§ 270.15 Trial jury; examination of prospective jurors; challenges generally.

1. (a) If no challenge to the panel is made as prescribed by section 270.10 of this article, or if such challenge is made and disallowed, the court shall direct that the names of not less than twelve members of the panel be drawn and called as prescribed by the judiciary law, except as otherwise required by this section. Such persons shall take their places in the jury box and shall be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. In its discretion, the court may require prospective jurors to complete a questionnaire concerning their ability to serve as fair and impartial jurors, including but not limited to place of birth, current address, education, occupation, prior jury service, knowledge of, relationship to, or contact with the court, any party, witness or attorney in the action and any other fact relevant to his or her service on the jury. An official form for such questionnaire shall be developed by the chief administrator of the courts in consultation with the administrative board of the courts. A copy of questionnaires completed by the members of the panel shall be given to the court and each attorney prior to examination of prospective jurors.

(b) The court shall initiate the examination of prospective jurors by identifying the parties and their respective counsel and briefly outlining the nature of case to all the prospective jurors. The court shall then put to the members of the panel who have been sworn pursuant to this subdivision and to any prospective jurors subsequently sworn, questions affecting their qualifications to serve as jurors in the action.

(c) The court shall permit both parties, commencing with the people, to examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. Each party shall be afforded a fair opportunity to question the prospective jurors as to any unexplored matter affecting their qualifications, but the court shall not permit questioning that is repetitious or irrelevant, or questions as to a juror's knowledge of rules of law. If necessary to prevent improper questioning as to any matter, the court shall personally examine the prospective jurors as to that matter. The scope of such

examination shall be within the discretion of the court. After the parties have concluded their examinations of the prospective jurors, the court may ask such further questions as it deems proper regarding the qualifications of such prospective jurors.

1-a. The court may, upon a finding that there is good cause to believe that a threat to the safety or integrity of the jury exists, upon motion of either party or any affected person or upon its own initiative, issue a protective order for a stated period regulating disclosure of the names and the business or residential address of any prospective or sworn juror to any person or persons, other than to counsel for either party. In determining whether good cause exists, the court may consider:

(a) whether the defendant or persons acting on behalf of the defendant have bribed, tampered with, or caused or attempted to cause physical injury to or harassed a juror or prospective juror in another criminal action or proceeding or in the instant criminal action or proceeding;

(b) the seriousness of the charges against the defendant, including whether the defendant is charged with participating in a large-scale criminal enterprise; and

(c) the extent of pretrial publicity concerning the criminal action or proceeding.

1-b. If the court determines that a protective order should be issued and that all jurors or prospective jurors shall be identified by some means other than their names and business or residential addresses, the court shall instruct the jury that the fact that the jury was selected on an anonymous basis is not a factor from which any inference unfavorable to the defendant may be drawn.

2. Upon the completion of such examination by both parties, each, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the

defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and peremptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

3. The court may thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel or, in its discretion, direct that all sworn jurors be removed from the jury box and that the jury box be occupied by such additional number of persons from the panel as the court shall direct. In the court's discretion, sworn jurors who are removed from the jury box as provided herein may be seated elsewhere in the courtroom separate and apart from the unsworn members of the panel or may be removed to the jury room or be allowed to leave the courthouse. The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreperson, and no special oath need be administered to him or her. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him or her and the selection of the trial jury must be completed in the manner prescribed in this section.

4. A challenge for cause of a prospective juror which is not made before he is sworn as a trial juror shall be deemed to have been waived, except that such a challenge based upon a ground not known to the challenging party at that time may be made at any time before a witness is sworn at the trial. If such challenge is allowed by the court, the juror shall be discharged and the selection of the trial jury shall be completed in the manner prescribed in this section, except that if alternate jurors have been sworn, the alternate juror whose name was first drawn and called shall take the place of the juror so discharged.