



USCG ARCTIC DISTRICT LEGAL BULLETIN



Advice for Guardians of the Last Frontier

Arctic District Legal Assistance, Kodiak, Alaska (206) 815-7852

The Right to Trial by Jury Your Right and Your Obligation

The right to trial by a jury of one's peers is foundational in the United States, enshrined in the Sixth and Seventh Amendments to the Constitution. But to have a jury of one's "peers," there must necessarily be peers who are willing to serve. Jury service is one aspect of civic involvement, flowing from both obligation and eligibility. Citizens eligible to serve as a juror owe a duty to their fellow citizens to do so.

In general, to be eligible to serve as a juror, a person must be a U.S. citizen, at least 18 years old, a resident of the state from which called, and able to understand English. Many states obtain jury pools from voter registration rolls, so only those registered to vote may serve. Others supplement the voter registration rolls with a list of licensed drivers. To ensure a wide representation of eligible residents, Alaska begins with the master list of Permanent Fund Dividend applicants and then supplements it with voter and driver's license lists. And in most states, convicted felons whose civil rights have not been restored may not serve as jurors.

But what is not a factor, generally, is military service. The Servicemembers' Civil Relief Act protects the domiciles of members for taxes and voting, but it does not excuse members from jury duty. That means members may not be required to serve in a state other than the state of residence they have claimed under SCRA, but absent an exception, they are not exempt from service in their domiciliary state. In fact, Coast Guard policy recognizes jury service as a civic obligation: Article 1.M of Military Civil and Dependent Affairs manual, COMDTINST M1700.1, encourages members to "... fulfill their civic responsibilities consistent with their military duties," jury duty being one of those civic responsibilities. In other words, the Coast Guard encourages its members to participate as citizens in jury service.

Nevertheless, the law acknowledges military duties sometimes necessarily interfere with that civic obligation. For example, members stationed outside their state of residence will be excused during the period of absence. In that instance, the member should respond to the jury summons and state that he or she is absent from the jurisdiction pursuant to military orders, ideally including a copy of the orders. It is never a good idea to simply ignore the jury summons and assume you are exempt. And while the expectation is that service members who are available to serve should serve, the determination by the Secretary, delegated to unit commanding officers, that the period of jury service would unreasonably interfere with the performance of military duties or would adversely affect the readiness of the member's unit, gives an absolute excuse under federal law from jury service. The commanding officer's determination is conclusive, and no further approval of the court is required. But even in those circumstances, the member should obtain a letter from the commanding officer certifying the reason for the exemption. Simply ignoring a summons or assuming exemption is never a good idea. Finally, by policy, all flag officers, commanding officers, officers in charge, members whose primary function is to operate vessels or aircraft on operational missions, members assigned to training, and members assigned OCONUS are exempt from jury duty. But again, notify the relevant authority of the reason for the exemption.

Commands who determine a member's service would unreasonably interfere with performance of duties or would adversely affect unit readiness should cite 10 U.S.C. § 982 in their notification to the court. The Arctic District Legal Assistance office or Staff Judge Advocate's office can assist with drafting any appropriate letter or other communications to the court.

Members who are not statutorily exempt but are unable to appear for a particular period of jury service may apply to the court for the same grace available to other citizens, because the service or particular period of jury service might pose a hardship for those people. For example, Alaska jurors are summoned for service terms of one to two months of call-in jury duty in which the jurors only appear when their service is needed. If that period is inconvenient, the court may defer service to a more convenient time. Keep in mind, though, that mere inconvenience, self-employment, or a busy work schedule normally will not be valid reasons. The court will evaluate requests for excusal or deferral on a case-by-case basis.

It is also good to bear in mind that these guidelines apply to calls to jury service. Juror participation is distinct from being called as a witness. Members who receive subpoenas to appear for a deposition or to testify in a judicial proceeding absolutely should contact the Staff Judge Advocate's office to discuss next steps.

Legal Assistance is a free benefit available to active-duty service members and their dependents and retirees and their dependents.

Need an Arctic District Legal Assistance Form? Visit our Website at:
<https://www.pacificarea.uscg.mil/Our-Organization/District-17/Offices/Legal-office/Legal-assistance/>