

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In The Matter Of:)
)
Anchorage Pre-Indictment Hearing)
Continuance Procedures)
) PJ Order # 738
)
_____)

Pre-Indictment Hearings in Anchorage are held weekly, currently at 2:00 p.m. on Tuesdays. There may be between 150 and 210 cases at each PIH. Roughly 40 defendants who are in custody are transported to the PIH. These are usually defendants who have recently been arrested. Roughly another 70 defendants are in custody, but have waived their presences at the PIH. The remaining defendants are out of custody; most appear at the PIH, but some are excused.

It usually takes at least two hours to complete the PIH. Perhaps twenty defense counsel and two or three prosecutors attend some or part of the PIH. Most prosecutors and five or so court-appointed defense counsel attend the entire PIH. In the vast majority of cases the parties agree to continue the PIH to another date. Thus very little substantive work is accomplished at a cost of lawyer time that would be better spent on other matters.

The Court wants to reduce the amount of time spent at PIH. Therefore it has crafted a procedure whereby defense counsel may continue a PIH to a later date by email. However, to ensure that cases do not remain in pre-indictment status for an unreasonable amount of time, the use of the email option will be limited to the first 60 days after charges have been filed against a defendant. Thereafter, counsel must appear at the PIH.

The email continuance procedure will require court staff to process files differently. In order to use the email continuance, counsel will have to provide certain information in the email itself. The email option will not be permitted after a certain time immediately before a PIH in order that transport orders may be executed.

Identification of 60 Day Limit.

1. When the State arraigns a defendant on a felony charge the State will identify the date that is 60 days after the arraignment. That date will be noted in the file.

2. However, the 60 day period will restart as of the day a conflict OPA attorney, or tertiary conflict attorney, or private attorney enters an appearance substituting for another attorney. The period will not restart if a new public defender is substituted for another public defender or new OPA attorney is substituted for another OPA attorney.

Preparation of Files.¹

3. Files for the next PIH will be delivered to the chambers of the PIH judge on the Thursday after the PIH. Thus, after the PIH on Tuesday, 5 December 2017, the files for the PIH on 12 December will be delivered to chambers on Thursday, 7 December.

Email Requirements.

4. Defense counsel may request a continuance of a PIH by an email for each case sent to a dedicated court email address (3ANPIH@akcourts.us), to a generic DAO email address (PIH@alaska.gov), and to the assigned prosecutor, if any (firstname.lastname@alaska.gov).

5. Defense counsel must use the following as the subject matter of the email: **“log note: off record continuance.”**

6. In the email, defense counsel must identify

a) the name of the defendant,

b) the case number,

c) the 60 day limit date for the case, and

¹ The descriptions of the court system’s internal processing of case files are included in this Order so that all aspects of the continuance mechanism are contained in one document. However, the court system may modify its processing of the files without the need for an amended PJ Order. Any changes to the requirements imposed on external participants will be identified in an amended PJ Order.

d) the specific date of the requested new PIH.

7. Defense counsel must affirmatively state that the defendant waives Criminal Rules 5 and 45 for the period of the continuance.

Timeliness of the Email Request.

8. Defense counsel need not wait until the week before the PIH to request a continuance of a PIH by email. Thus if the PIH is set for 12 December, counsel could request the continuance before 5 December.

9. Defense counsel may not request a continuance of a PIH by email after **4:00 p.m. on the last business day before the PIH**. If Monday is a holiday, then the request must be made by Friday at 11:30 a.m.

10. However, defense counsel may seek to cancel the transportation of a defendant who is in custody after the deadline for the email request to continue. Whether the transport can be cancelled will depend upon the institution where the defendant is housed. Whether or not the transport is cancelled, the case will remain on the PIH calendar.

11. Defense counsel may not use the email request to continue a PIH that occurs more than 60 days after the charges against the defendant were filed or conflict or private counsel entered an appearance. It is permissible to set a new PIH after the 60 day date as long as the request is made before the 60 day date.

Processing of an Emailed Request.

12. The emailed request will be granted without input of the prosecutor.

13. The judicial assistant of the PIH judge (or the assistant's designee) will reply to the defense counsel, the identified prosecutor, and the Office of Victim's Rights, accepting the requested new PIH date. If the request is for a date when there is no PIH, then the JA will grant the request, using the next PIH after the requested date.

14. The judicial assistant of the PIH judge (or the assistant's designee) will enter the new PIH date in Court view.

Processing of the Paper File.

15. The judicial assistant of the PIH judge (or the assistant's designee) will print a copy of the email to the parties and OVR and place the document in the file.

16. After placing a copy of the emailed reply into the file, the judicial assistant of the PIH judge (or the assistant's designee) will send the file to the criminal department in the usual morning or afternoon delivery/pick up of files.

Setting Change of Plea or Rule 5 Hearing.

17. Defense counsel may set a change of plea in district court by contacting district court calendaring. That office is authorized to remove the case from the PIH calendar.

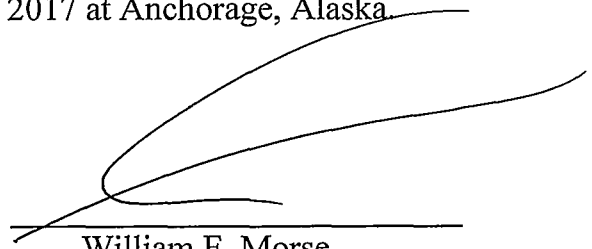
18. Defense counsel may set a change of plea in superior court by contacting the judicial assistant of the judge handling SCOPs on the chosen day. The judicial assistant is authorized to remove the case from the PIH calendar.

19. Defense counsel may set a Rule 5 hearing in district court by an email request sent to the addresses specified in paragraph 4. The request must contain the information set forth in paragraph 6(a)-(c) and the specific date for the Rule 5 hearing. The Court will not calculate the date of the expiration of the Rule 5 period; that is the responsibility of defense counsel when making an email request. The judicial assistant of the PIH judge (or the assistant's designee) will set the Rule 5 hearing and reply to the defense counsel, the identified prosecutor, and the Office of Victim's Rights.

20. The email continuance request may be used for the PIHs on 12 December 2017 and thereafter.

21. The requirement that the State identifies the 60 day date at arraignment will take effect on 11 December 2017.

DATED this 6th day of December 2017 at Anchorage, Alaska



William F. Morse
Presiding Judge
Third Judicial District

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