

HOW WILL MY JURY BE SELECTED FOR MY TENNESSEE CRIMINAL TRIAL?

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As a defendant in a criminal prosecution in the State of Tennessee you have a number of important rights guaranteed to you by both the federal and state Constitutions. Among those rights is the right to have a jury of your peers decide if you are guilty. Unless you have stood trial before you likely know very little about the jury trial process and even less about the jury selection process. Only your Tennessee criminal defense attorney can provide you with advice and guidance with regard to whether a jury trial is in your best interest; however, a better understanding of who might be on your jury and how a final jury is selected is critical if you are contemplating a jury trial in Tennessee.

Your Right to a Trial by a Jury of Your Peers

The first ten Amendments to the United States Constitution, collectively known as the "Bill of Rights" are where a number of your fundamental rights are located. The right to a trial by jury is found in the Sixth Amendment which reads as follows:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and 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, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

The right to a trial by a jury of your peers is mirrored in the Tennessee Constitution in Article I, Section 6 which states:

"That the right of trial by jury shall remain inviolate, and no religious or political test shall ever be required as a qualification for jurors."

Waiving Your Right to Trial by Jury

Your right to a trial by a jury of your peers is one of several inalienable rights you have as an accused in the United States. A right, however, may be exercised or waived. Some rights are effectively waived if you fail to assert them. Your right to remain silent, for example, is effectively waived if you agree to answer questions of a law enforcement officer. Other rights, including your right to a trial by jury, must be formally waived. Moreover, that waiver must be

made knowingly and voluntarily. There are two reasons why you may wish to waive your right to a trial by jury. The first is because you plan to enter into a guilty plea agreement between you and the State of Tennessee. The second is because you prefer to have a judge decide your fate and, therefore, must waive your right to a jury trial in favor of a “bench” trial, also known as a “trial by judge”. If you do decide to waive your right to a jury trial you may be required to execute a formal jury waiver and/or appear before the judge and formally waive your right to a trial by jury.



Finding a Jury of Your Peers



Although the U.S. Constitution guarantees you the right to a jury *of your peers*, the reality is that the individuals on the jury you end up with may, or may not, qualify as your “peers”. The reason for this is found in the way in which potential jurors are chosen. Impaneling a jury for a criminal trial begins by randomly selecting potential jurors from the driver’s license registration records and summoning those individuals to appear on the day of your trial. Therefore, your final jury will ultimately consist of people who have registered for a driver’s license in the State of Tennessee. Whether or not those individuals are truly your “peers” or not has been the subject of much debate

over the years. Nevertheless, all juries are chosen in this manner.

Jury Selection – Voir Dire

On the day of your trial, the jury pool will be assembled and ready to go. The amount of advance information provided to the parties regarding the prospective jurors will vary by jurisdiction and even by individual courts within the same jurisdiction. In some cases your attorney will have a lengthy juror questionnaire filled out by each prospective juror while in others your attorney may know virtually nothing about the prospective jurors until the day of trial. Regardless of the extent, or lack, of information provided ahead of time, the process known as "Voir Dire" will allow you and your attorney to get a better feel for each prospective juror.

Your final jury will be comprised of 12 jurors; however, most judges also include at least one alternate juror who is able to step in should something



happen to one of the final jurors at any point during the trial. Voir Dire begins by bringing at least 12 prospective jurors into the courtroom. Typically, the judge will speak to the prospective jurors and explain why they are there and what will happen next. The judge may also question the prospective jurors in an effort to identify anyone who is obviously disqualified for cause. Both your attorney and the prosecuting attorney will then have the opportunity to question the prospective jurors to try and determine if the individual should be challenged for cause or as a peremptory challenge.

Challenges for cause are unlimited for both sides. A challenge for cause means there is a legal reason why the individual cannot serve on the jury. For example, if the prospective juror knows you or someone else involved in the case or has already made up his/her mind about your guilt a challenge for cause would likely be sustained, meaning the individual would be

excused from serving. Either side may issue a challenge for cause; however the judge will ultimately decide if cause to excuse the prospective juror exists.

A peremptory challenge may also be made by either side. Peremptory challenges do not require a reason other than you not want the individual on your jury. Typically, peremptory challenges are used to excuse people who do not appear to be sympathetic to you or the story your attorney plans to present during trial. The number of peremptory challenges each side has to use is limited to 15 per side in a death penalty case, eight in a case where the offense is punishable by over a year in prison and three for an offense carrying under a year of imprisonment if convicted.



As prospective jurors are excused for cause or because a peremptory challenge was used, additional members of the jury pool take their place. Questions are then asked of those individuals and challenges issued. Eventually, a final jury will be chosen after all peremptory challenges have been used. The members of the final jury must unanimously vote to find you

guilty beyond a reasonable doubt in order for you to be convicted of the crime for which you have been accused.

The decisions to take your Tennessee criminal case to trial is an important one and as such should only be made after consultation and deliberation with your Tennessee criminal defense attorney. If you do decide to let a jury decide your fate, you should now know enough about the jury selection process to be an active participant in selecting *your* jury.

Center for Criminal Justice Advocacy, [Jury Selection](#)

Knox County, Tennessee, Jury Coordinator, [Frequently Asked Questions](#)

Tennessee State Courts, [Rule 24 Trial Jurors](#)

Tennessee Trial Law Report, [The Law of Trial – Jury Selection](#)

Tennessee Constitution, [Article I Declaration of Rights](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.