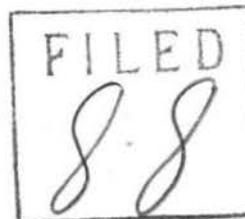


SHERIFF'S FEES: For summoning standing jury; for summoning special jury.

November 8, 1943



Honorable George H. Tatum
Sheriff of Jasper County
Carthage, Missouri

Dear Sheriff Tatum:

Under date of October 21, 1943 you wrote this office requesting an opinion as follows:

"In regard to Section 13411 (R.S. 1929 * 11788), will you please inform me how many men a standing jury consists of, and what fee the Sheriff receives for summoning each juror over that amount."

There is herewith enclosed copy of an opinion previously written in this office by Carl C. Abington, Assistant Attorney General, to Honorable John A. Eversole, Prosecuting Attorney of Washington County, Missouri, which it is believed answers a portion of your question concerning a standing jury.

The copy of opinion enclosed treats the petit panel as the standing jury referred to in Section 13411, R.S. Mo. 1939, which was Section 11789, R.S. Mo. 1929 and not Section 11788 as was designated in your letter.

In support of what was said by Mr. Abington, the writer has examined nine law dictionaries and failed to find any definition of "standing jury". The types of juries commonly mentioned are Grand, Petit, Common, Special, Sheriff's and Coroner's. There are a few other types of extraordinary juries but they do not pertain to your question. The petit jury panel is the only one that could be intended by the words "standing jury", for it is summoned to serve for an entire term of court, unless sooner excused by the judge. The petit panel is ordinarily composed of twenty-four (Section 706, R.S. Mo. 1939), but by statute it could be made to consist of a greater or lesser number. In this connection your attention is invited to Section 738, R.S. Mo. 1939, which is a section of the statutes applicable in counties having a population of not less than sixty thousand nor more than two hundred thousand inhabitants.

November 8, 1943

Jasper County, by the 1940 census, had a population of 78,705 and could therefore come under the provisions of this section, and a petit panel, or standing jury, would consist of the total number of jurors ordered by the judges of the various divisions of the circuit court to serve for a term of court.

In regard to your second question concerning the fee which may be charged for summoning of jurors in excess of the standing or petit jury, it is believed that this is governed by the following provisions in Section 13411:

" * * * * * For each mile actually traveled in serving any venire summons, writ, subpoena or other order of court when served more than five miles from the place where the court is held, provided that such mileage shall not be charged for more than one witness subpoenaed or venire summons or other writ served in the same cause on the same trip \$0.10

For executing and returning a special venire facias 2.00
* * * * *"

Under these fee provisions the Sheriff would be entitled to charge and receive \$2.00 for the special venire facias, whether it called for one man or a dozen men, plus his mileage traveled if he served the writ more than five miles from the place of holding court.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

WOJ:ml
Enc.