

# The State of South Carolina



## Office of the Attorney General

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March 27, 1992

The Honorable Liz Godard  
Aiken County Clerk of Court  
Box 583  
Aiken, South Carolina 29802-0583

Dear Ms. Godard:

You have requested an opinion of this Office concerning the selection of jurors by computer. As I understand your request, you specifically would like to know whether the jury commissioners must be present at the same location to draw the jurors using the county computer. According to the information supplied by you, the computer is accessible at various parts of Aiken County.

The following statutory provisions apply to this request:

In lieu of the manner required by this chapter, the jury commissioners of a county, when drawing and summoning jurors...., may at the discretion of the governing body of the county utilize a computer for this purpose in the manner the Supreme Court by order directs. [S.C. Code Ann. §14-7-140 (Supp. 1991)]

The drawings must be made openly and publicly in the office of the clerk of court of common pleas and the jury commissioners shall give ten (10) days notice of the place, date, and hour of each of the drawings by posting in a conspicuous place on the courthouse door or by advertisement in a county newspaper. [§14-7-220]

The above provisions of §14-7-140 were set forth in similar language in Act No. 340, 1986 S.C. Acts 2489, and the same language of §14-7-220 was included in that Act also. Therefore, because both statutes are contained in the same Act, a reasonable construction of them is that the provisions of §14-7-140 concerning

computerized drawings of jurors are subject to the provisions of §14-7-220 for public drawings following ten (10) days notice. Sutherland Statutory Construction, Vol. 2A §§46.05 and 51.02 and see also Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970). Moreover, that §14-7-220 must be followed appears to be directed by the Supreme Court's Order of May 21, 1986 concerning §14-7-140 which states, in part, as follows:

... 3. The procedures adopted must effectively preserve the right of public access to the process of selecting jurors and provide public notice to the public of the selection of jurors. ...

... 5. All other sections of Act 340 of 1986 shall be adhered to as if the manual drawing process was being used.

Giving §14-7-220 its plain meaning (S.C. Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E.2d 134 (1986)) suggests that the General Assembly intended that the jury commissioners should all be physically present at the same location because of its provisions for open and public drawings following ten (10) days notice. This conclusion is consistent with paragraph 3 of the above Order and the Practice and Procedures Manual for South Carolina Clerks of Court prepared by Court Administration which provides as follows at §8.1.2, page 8.5, paragraph a.:

... In 1986 jury selection by computer was authorized, provided a plan for computerized selection was approved by the Supreme Court. Such drawings need not be held in the Clerk of Courts office, but the plan must provide for public observation of the drawing to ensure absolute integrity of the random selection process. All three (3) jury commissioners must be present for the drawing.... (Emphasis added).

Nothing in this authority suggests that presence may be accomplished by electronic connection as in a computer terminal for a commissioner at a remote location. cf §30-4-20(d).

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In conclusion, based upon the above authority, all three (3) jury commissioners must be physically present at the same location for jury drawings by computer. Making the presence of all three (3) commissioners at the same location conditional upon a request made at the time of the drawing does not appear to be consistent with this authority.

If you need additional information, please let me know.

Yours very truly,



J. Emory Smith, Jr.  
Assistant Attorney General

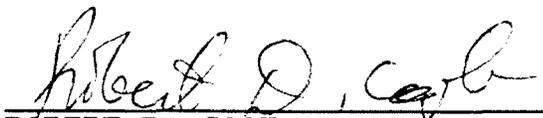
JESjr/rl  
cc: Mr. Louis L. Rosen, Director  
Judicial Department  
Division of Court Administration

REVIEWED AND APPROVED BY:



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