

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1745

Amending Criminal Rule 6
concerning grand jury records
and oath to grand jurors.

IT IS ORDERED:

Criminal Rule 6 is amended to read as follows:

Rule 6. The Grand Jury.

* * * *

(e) Swearing and Instructing Jurors.

(1) The following oath shall be administered by the clerk of the superior court to the persons selected for grand jury duty:

"You and each of you as members of this grand jury for the State of Alaska, do solemnly swear or affirm 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."

(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.

* * * *

(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 when the grand jury is sworn and charged with instructions, after deducting the number not legally qualified.

(2) If an indictment is not found, the indictment shall be endorsed "not a true bill" and signed by the foreperson. If an indictment is found, the indictment shall be endorsed "a true bill" and signed by the foreperson.

(3) (i) If an indictment is endorsed "a true bill," the indictment shall be presented in open court and filed with the clerk where it shall be open to public inspection.

(ii) If an indictment is endorsed "not a true bill" and a complaint or information was previously filed in a district court, the indictment shall be presented in open court and filed with the clerk where it shall be open to public inspection.

(iii) If an indictment is endorsed "not a true bill" and no complaint or information was previously filed in district court, the indictment shall be filed with the clerk and held under seal.

(iv) The foreperson or deputy foreperson may present an indictment in open court without the presence of other grand jury members.

(4) If no indictment is found, the court shall hold the minutes, log notes, and record of the grand jury proceeding under seal. If an indictment is found, the log notes, transcript, and record of the grand jury proceeding will be confidential, as defined in Administrative Rule 37.5(c), except that the grand jury documents may be used by a party or counsel and by their staff, investigators, experts, and others as necessary for the preparation of the case. This paragraph does not preclude a party from attaching relevant portions of these documents to a pleading or motion, so long as victim and witness information is protected as provided in AS 12.61.100-.150.

(5) The return of exhibits used during the grand jury proceedings is governed by Criminal Rule 26.1(h).

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DATED: January 20, 2011

EFFECTIVE DATE: April 15, 2011

/s/
Chief Justice Carpeneti

/s/
Justice Fabe

/s/
Justice Winfree

/s/
Justice Christen

/s/
Justice Stowers