

HB

252



STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU ALASKA 99811  
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 21, 1980

SUBJECT: Chicago Jury System [HB 252]  
(Work Order No. 7710)

TO: Representative Charles H. Parr  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley **B**  
Legislative Counsel

Margaret Berck has asked that I comment on the "Chicago Jury System" in two particulars: (1) how hardship provisions that exempt a potential juror from service actually work; and (2) the mechanisms that preclude a call for jury service from an individual who recently served as a juror.

The Index to Legal Periodicals has no articles indexed under "Chicago Jury System" during the last three years. No similar reference to the Illinois jury system was found.

Merle Martin, the representative of the Court System most concerned with the use of juries was unaware of any literature on the matter.

The Illinois Code, Chapter 78, Jurors, contains what I assume are the pertinent provisions of the law in effect in Chicago; the rules adopted by the Supreme Court and the chapters on "Practice," "Practice Rules," and "Courts" were examined and contain nothing relevant.

Chapter 78, sec. 8 provides for a master jury list prepared before the convening of a "term of court," presumably annually. Sec. 10 provides that after the master list is prepared, the clerk of the court will issue summons for jurors. The system requires that a group of jurors be called for a day certain and then different groups, called at the same time, are called in for each succeeding two-week period for so long as the court expects to remain in session and need jurors. Jurors are permitted to advise what part of the year is most convenient for them. Sec. 31.

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Though the law does not explicitly acknowledge this, it appears that jurors are subject to call for two weeks and then discharged.

Chapter 78 does not appear to deal with the question of the exemption of a potential juror from service except in sec. 33. This section essentially states that a juror [either grand or petit] summoned to service may request the judge to excuse him "on account of the nature of the elector's [juror's] occupation, business, or private affairs" for a period "not later than one year from the time of such excuse." The decision on the excuse is discretionary with the judge.

And with regard to the second question, it seems implicit in the Chapter 78 procedure that an individual whose two weeks had expired could not serve again until a new master list was prepared, presumably a year later.

In discussing the features of the Chicago system with Merle Martin, it was his view that the Alaska system seemed less burdensome to the citizen, at least as to the second question. In most parts of the state, a juror is on call for one week or one trial, whichever occurs first. Less populated areas may serve for one trial and two weeks, whichever occurs first.

If the committee wishes a more thorough analysis than that offered here, I would be pleased to respond.

RAB:jdn

dance cannot be obtained within a reasonable time or may involve a large and unnecessary expense, and the fact appears to the satisfaction of the court through the use of questionnaires or otherwise, the court may reject the name of that person and direct that the name or number of another be drawn in his place. (§ 2.07 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

Constitutionality. — This section is not violative of Alaska Const., art. I, § 11. *West v. State*, Sup. Ct. Op. No. 319 (File No. 572), 409 P.2d 847 (1966).

Names of persons for the jury panel are randomly selected from the jury list by the court clerk at a public drawing. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Summoning jurors from less than entire judicial district is discretionary.—The question of how the superior court is to make the decision as to whether jurors should be summoned from less than the entire judicial district is for the court to determine in its discretion. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

The legislature has given to the superior court the power to determine whether jurors should be summoned from less than the entire judicial district. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

And expense is standard which guides court.—The standard which guides the court in making a determination as to whether jurors should be summoned from less than the entire judicial district is whether a large and unnecessary expense is involved in obtaining jurors from all parts of the district. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

Selecting only jurors residing within 30 miles of trial site held proper.—See *West v. State*, Sup. Ct. Op. No. 319 (File No. 572), 409 P.2d 847 (1966).

A grand jury selected from the city of Anchorage and an area within a 15-mile radius of the city is a jury which satisfies proper standards of jury selection. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

The policy of calling jurors only from an area within a 15-mile radius of the city of Anchorage does not result in the exclusion from jury service of any particular and defined stratum of society so as to detract from the broad base that the jury system is designed to have. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

It is not required that there be equal representation on juries of every economic, social, religious, racial, political and geographical group of the entire judicial district in order to maintain the broad base that the jury system is designed to have. *Crawford v. State*, Sup. Ct. Op. No. 312 (File No. 637), 408 P.2d 1002 (1965).

Jury selection procedures designed to insulate process from biases of officials.—Alaska's random and public jury selection procedures are designed to insulate the selection process from the personal interests and biases of governmental officials. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Mere claim of benefit did not suggest officials biased.—The mere claim that officials conducting proceedings for selecting jurors which composed a condemnation trial panel stood to benefit from the construction of a new courthouse in no way suggested that those officials harbored any personal interest or bias against owners whose lots were to be condemned for the construction. *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Quoted in *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

Cited in *Green v. State*, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

Sec. 09.20.080. Jury panel. The jury panel for the trial of civil

cases consists of at least 24 jurors or more as determined by the court. If at any time the number of jurors on the panel falls below 24 or the regular panel is exhausted, the court shall order the clerk to complete the panel or secure additional jurors by drawing sufficient names from the jury box. (§ 2.08 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

The law does not require the drawing of 24 names of those on the jury panel in impaneling a trial jury, but only, as provided by AS 09.20.090, a number "sufficient to name a jury of 12 unless the court directs otherwise." *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

Waiver of right to challenge sufficiency of jury panel.—Where party participated in the selection of the jury and said nothing as to the panel being insufficient until after the jury had been selected and sworn, this constituted a waiver of whatever right such party may have had to challenge the sufficiency of the jury panel. *Irwin v. Radio Corp. of America*, Sup. Ct. Op. No. 421 (File No. 744), 430 P.2d 159 (1967).

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Presumption that official duty has been regularly performed.—See *Tallman v. State*, Sup. Ct. Op. No. 862 (File No. 1612), 506 P.2d 679 (1973).

Sec. 09.20.090. **Impaneling the trial jury.** When a civil case which is to be tried by a jury is called for trial, the clerk shall draw from the trial jury box containing the names of those on the jury panel a number of names or numbers sufficient to name a jury of 12 unless the court directs otherwise. The prospective jurors shall be examined, challenged, and sworn as provided by rules of the supreme court. (§ 2.09 ch 101 SLA 1962)

Cross references.—See Civ. R. 47. See note to AS 09.20.080.

C.J.S. reference.—50 C.J.S. Juries § 192.

Sec. 09.20.100. **Verdicts.** In a civil case tried by a jury in any court, whether of record or not, not less than five-sixths of the jury may render a verdict, which is entitled to the legal effect of a unanimous verdict at common law. Special verdicts need not be concurred in by the same jurors. (§ 2.10 ch 101 SLA 1962)

Cross reference.—See Civ. R. 47.

Legislative committee report. — For legislative committee report on original bill, see 1959 House Journal, pp. 644, 905.

Stated in *Khalili v. Pan American Petroleum Corp.*, 49 F.R.D. 22 (D. Alas. 1969).

ALR and C.J.S. references.—State statute permitting verdicts by less

than twelve jurymen as applicable to action under Federal Employer's Liability Act, 12 ALR 713; 36 ALR 919.

Quotient verdict, 52 ALR 41.

Verdict as affected by agreement in advance among jurors to abide by less than unanimous vote, 73 ALR 93.

89 C.J.S. Trial §§ 486, 487.

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