

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1046

Amending Criminal Rule 6
on grand juries

IT IS ORDERED:

1. Paragraphs (c) through (h) of Criminal Rule 6 are amended to provide:

(c) Selection of Prospective Grand Jurors. Prospective grand jurors [THE JURORS SELECTED FOR SERVICE ON A GRAND JURY] shall have the qualifications and shall be drawn and selected as set forth by law, with the additional provisions:

(1) prospective grand jurors [JURORS WHO SERVE ON THE GRAND JURY] shall be selected from the population within a fifty-mile radius of the place where the grand jury is convened, and

(2) the presiding judge of the superior court may with the approval of the administrative director select prospective grand jurors at large from the judicial district in which the matter under investigation occurred.

(d) Summoning Grand Jurors [JURIES]. At least once each year the presiding judge of the superior court in each judicial district shall order one or more grand juries to be convened [SUMMONED] at such times as the public interest requires. The grand jury shall consist of not less than 12 nor more than 18 members. The court shall direct that a sufficient number of legally qualified persons be summoned to meet this requirement. Any qualified member of the grand jury panel not designated to serve as a member of the grand jury may be placed on the petit jury panel. An otherwise qualified person called for petit jury service may be placed on the grand jury panel.

(e) Swearing and Instructing Jurors [OATH].

(1) The following oath shall be administered by the clerk of the superior court to the persons selected to serve on the grand jury [FOR GRAND JURY DUTY]:

"You and each of you as members of this grand jury for the State of Alaska, do solemnly swear that you will diligently inquire and true presentment make of all such matters as shall be given to you for consideration, or shall otherwise come to your knowledge in connection with your present service; that you will preserve the secrecy required by law as to all proceedings had before you; that you will present no one through envy, hatred or malice, or leave any one unrepresented through fear, affection, gain, reward, or hope thereof; but that you will present all things truly and impartially as they shall come to your knowledge according to the best of your understanding, so help you God."

(2) When the grand jury is sworn, the court shall charge the jury with written instructions, which the court deems proper, concerning the powers and duties of the grand jury.

(f) Alternate Jurors. The presiding judge may direct that alternate jurors be designated at the time a grand jury is selected. Alternate jurors in the order in which they were designated may thereafter be impanelled as provided in paragraph (s) of this rule. Alternate jurors shall be drawn in the same manner and shall have the same qualifications as the regular jurors, and if impanelled shall be subject to the same challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors.

(g) [(f)] Objections to Grand Jury and to Grand Jurors. A motion to dismiss an indictment or to expunge a report of the grand jury may be based upon objections to the array or the lack of legal

qualification of an individual juror, if not previously determined upon challenge. An indictment shall not be dismissed nor a report expunged upon the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to (j) [(g)] of this rule that a majority of the total number of grand jurors comprising the grand jury [PANEL] when the grand jury [PANEL] is sworn and charged with instructions, after deducting the number not legally qualified, concurred in finding the indictment or making the report.

(h) [(g)] Foreperson and Deputy Foreperson. The presiding judge shall appoint one of the jurors to be foreperson and another to be deputy foreperson. The foreperson shall have power to administer oaths and affirmations and shall sign all indictments and reports. The foreperson or another juror designated by the foreperson shall keep a record of the number of jurors concurring in the finding of every indictment and the issuance of every report and shall file the record with the clerk of the court, but the record shall not be made public except on order of the presiding judge. During the absence of the foreperson, the deputy foreperson shall act as foreperson.

[(h) CHARGE OF COURT. WHEN THE GRAND JURY IS FORMED, THE COURT SHALL CHARGE THE JURY WITH WRITTEN INSTRUCTIONS, WHICH THE COURT DEEMS PROPER, CONCERNING THE POWERS AND DUTIES OF THE GRAND JURY.]

2. Subparagraph (1)(1) of Criminal Rule 6 is amended to provide:

(1) Secrecy of Proceeding and Disclosure.

(1) The selection, swearing, and charging of grand jurors [JURY PANELS] and all matters occurring before the grand jury are secret, except as otherwise provided by this rule. Disclosure of matters, other

than the grand jury's deliberations and the vote of any juror, may be made to the prosecuting attorney for use in the performance of the prosecuting attorney's [HIS] duties. Otherwise a judge, juror, attorney, interpreter, court clerk or stenographer, or a typist who transcribes recorded testimony may disclose matters only when so directed by the court preliminary to or in connection with a judicial or administrative proceeding.

3. Subparagraph (n)(1) of Criminal Rule 6 is amended to provide:

(n) Finding and Return of Indictment.

(1) An indictment may be found only upon the concurrence of a majority of the total number of jurors comprising the grand jury [PANEL] when the grand jury [PANEL] is sworn and charged with instructions, after deducting the number not legally qualified. If the defendant has been held to answer and a majority of jurors do not concur in finding a "true bill," the indictment shall be endorsed "not a true bill" and signed by the foreperson. Whenever an indictment is found, it shall be endorsed "a true bill" and signed by the foreperson. Such indictments, whichever way endorsed, shall be presented in open court and filed with the clerk where they shall remain public records. The foreperson or deputy foreperson may present the indictment without the presence of other grand jury members.

4. Paragraph (s) of Criminal Rule 6 is amended to provide:

(s) Discharge and Excuse. A grand jury shall serve until discharged by the presiding superior court judge of the judicial district but no grand jury may serve more than 4 months, unless for good cause such period is extended. [THE TENURE AND POWERS OF A GRAND JURY ARE NOT AFFECTED BY THE BEGINNING OR EXPIRATION OF A TERM OF COURT.] At any time for cause shown, the presiding judge may excuse a juror either

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temporarily or permanently[,] and [IN THE
LATER EVENT SAID JUDGE] may impanel an
alternate juror [ANOTHER PERSON] in place
of the juror excused. In order to vote on
the proposed bill, the alternate juror must
be present during the presentation of all
evidence related to that case.

DATED: ~~October 11, 1990~~

EFFECTIVE DATE: ~~January 15, 1991~~

Chief Justice Rabinowitz

Justice Matthews

Justice Burke

Justice Compton

Justice Moore