

U.S. DEPARTMENT OF COMMERCE  
National Technical Information Service

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**A Performance Review of the  
Jury Selection Process  
The Alaska Court System**

**Alaska Div of Legislative Audit, Juneau**

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A PERFORMANCE REVIEW OF  
THE JURY SELECTION PROCESS  
THE ALASKA COURT SYSTEM

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SPRINGFIELD, VA. 22161

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# STATE OF ALASKA

## THE LEGISLATURE

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POUCH W — ALASKA OFFICE BUILDING

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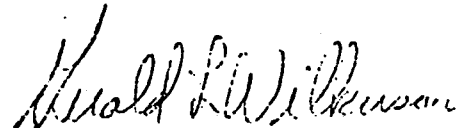
JUNEAU 99801

September 15, 1977

Members of the  
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska  
Statutes, the attached report, is submitted for your review.

A PERFORMANCE REVIEW OF  
THE JURY SELECTION PROCESS  
THE ALASKA COURT SYSTEM



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

ATTENTION

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## PURPOSE OF THE REVIEW

In accordance with the provisions of Title 24 of the Alaska Statutes, a review of the Jury Selection Process of the Alaska Court System was conducted to determine if the Jury System is operating in an economic, efficient, and effective manner.

## ORGANIZATION AND FUNCTION

The Alaska Court System is the Judicial Branch of State Government, separate and distinct from the Executive and Legislative Branches. Under this system, the judicial power of the State is vested in the Supreme Court, with the Chief Justice serving as the administrative head of the Court System.

To carry out its responsibilities, the Court System is divided in the following manner:

### Supreme Court

The Supreme Court is the final Court of Appeals on matters of law raising a Federal question in Alaska and, through the Chief Justice, is responsible for setting policy regarding the administrative procedures of the Judicial Branch.

### Judicial Districts - Trial Courts

The Superior and District Courts respectively are the constitutional and legislative bodies that form the trial courts.

### Administrative Services

This function supports the administrative operation of the Trial and Supreme Courts as well as provides certain services directly to the public.

The Judicial Districts have primary responsibility for the identification, selection, qualification and use of jurists as defined in AS 9.20.010-100. Responsibility for the administration of the jury selection system has been delegated to the Technical Operations Section of Administrative Services.

## THE JURY SELECTION PROCESS - AN OVERVIEW

A state-wide computer venire listing is prepared each year on March 15, which lists prospective jurors for each judicial district. This information is obtained from State Income Tax rolls, voter registration and resident hunting, fishing and trapping licenses.

Since each judicial district has individual control over jury selection, there are system differences between the courts. The following information explains the jury selection process for the Anchorage trial courts (the model system for the State). The attached analysis (see Supplemental Information) show how effectively people were used by the Anchorage jury system for the first three months of 1977.

### THE ANCHORAGE JURY SYSTEM

About 1,000 people are randomly selected from the venire listing each month. The computer lists their names on a jury selection run and prepares a jury questionnaire for mailing.

Returned questionnaires are reviewed by the Jury Clerk to qualify or to excuse people. The presiding judge makes the final decision on excusing or deferring people to another month.

All qualified people are assigned to a call-in group (control group of 20 people) and are summoned for one month of jury service. The summons instructs the people on how to telephone the Jury Clerk each day and explains the purpose of the call-in groups. A recorded message tells what groups must report for jury service the next morning.

Superior and District Court calendaring (trial scheduling) inform the Jury Clerk of the number and types of cases scheduled the next day. With this information the Jury Clerk knows the number of people to call in to fill each jury panel. People are randomly assigned to jury panels from the call-in groups.

The size of each panel depends on the types of cases scheduled. A Superior Court panel consists of 20-30 people; 12 will be selected for the jury. District Court panels are 15-20 people from which 6 will be selected for the jury.

The selection of a jury from the panel is conducted in the courtroom. If the case goes to court, the bailiff escorts that panel to the courtroom for questioning by the judge and attorneys. Those people not picked for a jury are excused or held to fill absences on other panels. Frequently, cases fold and the need for the panel no longer exists. These



jurors are sent home or assigned to another panel scheduled for that day.

Jurors are now paid \$10.00 for each half day and \$20.00 for each full day of jury service, at the end of each month.

## FINDINGS AND RECOMMENDATIONS

The Court System has identified and has taken steps to improve several aspects of its own operations. As one of them, the Jury Selection Process is now being studied and revised by the Technical Operations Section. This self-determination by Administration and the goal to improve the jury process is commendable.

However, many of Administration's plans will not be operational for another year or more; the following recommendations are applicable now and should be part of the new jury selection process.

### Recommendation No. 1

The Court System is not using people's time efficiently. Better jury utilization should be the primary objective for the jury system; cost savings should result.

The Court System is not responding to problems in its jury selection process. Because of an attendance problem and scheduling difficulties (calendar), the Anchorage courts are bringing in twice as many people as they should. During our three month review (see Supplemental Information), 902 people showed up an average of 4 times each to fill 797 jury positions.

In addition, almost one half of scheduled jury cases folded after people had been paneled in the court building.

Good jury usage requires a responsive court system. The system must bring enough people into the court building to meet jury needs, however, excessive numbers waste money and people's time.

The Court System should address and improve the following conditions:

1. Improve the Calendar Process - The Anchorage courts should determine why so many jury cases are folding and should consider staggering jury cases so unused people can be reassigned to later cases.
2. Require Better Attendance for Jury Panels - When 18% of scheduled jury panels do not come in, the system is forced to call in extra people.
3. Develop Standard Jury Panel Sizes - The best size for jury panels should be determined from court room experience. This standard size should be increased only when the judge feels more people are needed.

4. Develop an Acceptable Jury Usage Plan - The courts should be willing to accept minor delays in putting jury panels together when better jury usage will result.

Recommendation No. 2

The Court System should develop written guidelines and instructions for its personnel responsible for selecting, processing, and paying jurists.

Legislative Audit conducted separate reviews of how the jury system works in Anchorage, Fairbanks, Bethel and Juneau. None of these courts had complete written instructions on how the jury selection process should work or what court records should be produced or maintained.

Instructions on the jury system and training of new personnel has been verbal. As a result, some court personnel show a lack of understanding on how to perform all of their duties. In one court we observed duplications of a time consuming clerical operation, while another court had poor controls over its screening and qualification of prospective jurists.

Written procedures and instructions would improve control over the Jury Selection Process. Review of these procedures by court administration and the training of new people would then be easier.

Recommendation No. 3

The Court System should prepare statistical reports on the jury system. Administration would then be in a position to evaluate how effectively the jury process is working.

The Court System had not developed a data collection and reporting system for the jury process. To control any system, feedback information is needed. This is especially true when the process is dealing with the public and is expending \$580,000 annually.

The U.S. Department of Justice has conducted some excellent studies that show step by step plans for developing complete jury management information. Technical Operations is very knowledgeable of these studies and in the long term plans to use much of this information.

Legislative Audit feels that the entire Court System should cooperate with this effort and should make a jury management system an immediate goal. With good jury system information, the Court System could then develop performance standards for evaluating how court personnel are administering this system and related areas such as calendaring.

#### Recommendation No. 4

The quality of information on the venire listing (state-wide listing of people available for jury service) should be improved.

The jury master file contains a high percentage of information that is not correct or up-to-date. Our review showed that the Anchorage and Fairbanks courts both have 30% of the questionnaires mailed returned by the post office. In addition, 17% and 15%, respectively, of the people reached were not eligible and should not have been on the list.

There are two main factors causing this situation. Obtaining correct or current addresses for people is difficult due to the transient nature of our population. In addition, the jury master file is not updated for people who have recently served or who have been permanently excused from jury service.

The smaller courts are more adversely affected by this situation because they have fewer people from which to select juries.

A quarterly review and update of the jury master file or a computer edit of each jury selection run against a current name and address file (such as motor vehicles), could increase jury service yields by reaching more eligible people.

#### Recommendation No. 5

The Court System should develop a flexible but consistent excusal policy from jury service. When the presiding judges are active in the jury qualification process, the system works better.

Our review at Anchorage showed that 80% of the people questioned are excused or deferred from jury service for various reasons. There is an attendance problem throughout the entire jury selection process. This juror reluctance to serve is the result of poor usage of time, low payment and too long of a service period. In addition, because some judicial districts have such poor follow-up procedures, there is little fear of the consequence of ignoring legal notices to appear for jury service.

This situation creates unnecessary paperwork, wastes court time and shifts the burden of jury service to those willing to serve.

The Court System should develop a plan to address this problem. In the Bethel and Fairbanks courts, the presiding judges have become more involved in the jury selection process; increased jury yields have resulted.

Recommendation No. 6

In the larger court districts such as Anchorage, the Court System should consider reducing the length of jury service. Cost savings and better citizen involvement could result.

Legislative Audit has already discussed the benefit of good jury attendance and the need for good jury usage.

The Court System could improve both these aspects of jury service by assigning 100 to 125 people to weekly jury pools. These people could then service one week or on one jury.

People's involvement and attendance would improve; they should respond to shorter jury service and better use of their time. The Court's qualification and selection process would be the same, but easier to control. The Jury Clerk could better control an account for 125 people a week than 500 people for a month.

Jury usage would improve by having more people serve on a jury more efficiently. Nationwide studies have shown that this process works. In our review of the Anchorage courts, we observed that this change would have worked even with the present jury selection process.

Recommendation No. 7

The payment process for jury duty should be improved and brought under control of a second party review.

In each judicial district, the Jury Clerk keeps and reconciles all payment records for jury service. Payment for people's time and vendor service are processed through a jury payment card. No other person in the Court System reviews or approves the accuracy of the information on these payment cards to jury attendance listings or vendor billings.

There are other operational problems with the jury payment process which should be addressed. They include timeliness of payments, incomplete coding of accounting information and duplication of clerical work.

To strengthen internal control, the certifying officer signing jury service warrants should review the supporting documentation for jury warrants, allowing at least a sample review to ensure that the warrants are properly prepared.

**SUPPLEMENTAL INFORMATION**

Analysis of Jury System Activity - Anchorage  
Three Months Ending March 31, 1977

Information on how many people were involved in the jury process.

<u>Step 1: Questioning &amp; Qualification Stage</u>	<u>Three Month</u>	
	<u>Total</u>	<u>%</u>
Questionnaires Mailed	2900	100%
<u>Less:</u> People Not Reached (Note A)	1071	
People Excused (Note C)	<u>1019</u>	<u>72%</u>
People Qualified for Jury Service	810	<u>28%</u>
People Rescheduled From Other Months	<u>617</u>	
Total People Available to Serve	<u>1427</u>	

<u>Step 2: Summons &amp; Usage Stage</u>		
People Summoned for Jury Service	1427	100%
<u>Less:</u> People Excused/Rescheduled or Did Not Appear (Notes B & C)	<u>525</u>	<u>37%</u>
People That Appeared for Jury Service	<u>902</u>	<u>63%</u>
People Placed on a Jury	<u>540</u>	

Information on how people appearing for jury service were used by the Court System.

	<u>Total Number of</u>	
	<u>Times During These</u>	<u>Three Months</u>
People Called in for Jury Service	4241	100%
<u>Less:</u> People Absent	453	
People Excused	<u>316</u>	<u>18%</u>
People That Appeared for Jury Service	<u>3472</u>	<u>82%</u>
People Placed on Jury Panels (Note E)	<u>3472</u>	100%
<u>Less:</u> People Not Used Because Jury Case Folded	<u>1657</u>	<u>48%</u>
People Sent to Courtroom for Trial	<u>1815</u>	<u>52%</u>
People Placed on Jury (Note D)	<u>707</u>	<u>22%</u>

Analysis of Jury System Activity - Anchorage  
Three Months Ending March 31, 1977

NOTES

(Note A) The people not reached are:

860 Questionnaires Returned by Post Office  
211 Questionnaires Never Heard From  
1071 Total Not Reached

(Note B) The system loses track of people during this stage of the process. Follow-up is poor on those people that do not show up; some of them are excused or rescheduled. Only 190 of the 525 excusals were documented, the remainder could not be identified.

(Note C) People are excused during both phases of the Jury Selection Process. A total of 1209 (1019 in Step 1 and 190 in Step 2) were excused as follows:

Hardship	232
Out of State	233
Live Outside of Boundary	91
Medical	61
Child Care	61
Profession	58
Non-Resident	53
Rescheduled	322
Other	<u>98</u>
Total Excused	<u>1209</u>

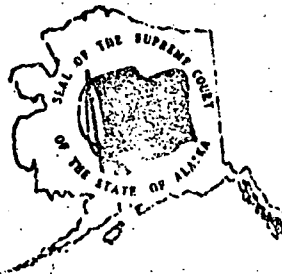
(Note D) During these three months, the people appearing for jury service were used as such:

	<u>People</u>	<u>Percentage</u>
Not Placed on a Jury	362	40%
Placed on a Jury:		
One Time	326	36%
Two Times	175	19%
Three Times	35	4%
Four Times	<u>4</u>	<u>1%</u>
	<u>902</u>	<u>100%</u>



(Note E) During these three months the Anchorage Court System called in people for these jury cases:

	<u>Number of Cases</u>	<u>Percentage</u>
Cases Scheduled	204	100%
Cases that Folded	<u>95</u>	<u>47%</u>
Cases Sent to Court	<u>109</u>	<u>53%</u>



Alaska Court System

State of Alaska

303 "K" STREET  
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99501

ARTHUR H. SNOWDEN II  
ADMINISTRATIVE DIRECTOR

(907) 274-81

November 22, 1977

RECEIVED

NOV 25 1977

LEGISLATIVE  
AUDIT

Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, AK 99801

Dear Mr. Wilkerson:

Attached is our response to your Preliminary audit of our jury selection process. We wish to thank you for your assistance.

Sincerely,

*Arthur H. Snowden, II*  
Arthur H. Snowden, II  
Administrative Director

Enclosures:

1. Response to "A Performance Review of the Jury Selection Process".
2. Juror Utilization in the Superior and District Courts, Anchorage, Alaska.
3. Alaska Court System Accounting Policy and Procedures Manual.
4. The Petit Jury System in Alaska, Part I.

RESPONSE TO "A PERFORMANCE REVIEW OF  
THE JURY SELECTION PROCESS"

We began an internal audit of jury selection and management in the Alaska Court System the second week of March 1977. Our phase one report dealing with jury selection, qualification and payment is enclosed as Appendix 1. The phase two report on juror utilization is currently being typed. The phase three report on juror information requirements will be completed by the end of this calendar year. We will specifically address each of these recommendations. Part of our reply is based upon (1) a memorandum from the Presiding Judge of the Third Judicial District to the Administrative Director of the Alaska Court System (Appendix 2), and (2) a technical assistance visit report from Bird Engineering and Associates (Appendix 3).

Recommendation No. 1

The Court System is not using people's time efficiently. Better jury utilization should be the primary objective for the jury system; cost savings should result.

The Court System should address and improve the following conditions:

1. Improve the Calendaring Process - The Anchorage courts should determine why so many jury cases are folding and should consider staggering jury cases so unused people can be reassigned to later cases.
2. Require Better Attendance for Jury Panels - When 18% of scheduled jury panels do not come in, the system is forced to call in extra people.

3. Develop Standard Jury Panel Sizes - The best size for jury panels should be determined from courtroom experience. This standard size should be increased only when the judge feels more people are needed.
4. Develop an Acceptable Jury Usage Plan - The courts should be willing to accept minor delays in putting jury panels together when better jury usage will result.

Discussion: Thomas Munsterman of Bird Engineering investigated the folding case problem and found that it was caused by (1) last minute changes of plea on the part of the Public Defender, and (2) last minute dismissals by the District Attorney's office due to lack of sufficient prosecutor staff to handle scheduled trials. Both of these conditions are largely beyond the control of the courts. However, Anchorage's implementation of a 3:30 p.m. trial start time the day prior to calling in the jury panel should cause more cases to fold prior to calling in the panel. Some trials are now staggered in Anchorage.

Anchorage will be implementing a stricter excusal policy and followup on absent jurors upon implementations of the one-day one-trial test in Anchorage. In addition, both Anchorage and Fairbanks have reduced panel sizes to those recommended in our phase one report. Finally, the judges in Anchorage have agreed to accept a five percent delay factor in order to make jury utilization more efficient. This five percent figure is one commonly used by other jurisdictions and was recommended to us by Bird Engineering.

Recommendation No. 2

The Court System should develop written guidelines and instructions for its personnel responsible for selecting, processing, and paying jurors.

Discussion: A manual for jury clerks is being developed with two chapters already completed. This manual is forecast to be completed by the end of this calendar year. We will send you a copy when it is completed.

Recommendation No. 3

The Court System should prepare statistical reports on the jury system. Administration would then be in a position to evaluate how effectively the jury process is working.

Discussion: Our revised automated jury management system was implemented in October 1977. This system, in conjunction with reporting requirements contained in the above referenced jury clerk manual, will provide us with statewide statistics on juror usage. This automated system provides information on excusals and payment information that we have not had before.

Recommendation No. 4

The quality of information on the venire listing (statewide listing of people available for jury service) should be improved.

Discussion: A quarterly update of our venire list would increase data processing costs significantly. We did improve the currency of this year's addresses by the use of the AJIS name file. Finally, when we compared one month's Anchorage questionnaires to the Anchorage telephone directory, (see page 34 of the report in Appendix 1), we found only 47 of 301 (15.6%) with changed addresses. Thus the problem is primarily one of transience.

As for those people who "...were not eligible and should not have been on the list.", this is a classic problem when multiple source lists are used. If selection is restricted to only the voter registration list, then a high percentage of those on the list are eligible for jury duty. When you add other lists, the percent of

those eligible for jury duty decreases due to non-residency and other factors. Bird Engineering has judged our multiple list selection process to be among the best in the country. The cost of a few more questionnaires being sent out to those non-eligible persons is a small price to pay for this excellent selection process.

With our new system implemented in October, the jury venire file is updated for people serving, deceased, permanently handicapped, or with an address change.

Recommendation No. 5

The Court System should develop a flexible but consistent excusal policy from jury service. When the presiding judges are active in the jury qualification process, the system works better.

Discussion: Thomas Munsterman of Bird Engineering has recommended that we not tighten up our excusal policy until we make jury service less inconvenient to our jurors. As shown in Judge Moody's memorandum, (Appendix 2), a tighter and more consistent excusal policy will be implemented in January 1978 at the same as the one-day one-trial policy is begun.

In addition, our jury clerk's manual will speak to statewide guidelines on excusal criteria and policy.

Recommendation No. 6

In the larger court districts such as Anchorage, the Court System should consider reducing the length of jury service. Cost savings and better citizen involvement could result.

Discussion: This recommendation was discussed by the areawide administrators and the Manager of Technical Operations in the March 1-4, 1977 Juror Usage and Management workshop conducted by the National Institute of Law Enforcement and Criminal Justice. It was

planned at that time to test a shorter period of service. This test was approved by the Supreme Court in September 1977 based on the recommendations of our phase one report (Appendix 1). Since then, Judge Moody has decided to go even further and test a one-day one-trial process beginning in January 1978. The delay to January is necessitated by the two-month lead time required to mail out qualifications questionnaires.

Recommendations No. 7

The payment process for jury duty should be improved and brought under control of a second party review.

Discussion: Jury accounting instructions have been developed (Appendix 4). In addition, we plan to have all payments processed through our new automated system for audit and control purposes. We began doing this for the Kodiak Court beginning in November. This was not a feasible concept until the implementation of our revised automated system in October. Now Administrative Accounting in Anchorage will function as a second party review. Our revised automated system produces reports more amenable to audit of our jury payment process.

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W-ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH W-STATE CAPITOL

JUNEAU 99801

November 29, 1977

Members of the  
Legislative Budget and Audit Committee:

In addition to the enclosed response, the Alaska Court System provided us with a copy of each of the following:

1. Juror Utilization in the Superior and District Courts, Anchorage, Alaska, Dated September 23, 1977
2. Alaska Court System Accounting Policy and Procedures Manual
3. The Petit Jury System in Alaska, Part I, Juror Selection, Qualification and Payment.

The above items can be obtained directly by writing to:

Alaska Court System  
303 "K" Street  
Anchorage, Alaska 99501



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit



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DATE  
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