

1979 WL 43558 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 5, 1979

\*1 A. Ray Godshall, Esquire  
Attorney at law  
Post Office Box 66  
Gaffney, South Carolina 29540

Dear Mr. Godshall:

In a letter to this Office you referenced the method now used by the City of Gaffney to prepare the municipal court jury box. You indicated that pursuant to the present procedure a computer print-out provides the names of all registered voters of the City of Gaffney. From that print-out the mayor and six councilmen acting as jury commissioners go through the names and pick out more than three hundred to be prospective jurors. You indicated that these commissioners pick the names of registered voters individually and determine if they think the ones they pick are of good moral character and eligible for jury duty. It was indicated that the mayor and each councilman typically pick fifty names each and give these names to the city clerk who then puts each name into a capsule and then in the jury box. You have asked for a determination by this Office on whether or not this manner of preparing a jury box is proper and if not you have asked for this Office to make suggestions on the more proper method.

While it appears that basically your procedure does follow [Section 14-25-630 of the 1976 Code](#) of Laws which dictates the procedure to be followed in the preparation of the jury box for a municipality of over five thousand population, the lack of the implementation of a system which would guarantee impartiality and a random means of selecting potential jurors results in a determination that the above described system used by Gaffney in preparing the municipal court jury box is suspect. It is generally provided that:

‘The ultimate object of the procedure in selecting persons for jury service is to bring into court for the benefit of litigants and for the administration of justice jurors who have been chosen impersonally, methodically, and by equal chance, with respect to possibility of selection, from the whole body of the . . . district from which they are properly selected.’ 47 Am.2d Jury, Section 136 at 736.

Furthermore,

‘The right to trial by an impartial jury means that prospective jurors must be selected by . . . officials without systematic and intentional exclusion of any group . . . The principle upon which the rule against the exclusion of certain classes from jury lists rests is the denial of the equal protection of the law. Qualified persons cannot be arbitrarily excluded from, or in, selection for jury service by jury commissioners . . .’ 47 Am.2d Jury, Section 163 at 756-757.

Therefore, with reference to such, it appears that the procedure by which the mayor and councilmen acting as jury commissioners pick the names of registered voters individually and determine if they think such individuals are of good moral character and eligible for jury duty is not in keeping with such mandate of impartiality.

A previous opinion of this Office dated June 22, 1967, indicated that while the section now codified as [Section 14-25-630](#) does provide for the selection of the names of not less than three hundred qualified electors of good moral character who reside within the municipal limits, the section does not specify precisely how the three hundred names are to be selected.

This opinion indicated that inasmuch as such procedure was not specified by statute 'it would be improper for this Office to prescribe a particular method.' The opinion did indicate however that:

\*2 ' . . . a fair and impartial system in the selection of the persons whose names are to go into the jury box is to deposit the names of all qualified electors who reside within the municipality in a suitable wheel or box. The names should be written on separate slips of paper of uniform size and appearance. After the names have been placed in the hole or box, the jury commissioners could draw the requisite number therefrom. Once the names have been drawn, the jury commissioners could thereafter determine whether those selected are of good moral character and eligible for jury duty. This determination would precede the placing of the names in the jury box mentioned . . . (in the section now codified as [Section 14-25-630](#)).'

In keeping with the above opinion and with the above provisions which mandate an impersonal and methodical manner of selection of individuals for jury service which provides equal chance with respect to the possibility of selection, it is the recommendation of this Office that these overall suggested guidelines be referenced in establishing a procedure for preparing a jury box.

If there are any further questions, do not hesitate to contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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