

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 937

Amending Criminal Rule 6(b),  
(c), (f), (g), (m), (n) and (t)  
to make Rule 6 consistent with a  
new rule on Grand Jury  
Reports, Criminal Rule 6.1

IT IS ORDERED:

Criminal Rule 6 is amended as follows:

(b) Where Grand Juries Shall Be Convened. [IN ORDER TO INVESTIGATE CRIMES,] T[t]he grand jury shall be convened at a place which shall be determined as follows:

(1) Designated Sites.

(i) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election districts 1, 2 or 3, then the grand jury shall be convened at Ketchikan, Sitka, or Wrangell, Alaska.

(ii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 4, then the grand jury shall be convened at Juneau, Alaska.

(iii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 5, then the grand jury shall be convened at Kenai, Alaska.

(iv) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 6, precincts 7 (Cordova), 25 (Whittier), 9 (Eyak), 19 (Valdez No. 1), 21 (Valdez No. 2), or 23 (Valdez No. 3), then the grand jury shall be convened at Anchorage, Alaska.

(v) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 6, precincts 3 (Bear Creek), 13 (Moose Pass), 11 (Hope), 5 (Cooper Landing), 15 (Seward No. 1), or 17 (Seward No. 2), then the grand jury shall be convened at Kenai, Alaska.

(vi) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 7 except precincts 26 (Nikiski No. 1) or 27 (Nikiski No. 2), then the grand jury shall be convened at Anchorage, Alaska.

(vii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 7 precincts 26 (Nikiski No. 1) or 27 (Nikiski No. 2), then the grand jury shall be convened at Kenai, Alaska.

(viii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election districts 8, 9, 10, 11, 12, 13, 14, or 15, then the grand jury shall be convened at Anchorage, Alaska.

(ix) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 16, then the grand jury shall be convened at Anchorage or Palmer, Alaska.

(x) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 17 except precincts 25 (Chistochina), 35 (Copper Center), 60 (Gakona), 65 (Glennallen), 75 (Kenny Lake), 85 (Mentasta), or 100 (Paxson), then the grand jury shall be convened at Fairbanks, Alaska.

(xi) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 17 precincts 25 (Chistochina), 35 (Cooper Center), 60 (Gakona), 65 (Glennallen), 75 (Kenny Lake), 85 (Mentasta), or 100 (Paxson), then the grand jury shall be convened at Anchorage, Alaska.

(xii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election districts 18, 19, 20, or 21, then the grand jury shall be convened at Fairbanks, Alaska.

(xiii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 22, then the grand jury shall be convened at Barrow or Kotzebue, Alaska.

(xiv) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 23 except precincts 105 (Alakanuk), 115 (Chevak), 130 (Emmonak), 145 (Hooper Bay), 150 (Kotlik), 175 (Scammon Bay) or 185 (Sheldon Point), then the grand jury shall be convened at Nome, Alaska.

( xv) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 23 precincts 105 (Alakanuk), 115 (Chevak), 130 (Emmonak), 145 (Hooper Bay), 150 (Kotlick), 175 (Scammon Bay) or 185 (Sheldon Point), then the grand jury shall be convened at Bethel, Alaska.

(xvi) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 24 precincts 510 (Aniak), 515 (Anvik), 540 (Chuathbaluk), 545 (Crooked Creek), 550 (Fortuna Ledge), 565 (Grayling), 570 (Holy Cross), 585 (Kalskag), 600 (Lower Kalskag), 620 (Mountain Village), 635 (Pilot Station), 640 (Pitkas Point), 655 (Russian Mission), 670 (St. Marys), 665 (Sleetmute), 677 (Stony River) or 690 (Tuluksak), then the grand jury shall be convened at Bethel, Alaska.

If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 24 precinct 505 (Alatna), 520 (Arctic Village), 525 (Beaver), 530 (Bettles), 535 (Chalkyitsik), 555 (Fort Yukon), 560 (Galena), 575 (Hughes), 580 (Huslia), 590 (Kaltag), 595 (Koyukuk), 605 (Manley Hot Springs), 610 (McGrath), 615 (Minto), 625 (Nikolai), 630 (Nulato), 645 (Rampart), 650 (Ruby), 675 (Stevens Village), 680 (Takotna), 685 (Tanana) or 700 (Venetie), then the grand jury shall be convened at Fairbanks, Alaska.

(xvii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 24 precinct 695 (Tyonek), then the grand jury shall be convened at Kenai, Alaska.

(xviii) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 25, then the grand jury shall be convened at Bethel, Alaska.

(xix) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 26, then the grand jury shall be convened at Anchorage, Alaska.

(xx) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 27, except precincts 7 (Chignik) or 11 (Ivanoff-Perryville), then the grand jury shall be convened at Kodiak, Alaska.

(xxi) If the matter under investigation occurred [OFFENSE WAS COMMITTED] within election district 27 precincts 7 (Chignik) or 11 (Ivanoff-Perryville), then the grand jury shall be convened at Anchorage, Alaska.

For the purpose of this rule, election districts shall be set forth in the official 1985 reapportionment map for the State of Alaska.

(2) Special Sites. The presiding judge of a judicial district shall be empowered to call a special jury to be convened at a site other than the site designated in the preceding subsection, if the presiding judge determined that the designation of a special site is necessary in the interest of justice.

(c) Selection of Grand Juries. 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) 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 grand jurors at large from the judicial district in which the matter under investigation [CRIME] occurred.

(f) Objections to Grand Jury and to Grand Jurors.

(1) Challenges. The prosecuting attorney or a defendant who has been held to answer to a complaint charging an indictable offense may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges shall be made before the administration of the oath to the jurors and shall be tried by the presiding judge summoning the grand jury.

(2) Motion to Dismiss or Expunge. A motion to dismiss an [THE] 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 section (g[J]) of this rule that a majority of the total number of grand jurors, after deducting the number not legally qualified, concurred in finding the indictment or making the report.

(g) Foreperson[MAN] and Deputy Foreperson[MAN]. The presiding judge shall appoint one of the jurors to be foreperson[MAN] and another to be deputy foreperson[MAN]. The foreperson[MAN] shall have power to administer oaths and affirmations and shall sign all indictments and reports. The foreperson [HE] or another juror designated by the foreperson [HIM] 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 court, but the record shall not be made public except on order of the presiding judge. During the absence of the foreperson[MAN], the deputy foreperson[MAN] shall act as foreperson[MAN].

(m) Availability of Grand Jury Record to Defendant. Upon request, a defendant shall be entitled to listen to the electronic recording of the grand jury proceedings and inspect all exhibits presented to the grand jury. Upon further request the defendant [HE] may obtain a transcript of such proceedings and copies of such exhibits. The trial of the case shall not be delayed because of the failure of a defendant to request the transcript. The availability of a grand jury report is governed by Criminal Rule 6.1.

(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. 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.

(2) If the defendant has not been held to answer and a majority of jurors do not concur in finding an indictment, the court shall hold exhibits, minutes, notes and the record of the grand jury proceeding under seal for a period of 60 days. At that time, the court shall have the exhibits returned to the state and the minutes, notes and record destroyed unless, on application of the state, defendant or codefendant, the court orders otherwise for good cause shown. However, the grand jury minutes, notes and record will not be destroyed if a report is issued under Criminal Rule 6.1 unless the court so orders.

(t) Delegation of Duties. Whenever a superior court is sitting other than where the presiding judge is sitting, or the presiding judge is unavailable, the presiding judge may delegate [HIS] duties under this rule to another judicial officer [SUPERIOR COURT JUDGE]. However, the presiding judge may delegate duties under Criminal Rule 6.1 only to another superior court judge.

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DATED: September 8, 1988

EFFECTIVE DATE: January 15, 1989

Chief Justice Matthews

Justice Rabinowitz

Justice Burke

Justice Compton

Justice Moore