

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1086

Amending Criminal Rule 16(d)
concerning discovery.

IT IS ORDERED:

1. Subparagraph (3) of Criminal Rule 16(d) is amended to provide:

(3) *Materials to Remain in Exclusive Custody of Attorney.*

(A) Materials [ANY MATERIALS] furnished to an attorney pursuant to these rules shall remain in the attorney's [HIS] exclusive custody, shall be used only for the purposes of conducting [HIS SIDE OF] the case, and shall be subject to [SUCH] other terms and conditions that [AS] the court may provide[.] if the information is

(i) a criminal history record of a victim or witness;

(ii) a medical, psychiatric, psychological, or counseling record of a victim or witness;

(iii) an adoption record;

(iv) a record that is confidential under AS 47.10.090 or a similar law in another jurisdiction;

(v) a report of a presentence investigation of a victim or witness prepared pursuant to Criminal Rule 32 or a similar law in another jurisdiction;

(vi) a record of the Department of Corrections other than an incident report relating to the crime with which the defendant is charged; or

(vii) any other record that the court orders be kept in the exclusive custody of the attorney.

(B) An attorney shall not disclose to a defendant the residence or business address or telephone number of a victim or witness, obtained from information provided under this rule, even if the defendant is acting as co-counsel. If the addresses and telephone numbers of all victims and witnesses have been obliterated, materials that had contained the address or telephone of a victim or witness may be provided to the defendant. An address or phone number of a victim or witness may be provided to a defendant proceeding without counsel only as allowed by AS 12.61.120.

(C) Notwithstanding a defendant's status as co-counsel, materials covered by subsection (d)(3)(A) shall remain in the exclusive custody of the defendant's attorney.

(D) If a defendant is proceeding without counsel, materials covered by subsection (d)(3)(A) may be provided to the defendant. If materials are provided to an unrepresented defendant under this paragraph, the court shall order that the materials remain in the defendant's exclusive custody, be used only for purposes of conducting the case, and be subject to other terms, conditions, and restrictions that the court may provide. The court shall also inform the defendant that violation of an order issued under this paragraph is punishable as a contempt of court.

DATED: November 14, 1991

EFFECTIVE DATE: July 15, 1992

Chief Justice Rabinowitz

Justice Burke

Justice Matthews

Justice Compton

Justice Moore