STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 10-125

Authority of Jury Coordinator to Select Prospective Jurors to Serve on Jury Panels

QUESTION

Before the beginning of each term of court, does the duly appointed jury coordinator have the authority to select and empanel prospective jurors to serve on jury panels after the presiding judge has empanelled and sworn those jurors who will serve as grand jurors?

OPINION

A jury coordinator has three primary duties: (1) to make a randomly selected list of prospective jurors and to form the jury pool at the beginning of each court term; (2) to excuse, postpone, or disqualify jurors in the pool from service; and (3) to supplement the pool at the direction of the judge when additional jurors are needed during the term of court. The statute does not allow the jury coordinator to select or empanel jurors other than by providing names for the pool. The selection of prospective jurors for service on grand and petit juries is the responsibility of the court.

ANALYSIS

The office of jury coordinator was created to replace the former system of jury commissioners for nearly all counties[1] in Tennessee. The new provisions passed by the General Assembly for the selection and attendance of jurors became law on January 1, 2009. *See* 2008 Tenn. Pub. Acts, ch. 1159; Tenn. Code Ann. §§ 22-2-101 to 22-2-316. The jury coordinator is usually the clerk of the circuit court of the county, although the judges may appoint another person to this office. Tenn. Code Ann. § 22-2-201(a)(1).

The primary duty of the jury coordinator is to select names of prospective jurors to serve in the courts of that county by random automated means (used in the majority of counties) or by an alternative random manual system. Tenn. Code Ann. §§ 22-2-301(a); 22-2-302; 22-2-305. The names compiled by the jury coordinator, whether by automated or manual means, constitute the jury list. Tenn. Code Ann. § 22-2-301(b).

[1] Those counties retaining the jury commissioner system follow the jury selection procedures under Chapter 5 of Title 22. *See* Tenn. Code Ann. §§ 22-5-101 to 22-5-315.

Tennessee Code Annotated § 22-2-304 states: "It is the duty of the presiding judge of the judicial district to notify the jury coordinator of the number of names to be selected from the jury list, and these names shall constitute the jury pool." Tenn. Code Ann. § 22-2-304(a). When the required number of names has been selected for the jury pool, the jury coordinator shall place a list of those names in an envelope along with a report prepared and signed by the jury coordinator. The list and report are retained for use as provided by Section 22-2-304(b).

The jury coordinator is then required to draft summonses for each juror and have them served. Tenn. Code Ann. § 22-2-306. At the direction of the jury coordinator, the jurors are summoned under the procedures set out in Tenn. Code Ann. § 22-2-307. "Immediately after the jury pool has been summoned," the jury coordinator creates a list of those in the pool, which is required to be posted in the clerk's office, along with sufficient copies for general distribution to members of the bar and all other interested persons. Tenn. Code Ann. § 22-2-308.

Persons summoned for jury duty must attend at the time and place designated in the summons, unless excused or granted a postponement, or otherwise discharged in a manner authorized by law. Tenn. Code Ann. § 22-2-309. The trial judge for the court to which a juror is summoned for service shall make determinations regarding jurors seeking to have their service excused or postponed due to hardship, or the judge may delegate this authority to the jury coordinator. If the court does not delegate this authority, it "may authorize the jury coordinator to make initial inquiries and recommendations concerning such requests." Tenn. Code Ann. § 22-1-103(b)(1).

At the beginning of the jury service term, if the presiding judge approves the jury coordinator's report, "the names listed in the report shall constitute the jury pool for the jury service term." Tenn. Code Ann. 22-2-311(a). However, "nothing in [this subsection] is intended to prevent a judge or jury coordinator from subsequently excusing, disqualifying, postponing the service of or otherwise discharging a member of the jury pool in a manner consistent with this title." *Id.*

Both the grand and petit juries are selected from the same jury pool. Tenn. Code Ann. § 22-2-310. Rule 6 of the Tennessee Rules of Criminal Procedure addresses the procedure for the formation of the Grand Jury:

> On the first day of each term of court at which a grand jury is required to be impaneled, the judge of the court authorized by law to charge the grand jury and to receive its report shall direct the names of all the qualified jurors in attendance for the criminal courts of the county to be written on separate slips of paper and placed in a box or other suitable receptacle and drawn out by the judge in open court. The foreperson and the twelve qualified jurors whose names are first drawn constitute the grand jury for the term and shall attend the court until dismissed by the judge or until the next term.

Tenn. R. Crim. P. 6(a)(1). The judge then administers the oath to the grand jurors. Tenn. R. Crim. P. 6(a)(4). "After the grand jury has been impaneled and sworn, the judge shall instruct it concerning its powers and duties and the relevant law." Tenn. R. Crim. P. 6(a)(5).

The selection of jurors from the pool for the "panel, or venire," [2] Tenn. Code Ann. § 22-2-310(c)(1), for service on petit juries is governed by Rule 24 of the Rules of Criminal Procedure. Civil cases follow the analogous Rule 47 of the Rules of Civil Procedure. The selection of jurors is the duty of the trial judge. Furthermore, Tenn. Code Ann. § 22-2-316 states that the "presiding judge may delegate any or all of the duties imposed upon the judge by this part to another chancellor or judge authorized to conduct jury trials."

During the course of a trial, if the judge determines that the pool does not have a sufficient number of jurors, then the judge shall direct the jury coordinator to select additional names in the same manner that the original jury pool was selected. Tenn. Code Ann. § 22-2-310.

It is the opinion of this Office that the statutory duties of the jury coordinator are limited to selecting names for the list from which prospective jurors are drawn to form the pool, which is then approved by the presiding judge. The jury coordinator also prepares the summonses for those names and then, if allowed by the trial judge, may grant exemptions or postponements. The jury coordinator has the additional authority of supplementing the pool as needed at the direction of the trial judge.

It is the duty of the presiding judge to supervise the selection and empanelling of the jury pool for service on the grand jury for the term. The trial judge also selects the petit juries with the assistance of the parties. Only a judge has the authority under the statutes and rules to preside over the selection and empanelling of those juries. The jury coordinator does not have a role in the selection and empanelling of either grand or petit juries.

ROBERT E. COOPER, JR.
Attorney General and Reporter

JOSEPH F. WHALEN
Associate Solicitor General

CLARK B. THORNTON
Assistant Attorney General

[2] The term "venire," although not otherwise defined in the statute, means the panel from which jurors are selected for service at a trial, and falls under the jury selection statutes in §§ 22-2-101 to 22-2-316. *See State v. Hester,* 324 S.W.3d 1, 48 n.44 (Tenn. 2010); *see also* BLACK'S LAW DICTIONARY 1590 (8th ed. 2004) ("A panel of persons selected for jury duty and from among whom the jurors are to be chosen. – Also termed *array; jury panel; jury pool."*).

Requested by:

The Honorable Jim T. Hamilton, Circuit Judge
Twenty-Second Judicial District, Division I
22 Public Square, Suite 3
P.O. Box 413
Columbia, Tennessee 38402-0413