



FORT SAM HOUSTON LEGAL ASSISTANCE OFFICE **JURY DUTY**

I. Civil Obligation - Service on a jury is a civic obligation. One of the central elements of the American justice system is the right of a defendant to be tried by jury of his or her peers. As citizens, we owe a civic duty to serve on a jury when called upon to do so. For those of us in the Army, however, our military duties may conflict with civilian court jury duty. Texas law requires that those persons capable to perform jury duty will or they will face possible criminal penalties including time in jail.

II. Exemptions - Federal law strikes a balance between honoring our civic obligations and our military duties. 10 U.S.C. Section 982, implemented by Chapter 10, Army Regulation 27-40, automatically exempts certain Soldiers from serving on state or local juries. These Soldiers include general officers, commanders, Soldiers in a training status, and Soldiers assigned to tactical units organized to conform to tables of organization and equipment (TOE). These Soldiers are automatically exempt from complying with a jury summons because it is presumed that jury duty would unreasonably interfere with their military duties and would adversely affect the readiness of their unit, command, or activity. If a Soldier falls in an exempted category he should immediately contact the court clerk who is listed on the summons. At Bexar County, this is routinely done via the telephone. If the Soldier does not notify the court, and he does not appear, a warrant can be issued for his arrest.

III. Permissive Exemptions

A. When a permissive exemption can be granted - Soldiers who are not automatically exempt from jury duty may, in some cases, be granted a permissive exemption. A commander who is a special court-martial convening authority (usually a brigade commander) may grant a Soldier a permissive exemption if that commander determines the jury duty would either unreasonably interfere with the Soldier's military duties or would adversely affect the readiness of the Soldier's unit, command, or activity. Despite the ability to grant jury duty exemption, Army policy fully supports the civic responsibility of a Soldier being called for jury duty. Commanders are encouraged to support the court's request.

B. When a permissive exemption can not be granted - Commanders should not use the exemption authority to excuse a Soldier who has personal reasons for not participating in jury duty; e.g. day-care, lack of desire, travel considerations, etc. Although the commander should ensure the Soldier communicates these reasons to the court, the matter should be handled by and between the Soldier and the summoning court.

IV. Procedure for obtaining an exemption - Soldiers who are notified that they must serve on a state or local jury should inform their commander as soon as possible. The commander should ensure that a Soldier who is summoned to jury duty and not otherwise exempt, complies with the request. If the Soldier does qualify for an exemption, the commander is responsible for notifying the local official who

summoned the Soldier for the jury duty of the grant of the exemption. Normally, the commander may obtain a release from jury duty by merely calling the court clerk listed on the jury summons card. Only after these actions prove to be unsuccessful should the commander forward the summons and any related documents, with recommendations, through the chain-of-command to the commander with the exemption determination authority (Special Courts-martial convening authority, usually the Battalion commander).

V. Leave and Pay

A. Leave - Soldiers are not charged leave nor do they lose any pay because of service on a jury. Commanders should grant a Soldier's request for permissive TDY as authorized by AR 27-40 and AR 630-5.

B. Pay - Soldiers who serve on juries will more than likely be paid at the end of their jury service. If the payment indicates that it is for transportation, parking, or meal expenses, the Soldier may cash the check and keep the money. Currently, jurors in Texas state district courts are paid a flat rate of \$6.00 per day for parking and lunch expenses. Soldiers are permitted to keep this amount. However, if the money the Soldier receives is payment for service on the jury, and not for expenses, the money must be turned over to the Government. In such a case, a Soldier must cash the check and turn in the money to the local Finance Office.

FOR ADDITIONAL INFORMATION CONTACT THE LEGAL ASSISTANCE OFFICE at 210-221-2353.