¹ We propose to file the exhibit under seal because, in counsel’s experience, juror questionnaires are not filed on the public docket. A separate motion to seal this exhibit is filed simultaneously with this Motion—and while the Government does not consent to the instant motion, it consents to the Motion to file the exhibit under seal.

Amendment right to a fair and impartial jury trial.²

LEGAL STANDARD

The Court has broad discretion in addressing the *voir dire* procedure for empaneling a jury in a federal criminal trial. *See United States v. Lancaster*, 96 F.3d 734, 738 (4th Cir. 1996) (en banc). Under Federal Rule of Criminal Procedure 24, district courts have broad discretion relating to juror questioning and allowing counsel for the parties to ask further questions or submit questions that the court may ask. *See Fed. R. Crim. P. 24(2)*. This process is designed to ensure that defendants have “a fair trial by a panel of impartial, ‘indifferent’ jurors.” *Irvin v. Dowd*, 366 U.S. 717, 722 (1960); *see also Mu’Min v. Virginia*, 500 U.S. 415, 422 (1991) (*voir dire* “enable[es] the court to select an impartial jury”).

Pre-trial publicity results in a heightened risk of jury bias, and as a result has mandated a thorough examination of the jurors in such a situation. *See, e.g., Fietzer v. Ford Motor Co.*, 622 F.2d 281, 284 (7th Cir. 1980) (finding district court’s minimal *voir dire* inadequate in a case that involved some pretrial publicity). To be meaningful, the adequacy of *voir dire* examination must allow the defendant an opportunity to make reasonably intelligent use of his peremptory challenges and challenges for cause. *See United States v. Rucker*, 557 F.2d 1046, 1049 (4th Cir. 1977). Supplemental juror questionnaires allow the *voir dire* process to not only be meaningful, but also

² The Court has previously denied Mr. Laffitte’s Motion for a District-Wide Jury Panel, or in the alternative, for an Intradistrict Division Transfer. ECF No. 370. While the District’s Jury Selection Plan states that a “district-wide petit jury may be used when ordered by the Chief Judge for good cause,” the Plan is silent as to whether a district judge must actually refer a matter to the Chief Judge before denying such a motion—see *In the Matter of the Review of the Amended Jury Selection Plan Submitted by the United States District Court for the District of South Carolina* (“District’s Jury Selection Plan”) No. 3:24-mc-406-RBH, ECF No. 2-1 at 6 (D.S.C. Oct. 4, 2024). It does not appear that this Court referred Mr. Laffitte’s Motion for a statewide panel to Chief Judge Cain before issuing its Order denying that Motion with prejudice. Mr. Laffitte incorporates by reference the arguments made in that Motion and respectfully reserves all rights with respect to its denial.

to protect against potential bias among jurors, specifically in cases where there is heightened media attention. *See United States v. Newland*, No. 2:19 CR 23 PPS, 2020 WL 6364656, at *1 (N.D. Ind. Oct. 28, 2020) (“Courts have used this mechanism to ensure unbiased juries in high profile cases.”).

ARGUMENT

Because of the unique nature of this case and the vast media attention it has garnered, a supplemental jury questionnaire is necessary to adequately determine if any potential jurors have received extrajudicial information from media sources about this and related cases as that may inhibit or interfere with their ability to be fair and impartial jurors in Mr. Laffitte’s upcoming trial.

“District courts routinely use written questionnaires in the *voir dire* process in high profile cases.” *United States v. Barnette*, 644 F.3d 192, 209 (4th Cir. 2011). The use of comprehensive written questionnaires “designed to determine each juror’s ability to be fair and impartial” is a “common practice” in the Fourth Circuit. *United States v. Rolle*, 204 F.3d 133, 135 (4th Cir. 2000); *see also In re South Carolina Press Ass’n*, 946 F.2d 1037, 1041 (4th Cir. 1991) (use of an “18-page questionnaire containing 66 sections”).

Courts in this district and in other districts in this circuit have also used specialized questionnaires to supplement their standard questionnaires in high-profile criminal cases. *See United States v. Metts*, Case No. 3:14-cr-429-TLW, ECF No. 43 (D.S.C. 2014) (granting motion for specialized jury questionnaire); *United States v. Edwards*, No. 1:11-00161 (M.D.N.C. 2012) (approval of 18-page, 84-part questionnaire); *United States v. Cornell*, No. 1:11CR402-1, 2012 WL 4866649, at *5 (M.D.N.C. Oct. 12, 2012) (granting the Defendants’ Supplemental Submission on Jury Questionnaire); *United States v. Jefferson*, No. 1:07-cr-209 (E.D. Va. 2009) (approval of 16-page, 40-part questionnaire); *United States v. Benyo*, No. 1:05-cr-12 (E.D. Va. 2006) (178-

question juror questionnaire approved by the Court); and *United States v. Ritter*, Case No. 1:23-cr-00024-SAL, ECF No. 76 (D.S.C. 2024).

In the *Metts* case referred to above (which involved the prosecution of a local sheriff) then-Chief Judge Wooten granted a motion for a statewide panel *and* for the use of a supplemental questionnaire focusing on the specific facts of that case; see **Exhibit B** (motion) appended hereto. In *Ritter*, a case involving the murder of a transgender victim, Judge Lydon *sua sponte* directed the parties to provide proposed questions to be included in a supplemental questionnaire to be sent along with the Court's standard questionnaire to the entire prospective jury venire.

Mr. Laffitte's case, his first trial, his appeal, and his pretrial motions here have garnered substantial media coverage. Mr. Laffitte is also mentioned in many stories that relate to Mr. Murdaugh, including but not limited to news coverage, documentaries, podcasts, and other media that followed Mr. Murdaugh's murder trial, which occurred *after* Mr. Laffitte's first trial. Indeed, the amount of media coverage and public attention has only increased since Mr. Laffitte's first trial. As the Court acknowledged, at Mr. Laffitte's first trial, the Court "struck for cause the limited number of prospective jurors who had shown great interest in the case, such as those who had watched a documentary or followed blogs related to the case." ECF No. 370 at 2.

As noted in earlier pleadings, Mr. Laffitte respectfully submits that it will be difficult to seat a fair and impartial jury drawn solely from residents of Area C. Given that the Court has denied Mr. Laffitte's Motion for a statewide jury without prejudice, Mr. Laffitte respectfully requests that the Court submit a supplemental questionnaire to all members of the potential jury panel prior to jury selection. This Court uses standard jury questionnaires in all cases—and these questionnaires provide counsel with substantial information about prospective jurors in advance of jury selection which: (1) allows counsel to identify jurors who should be stricken for cause;

(2) allows counsel to identify jurors who should be questioned further at jury selection; and (3) assists counsel in developing sufficient information about prospective juror to allow counsel to appropriately exercise their peremptory strikes. The use of questionnaires has greatly expanded in the federal courts and for good reason—in addition to the above, written questionnaires allow jurors to answer arguably sensitive questions privately rather than in a public setting, thus allowing potential jurors to be more candid with the Court and the parties prior to appearing for jury selection. In this case, the use of the proposed supplemental questionnaire submitted under seal will help identify jurors who have formed opinions based on media saturation and allow those jurors to be stricken for cause before they come to court—which will help minimize the potential for contamination of the remaining venire. Mr. Laffitte respectfully submits that the questions in his proposed questionnaire are best asked and answered in writing in advance of jury selection in this particular case.

Counsel for the Government has been consulted; the Government expressed some interest in reviewing the proposed questionnaire but after review, has declined to consent to this Motion or to suggest any changes to the proposed questionnaire. The Government's stated reason for its opinion at this point is that it believes that the questions themselves will prompt prospective jurors who have not reviewed media stories about this case to immediately conduct internet searches prior to completing the questionnaire or appearing for jury selection. The Government has not offered any evidence to support its views and Mr. Laffitte respectfully parts company with the Government's position. Moreover, any such concerns can be easily mitigated with an Order from the Court accompanying the questionnaire directing in writing (as the Court does orally at jury selection) that prospective jurors should not do what the Government fears they *might* do on their own if left to their own devices.

CONCLUSION

The Sixth Amendment right to a fair and impartial jury in criminal prosecutions is one of the most important rights—and given the media saturation in Area C, additional steps must be taken in this case to ensure that potential jurors are not biased. Here, a supplemental jury questionnaire is necessary to determine what media sources potential jurors have been exposed to—and the depths of such exposure. Of course, certain “media” outlets are more vitriolic than others, and some self-proclaimed “journalists” do not even pretend to be objective or have any compunctions about pushing their own biases on others—and being able to understand which specific media sources potential jurors have been exposed to is important to meaningfully evaluate the ability of those jurors to be fair and impartial. As such, a supplemental jury questionnaire, such as the one submitted under seal here, is crucial to protect Mr. Laffitte’s rights.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

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February 27, 2025

Columbia, South Carolina

EXHIBIT A
(REDACTED) FILED UNDER SEAL

Proposed Supplemental Jury Questionnaire

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

UNITED STATES OF AMERICA

v.

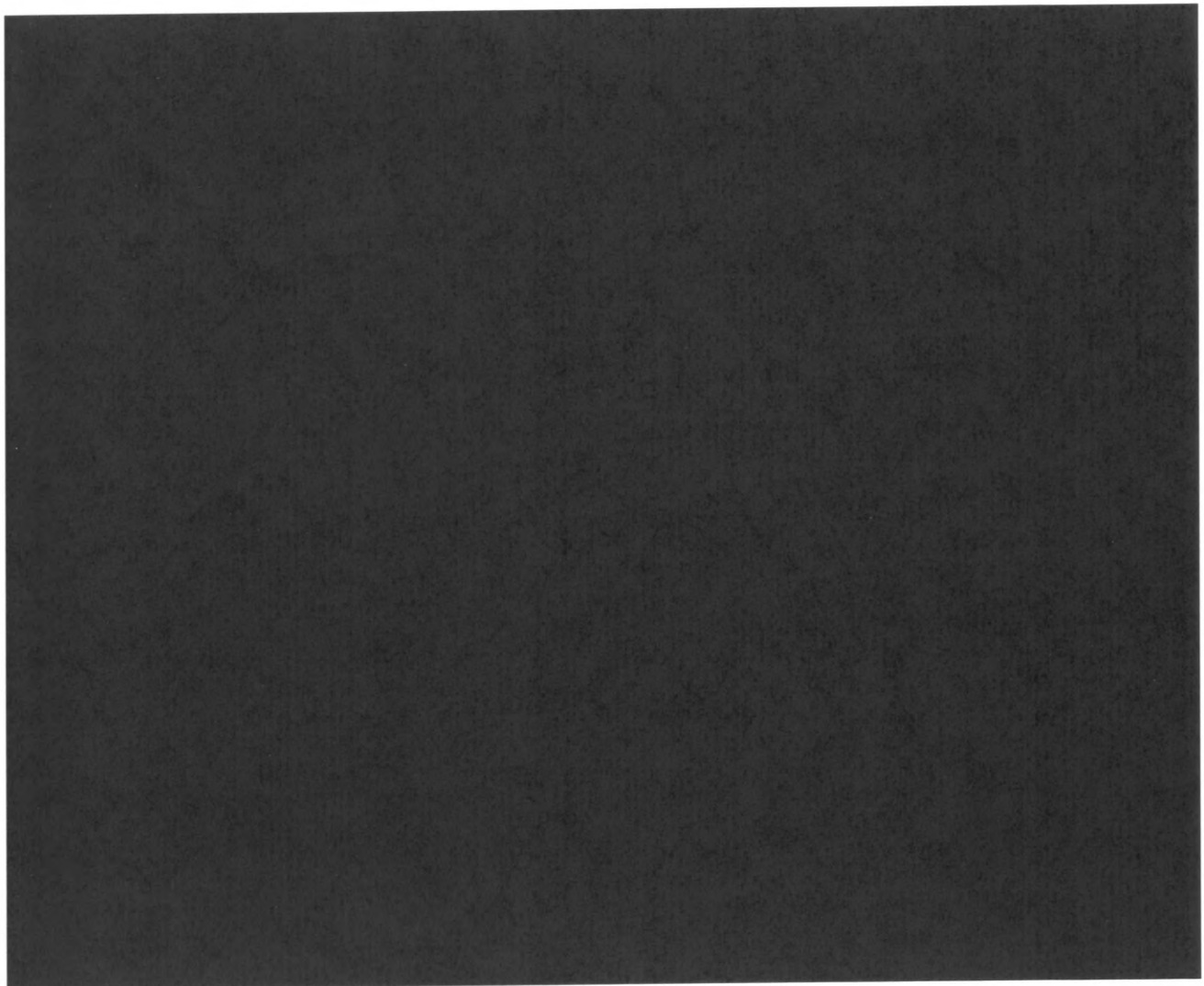
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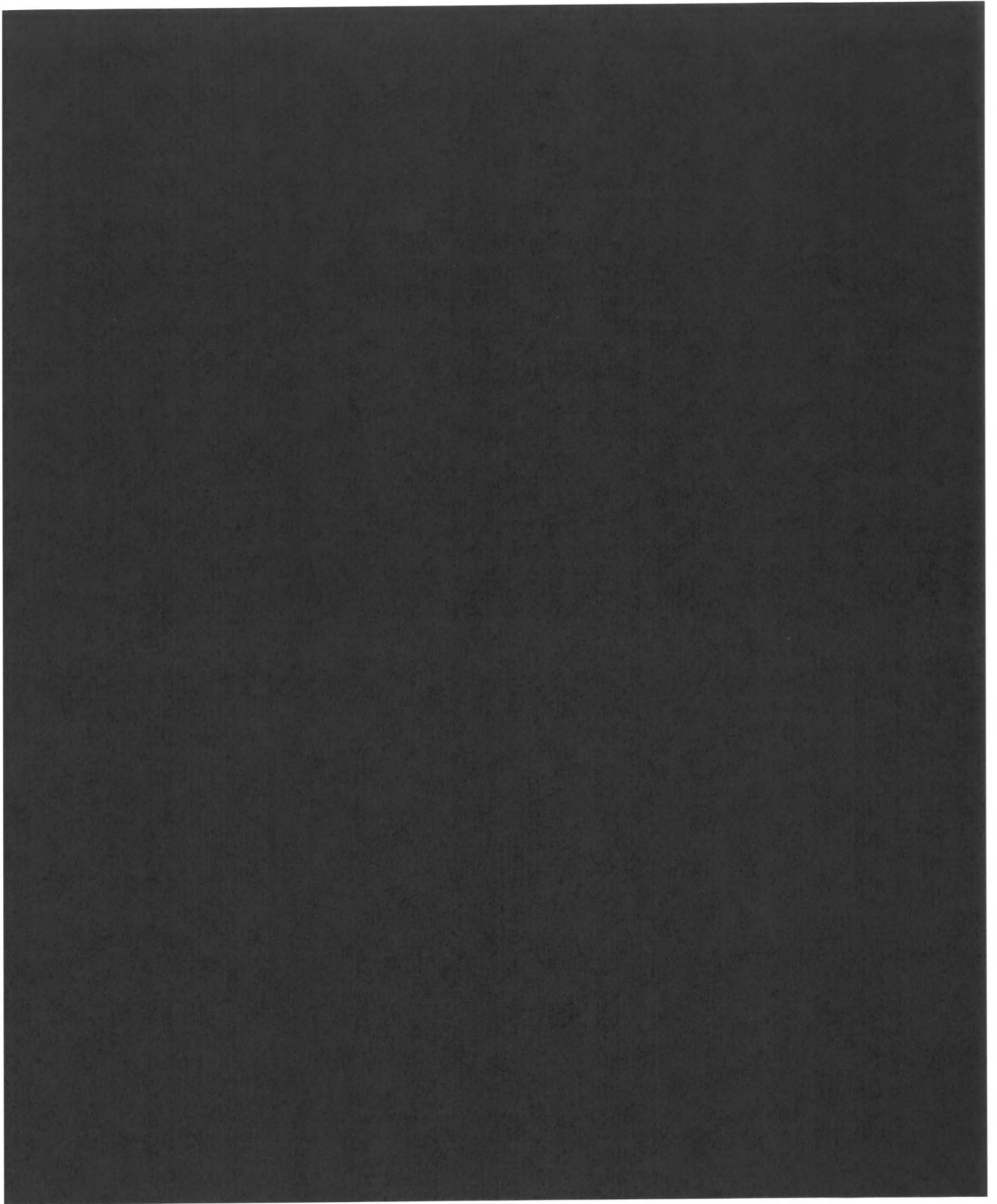
Defendant.

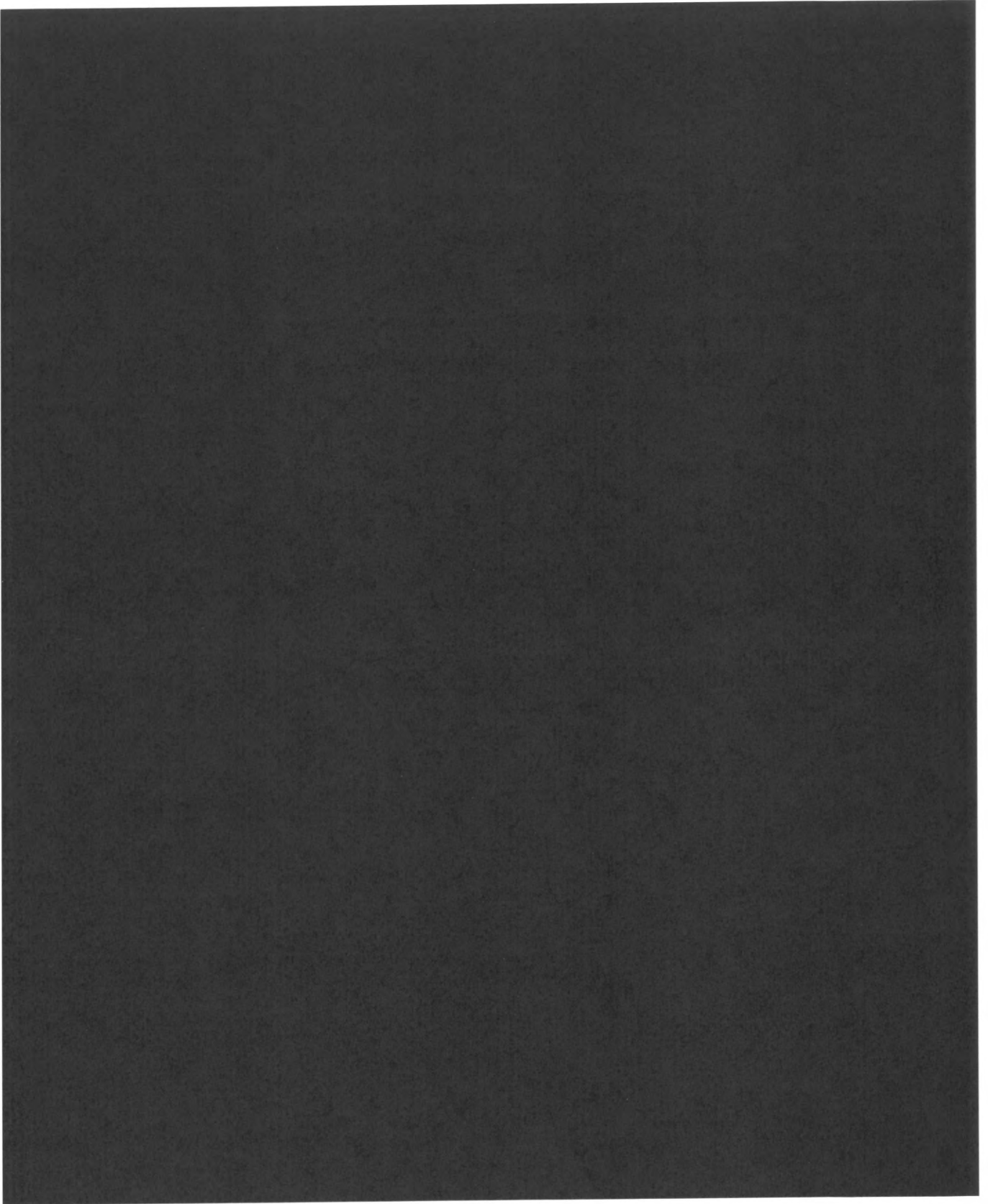
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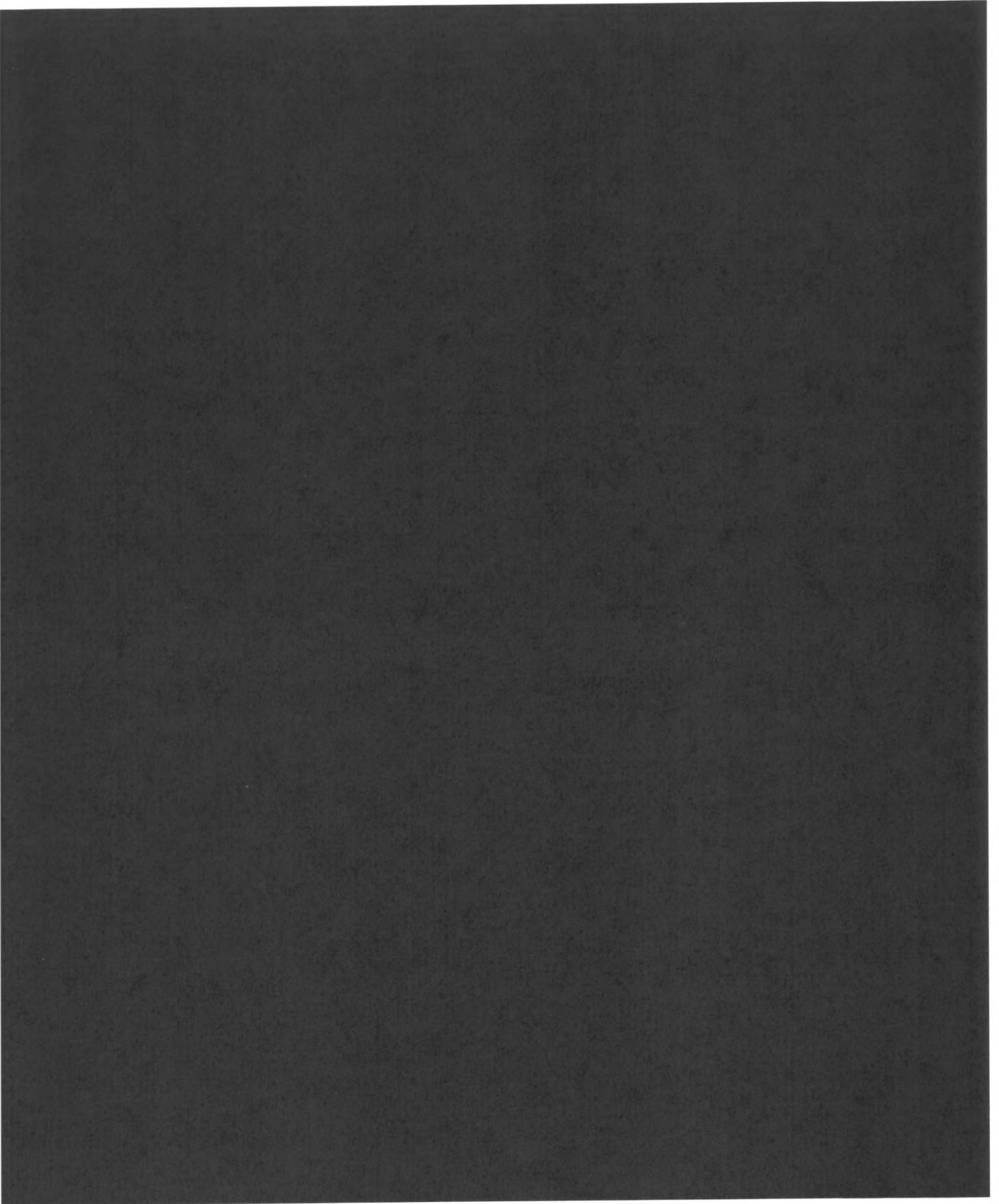
[PROPOSED]
**SUPPLEMENTAL JURY
QUESTIONNAIRE**

Pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, the Parties respectfully request that the Court ask these *voir dire* questions of the panel collectively in addition to the questions usually asked by the Court.









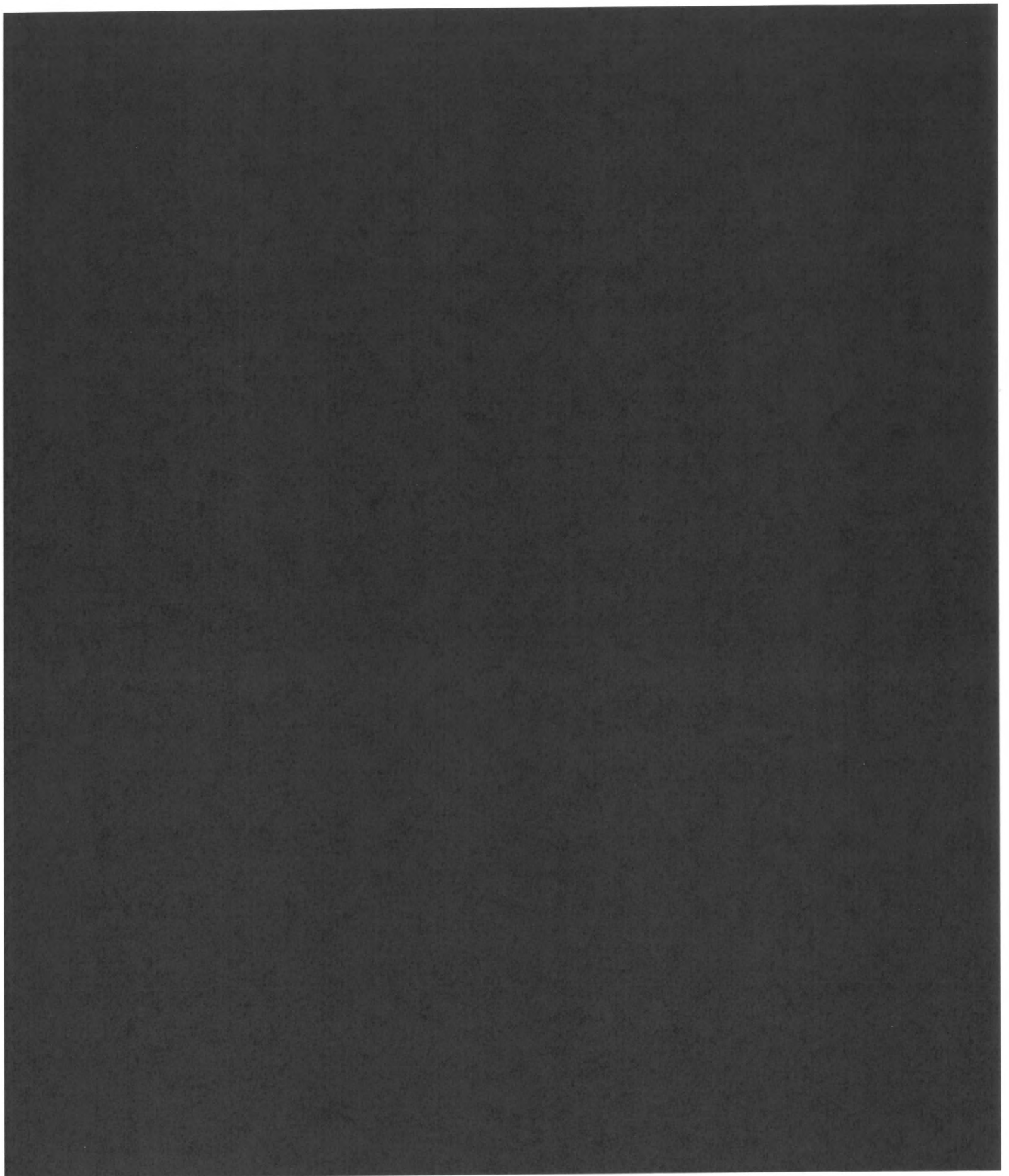


EXHIBIT B

***(USA's Motion for Specialized Jury Questionnaire and
District-Wide Jury Panel)***

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA

CR. No. 3:14-cr-429-TLW

v.

JAMES R. METTS

**MOTION FOR SPECIALIZED
JURY QUESTIONNAIRE AND
DISTRICT-WIDE JURY PANEL**

COMES NOW the United States of America, by and through Assistant United States Attorney, Julius N. Richardson, and moves this Honorable Court to utilize a specialized written questionnaire for jury selection and to draw from a district-wide petit jury panel.

I. Specialized Jury-Selection Questionnaire

First, the Government requests that the Court utilize a specialized jury-selection questionnaire. Counsel for Metts agrees conceptually with the use of such a questionnaire.¹

This Court has broad discretion in addressing the voir dire procedure. *United States v. Lancaster*, 96 F.3d 734, 738 (4th Cir. 1996) (en banc); *see generally* Fed. R. Crim. Pro. 24. In exercising that discretion, this Court should consider voir dire's "dual purposes of enabling the court to select an impartial jury and assisting counsel in exercising peremptory challenges." *Mu'Min v. Virginia*, 500 U.S. 415, 431 (1991). The use of comprehensive written questionnaires is a "common practice" in the Fourth

¹ Counsel is scheduled to meet in advance of the September 3, 2014, pre-trial conference, in hopes of reaching an agreement on a proposed questionnaire for the Court's consideration.

Circuit. *United States v. Rolle*, 204 F.3d 133, 135 (4th Cir. 2000). *See also United States v. Benyo*, No. 1:05-cr-12 (E.D. Va. 2006) (ECF No. 457) (178-question juror questionnaire approved by the Court); *United States v. Skilling*, 561 U.S. 358, 371 (2010) (use of a “77-question, 14-page” questionnaire); *In re South Carolina Press Ass’n*, 946 F.2d 1037, 1041 (4th Cir. 1991) (use of an “18-page questionnaire containing 66 sections”).

Particularly in a public corruption case, the use of an extensive written questionnaire is well-accepted. *See, e.g., United States v. Jefferson*, No. 1:07-cr-209 (E.D. Va. 2009) (ECF No. 421) (approval of 16-page, 40-part questionnaire); *United States v. Edwards*, No. 1:11-00161 (M.D.N.C. 2012) (ECF No. 262) (approval of 18-page, 84-part questionnaire).² The Government will submit, following consultation with defense counsel, a proposed juror questionnaire (along with any questions on which there is a dispute). In doing so, the Government requests that this Court consider using the proposed questionnaire in order to ensure that both sides may select an impartial jury by identifying those that should be struck for cause and by permitting the parties to properly utilize preemptory strikes.

² Some courts have found it appropriate to require the potential jurors to complete their answers to the questionnaire at the courthouse. *See, e.g., United States v. Edwards*, No. 1:11-cr-00161 (M.D.N.C. 2012) (ECF No. 214) (ordering prospective jurors to complete 18-page, 84-part questionnaire at courthouse); *United States v. Jefferson*, No. 1:07-cr-209 (E.D. Va. 2009) (ECF No. 421) (ordering prospective jurors to complete 16-page, 40-part questionnaire at courthouse); *United States v. Stevens*, No. 1:08-cr-00231 (D.D.C. 2008) (ECF No. 7) (ordering in-court completion of questionnaire). That procedure appears to be unnecessary based on judicial economy concerns so long as the questionnaire includes appropriate instructions (*e.g.*, do not discuss the case, do not read any press accounts, etc.).

II. District-Wide Petit Jury Panel

Second, the Government requests that the court utilize a district-wide petit jury instead of a panel drawn only from Area B (Columbia, Florence, and Rock Hill divisions). Counsel for Metts agrees with the use of a district-wide panel.

The Jury Selection Plan for the District of South Carolina (established in conformity with the Jury Selection and Service Act of 1968, 28 U.S.C. §§ 1861 et seq.), permits a district-wide (or centralized) petit jury upon order of the Chief Judge. *See* Jury Selection Plan at 6 (3:11-mc-2153).³ Such requests have been utilized in a number of public corruption cases, including the recent prosecution of a former sheriff in *United States v. Edgar Jerome Melvin*, Cr. 3:10-cr-580-CMC. Good reasons support the use of district-wide panels in significant public corruption cases. First, media attention is focused on the area in which the former public official served. Utilizing a state-wide panel helps in drawing individuals that have not been tainted by news reports. *See generally Skilling*, 561 U.S. at 377-395 (discussing potential juror prejudice).⁴ Second, the time elected officials have spent campaigning and serving in their area has the

³ The Sixth Amendment provides in pertinent part that “the accused shall enjoy the right to a ... public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.” U.S. Const. Amend. VI. Trial judges have the discretion to order that a jury be drawn from an entire federal district or from a division of that district. *See generally United States v. Florence*, 456 F.2d 46, 50 (4th Cir. 1972) (upholding conviction from trial with pool of potential jurors drawn from outside division of district where defendant lived); *United States v. Grisham*, 63 F.3d 1074, 1081 (11th Cir. 1995) (upholding conviction where jury selection was district-wide).

⁴ While there has been some state-wide and national news reports related to this case, those reports are limited in both scope and audience compared with the coverage in the Midlands.

potential to influence jurors. A state-wide panel reduces the likelihood of someone being selected that has had either positive or negative interactions with the former public official. Thus, the Government requests that this Court consider using a district-wide panel to ensure the selection of an impartial jury.

* * *

For the reasons stated above, in the interest of justice and for good cause shown, the United States respectfully requests this Court permit the use of a specialized jury-selection questionnaire and to utilize a district-wide petit jury.

Respectfully submitted,

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August 25, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this date caused one true and correct copy of the within document to be served on the defendant(s) in the above-captioned case, via the Court's e-noticing system, but if that means failed, then by regular mail, on all parties of record.

s/ Julius N. Richardson
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August 25, 2014