

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:39 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>letter opposed to ordinance 2022-004

Public comment

From: Alex Koplín <bubba@horizonsatellite.com>
Sent: Monday, January 17, 2022 10:06 AM
To: Blankenship, Johni <JBlankenship@kpb.us>
Cc: Mike Tupper <pvtupper@gmail.com>; Chesley, Lane <lchesley@kpb.us>
Subject: <EXTERNAL-SENDER>letter opposed to ordinance 2022-004

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Good morning,
Could you please forward this to the assembly members and the mayor?
Thank you.
To Kenai Borough Assembly members,

I am sorry to see the 2022-004 resolution moving forward. This is a confusing resolution. (Something to do with citizens bringing charges to a grand jury?) Not sure what that really means or would look like.

But why is the Borough dealing with this issue? It sounds like a political resolution and my feeling is that the Borough should not be dealing with this. It is politics. In my opinion, this does not seem like good governance. There are other means that this resolution should go forward. For example, the judicial branch should deal with this and the person that came up with the resolution should go that route. As a taxpayer to the Borough, I feel the Assembly should be working mostly on infrastructure projects. It bothers me that you spend time on a resolution that involves the whole state and the courts. Why are we really pushing for this ordinance?

The letters in support for this resolution are almost all from outside our Borough- is this a state issue? Also, the letters I read all seem to be copied and pasted and they refer to the resolution as 2022. They omitted the 004- and again they are not from our Borough. This resolution seems to be partisan in nature and I think any resolution should have non-partisan support. Resolutions should be positive and most residents agree to the spirit of the ordinance.

I hope you don't spend a lot of time on this-and do the good governing you have been doing when you stay away from the hot button issues that are constantly dividing us.

Sincerely,

Alex Koplín

Homer, Alaska

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:36 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Grand Juries

Public comment

From: sstubster@reagan.com <sstubster@reagan.com>
Sent: Monday, January 17, 2022 11:50 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Grand Juries

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We would like to voice our support for the passing of this resolution:

“A RESOLUTION SUPPORTING THE CONSTITUTIONAL RIGHT OF ALASKA GRAND JURIES TO INVESTIGATE AND MAKE RECOMMENDATIONS ON PUBLIC WELFARE AND SAFETY CONCERNS”

Thank you,

John and Sandy Stubblefield
30540 Stubblefield Drive,
Soldotna, AK 99669

907-398-1812

Nikiski Community Council

P.O.Box 7011

Nikiski, ak. 99635

(907) 394-5807 (123)

northpeninsulacommunitycouncil@gmail.com

EIN 92-0173778

January 17,2022

To: Kenai Peninsula Borough assembly,

The Nikiski Community Council is writing a letter of support for Resolution 2022-004, Supporting the Constitutional Right of Alaska Grand juries to Investigate and Make Recommendations on Public Welfare and Safety Concerns (Bjorkman, Elam). We support Nikiski assemblyman Jesse Bjorkman on his efforts regarding this resolution.

Jason Ross

President, Nikiski Community Council

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:35 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>FRCA Resolution
Attachments: FRCA%20Resolution%20copy.docx

Public comment

From: DONAVAN VICKYSU FRITZ <DVSFRITZ@msn.com>
Sent: Monday, January 17, 2022 2:02 PM
To: Blankenship, Johni <JBlankenship@kpb.us>
Subject: <EXTERNAL-SENDER>FRCA Resolution

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I'm forwarding the FRCA Resolution, which we unanimously approved at Thursdays board meeting. We decided that the changes we made to our original resolution was important enough to go back out to the community for them to peruse and make comments on. We also wanted to get the resolution to tonight's Borough meeting. We have posted it on our FRCA web page as a draft. I'm am forwarding to you as a draft and will forward the smooth in a week after final comments from the community have been incorporated. I hope this doesn't cause to much confusion.

Donavan Fritz
FRCA Board Member

Sent via the Samsung Galaxy Note20 Ultra 5G, an AT&T 5G smartphone
Get [Outlook for Android](#)

This resolution is a DRAFT

*This matter is of such concern that we want to take more time to consult with the
Funny River Community.*

A RESOLUTION SUPPORTING INTRODUCTION, BY THE KENAI PENINSULA BOROUGH ASSEMBLY, OF A RESOLUTION SUPPORTING OUR CONSTITUTIONAL RIGHT FOR ALASKAN GRAND JURIES TO INVESTIGATE AND RECOMMEND ON PUBLIC WELFARE AND SAFETY CONCERNS

WHEREAS, Article 1, Section 8 of the Constitution of the State of Alaska clearly states: *“The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended”*; and

WHEREAS, Alaska Statute 12.40.030 clearly states: *“Duty of inquiry into crimes and general powers. The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.”*; and

WHEREAS, Alaska Statute 12.40.040 clearly states: *“Juror to disclose knowledge of crime. If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.”*; and

WHEREAS, the Alaska Grand Jury Handbook, page 26, clearly states that grand jury investigations can be initiated *“by members of the grand jury”* and that public requests for a grand jury investigation will affirmatively be given to the grand jury; and

WHEREAS, grand juries in Kenai and Anchorage have been affirmatively denied their constitutional right and duty to investigate and recommend on public welfare and safety concerns – and been affirmatively denied their legal right and duty to investigate crime (*See Exhibit A – grand juror affidavits*); and

WHEREAS, the Alaska Constitutional Convention, and other authorities, confirms the grand jury’s most important duty – and reason for Article 1, section 8 - is to investigate and recommend on public welfare and safety concerns – and confirms that citizens can appeal directly to the grand jury for such an investigation and recommendation (*See Exhibit B - “The grand jury can be appealed to directly, which is an invaluable right to the citizen.”*); and

WHEREAS, the Alaska Judicial Council's official report, *“The Investigative Grand Jury in Alaska”* also confirms the grand jury's most important duty is to investigate and recommend on public concerns – and confirms this power cannot be hindered (*See Exhibit B - “The Alaska Constitution gives grand juries the power to investigate into and make recommendations addressing virtually anything of public concern. This broad general power can never be hindered or delayed.”*) - and confirms that public petitions and requests are a proper way to initiate such investigations and that such public petitions and requests must be given to the grand jury; and

WHEREAS, over 500 signatures on a public petition, asking for a grand jury investigation into serious public welfare and safety concerns, has not been given to the grand jury (*See Exhibit C*); and

WHEREAS, this elected body of Alaskan citizens has seen evidence supporting the above allegations; and

WHEREAS, the denial of constitutional rights, rights which are guaranteed by the Constitution of the State of Alaska, is of great concern to this elected body of Alaskan citizens.

WHEREAS, this board does not believe that S.B.15 will provide a solution to this problem and would potentially make the problem worse;

THEREFORE, WE RECOMMEND,

1. This matter be delivered to and investigated by a grand jury without interference.
2. A copy of this resolution shall be provided to the Governor of the State of Alaska, the Alaska legislature, Alaska Attorney General, the Kenai and Anchorage Attorneys, the presiding judges in Kenai and Anchorage, to the Grand Juries in Kenai and Anchorage.

DRAFT

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:34 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Resolution for calling for a Grand Jury investigation

Public comment

From: James Isaak <james@alaskawildlife.com>
Sent: Monday, January 17, 2022 4:06 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Resolution for calling for a Grand Jury investigation

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My name is James Isaak. I was born in Seward and raised in Soldotna where I still reside for the last 62 years. My physical address is 32531 Doc N Amy Street Soldotna.
My wife and I attended a hearing about 15 years ago for a friend of ours that was suing his attorney for malpractice. There is a Alaska statute that specifies how long you have to file a brief. So the attorney our friend was suing didn't have his brief done in time. The judge said how much time do you need. The attorney responded,I would like a couple more weeks. The judge said no problem you got it.

Our friend stood up and said excuse me your honor, (quoted the judge the alaska statute) The judge turned to our friend and said, (I don't care what that statue says I am going to give him 2 more weeks. Both my wife and I were mortified. Here is a judge that is in the highest position and has no regard for what the law says. So how can any of us have any hope in our judicial system when the judges make up their own laws and don't abide by the laws that are written.

Since then we have seen more than enough evidence for a grand jury investigation in so many of these matters.

Thank you so much for your attention as this is so important.

My wife and I would love to be there in person but are currently traveling in Tennessee. James Isaak

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:34 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>I agree with KBP Resolution 2022-004

Public comment

From: Henry Kroll <hankkroll@gmail.com>
Sent: Monday, January 17, 2022 6:02 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>I agree with KBP Resolution 2022-004

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I support KPB's Resolution 2022-004.

**Kenai Peninsula Borough Assembly Introduces a Resolution
Supporting the Right of Alaskan Grand Juries to Investigate**

With an 8 to 1 decision on January 4, 2022, the Kenai Peninsula Borough Assembly approved introduction of **Resolution 2022-004**, titled:

“A RESOLUTION SUPPORTING THE CONSTITUTIONAL RIGHT OF ALASKA GRAND JURIES TO INVESTIGATE AND MAKE RECOMMENDATIONS ON PUBLIC WELFARE AND SAFETY CONCERNS” Link to entire resolution:

<https://kpb.legistar.com/View.ashx?M=F&ID=10378928&GUID=2B57E27A-102F-4036-8ED6-BA3E1270B60D>

One section of **Resolution 2022-004** states: “***WHEREAS***, *constituents allege that grand juries in Kenai and Anchorage have been denied their constitutional right and duty to investigate and recommend on public welfare and safety concerns;*”

The memorandum accompanying **Resolution 2022-004** states, in part:

“In recent years concerns have been brought forward by Kenai Peninsula Borough residents about our court system. We believe that this resolution provides a path to improve the accountability and transparency of the judicial system and its officers... Without judgment as to the merits of these complaints, we believe the remedy in situations like these is a constitutional one. As stated in Article 1 Sec 8 of the Alaska Constitution: ‘The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.’ In the extraordinary instance in which there are meritorious claims made against officers of the court, we believe grand juries must be allowed to impartially look at the evidence and make a recommendation as to next steps.” Link to entire memorandum:

<https://kpb.legistar.com/View.ashx?M=F&ID=10369800&GUID=FA1AAA22-A6FA-4E6C-87CB-05A496CCB63B>

In-person public testimony on **Resolution 2022-004** will be allowed during the **January 18, 2022** Kenai Peninsula Borough Assembly meeting, which starts at **6 pm** in the white Borough Building at 144 North Binkley Street, Soldotna, AK 99669. You may also testify during this meeting via zoom: Zoom Meeting ID: **884 7373 9641** Passcode: **671108** (Landlines dial **1-646-568-7788** first)

To email comments anytime (reference **Resolution 2022-004**): assemblyclerk@kpb.us

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 8:34 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>David Haeg's Resolution 2022-004 Testimony
Attachments: David Haeg's January 18 Kenai Peninsula Borough Assembly Testimony.docx; Alaska Grand Jury Powers, Rights, and Duties.docx

Public comment

From: haeg@alaska.net <haeg@alaska.net>
Sent: Monday, January 17, 2022 8:46 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>David Haeg's Resolution 2022-004 Testimony

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Assembly Clerk,

Attached is a written copy of my testimony to the Kenai Peninsula Borough Assembly, concerning Resolution 2022-004. Also attached is a copy of the authorities upon which my testimony relies. Please read them before the 6 pm, January 18 Assembly meeting if you can find the time.

If it is allowed, I ask that my written testimony and list of authorities be permanently attached to Resolution 2022-004.

At the January 18, 2022 Assembly meeting I will read the highlighted portions of my written testimony, as I only have 3 minutes in which to testify verbally.

Thank you and if you have any questions please feel free to contact me anytime.

Most Sincerely,

David Haeg
(907) 398-6403
haeg@alaska.net

David Haeg's January 18, 2022 Testimony on Kenai Peninsula Borough Assembly Resolution 2022-004

Thank you. My name is David Haeg and I'm a lifelong Borough resident.

The Funny River Community Association Board debated this resolution and the decision to resurrect Senate Bill 15 (killed in committee) to solve the current **Constitutional Crisis** created by public officials unconstitutionally and illegally stopping seated Grand Juries from investigating direct evidence of crime and corruption by public officials, which is a serious public welfare and safety concern.

Alaska Constitution, Article 1, Section 8: *The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

Alaska Constitutional Convention, page 1307 “*The power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended. The grand jury is preserved, for all purposes, particularly for investigation of public officials.*”

It was realized SB15 does **nothing** to address the fact public officials are unconstitutionally and illegally stopping Grand Jury investigations. SB15 only tries to address how requests for a Grand Jury investigation get to the Grand Jury. Even if SB15 were passed, and requests were given to the Grand Jury, there still would be **absolutely nothing** to stop public officials from once again ordering Grand Juries to stop investigating – exactly as happened now twice in Kenai and twice in Anchorage.

The Funny River Board decided Alaskans could not wait the years it will take just to **possibly** pass SB15, which again does nothing to address the main problem.

How many more Alaskan families may be unconstitutionally and illegally **ground to bits** during this delay?

And SB15 may make things far worse by placing a possibly corrupt judge as the gatekeeper to all further requests for a Grand Jury investigation of evidence that criminally implicates our judges and only judge investigator for the last 33 years.

The Funny River Board unanimously voted that the most effective, appropriate, and timely solution is that which Alaska's Founding Fathers gave us to fix

situations exactly like this: a Grand Jury investigation complete with written recommendations and/or indictments after the conclusion of its investigation.

The Funny River Board also stated: *“This matter is of such concern that we want more time to consult with the Funny River Community.”*

Without any reservations whatsoever, I agree with the Funny River Board.

So I humbly ask you to amend this Resolution by **replacing** the SB15 solution with a request for a thorough Grand Jury investigation into this matter – without interference by anyone.

I ask the Resolution state that it **SHALL** be given to the Grand Juries in both Kenai and Anchorage. I also ask that the Resolution state that attached to it at all times **SHALL** be **ALL** evidence and authority given to this Assembly on this matter – including but not limited to: (1) Grand Juror affidavits which, if unrefuted, prove that state judges and attorneys, up to and including Alaska’s Deputy Attorney General, are unconstitutionally and illegally stopping seated Grand Juries from investigating crimes by public officials (**AS 11.56.590** Jury Tampering); (2) evidence (much of it certified by Superior Court Judge Stephanie Joannides) which, if unrefuted, proves Alaska’s only judge investigator for the last 33 years is falsifying official investigations and certified written documents to cover up for corrupt judges – a powerful motive for judges to corruptly stop Grand Jury investigations into this; (3) certified court transcripts evidencing a felony criminal conspiracy and cover-up by a district attorney and law enforcement – a powerful motive for that same district attorney, his equals in other cities, and Alaska’s Deputy Attorney General to corruptly stop Grand Jury investigations into this; and (4) Grand Jury powers, rights, and duties under Alaska’s Constitution, laws, and court rules. This includes but is not limited to: (A) the duty to investigate corruption by public officials and offices without interference from anyone; (B) the right to exclude all persons from the grand jury room during its investigation; (C) the power to subpoena witnesses, place them under oath, and question them; (D) the power to write recommendations and issue indictments at the conclusion of its investigation; (E) the right to assistance by private investigators and/or private attorneys; (F) the right to become or request a “Special Grand Jury” – one tasked with investigating, recommending, and/or indicting on single issue, as happened in Watergate; and (G) **the right for the Grand Jury to ask the public to protect the Grand Jury from interference by public officials.**

Alaska Statute 12.40.030: “Duty of inquiry into crimes and general powers. *The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.*”

Alaska Statute 12.40.040: “Juror to disclose knowledge of crime. *If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.*”

It should also ask the Grand Jury to investigate, research, and recommend a long-term solution to this problem, such as additional clarifying legislation (like **AS 12.40.030** and **AS 12.40.040** do) and/or material like an “Investigative Grand Jury Handbook”, written by the public and required to be given to and read by all prospective Grand Jurors – stating all powers, rights, and duties of the Grand Jury to investigate public officials and offices.

Finally, I ask you to consider that the Funny River Board stated that this is so serious the solution must not be rushed, for it must not only address the current **Constitutional Crisis** promptly and effectively, it must prevent it from ever happening again.

This may require delaying a vote and forming a committee to research the best solution – hopefully with broad public input – for right now this Resolution has an incredibly flawed solution in SB15.

Thank you.

Alaska Grand Jury Powers, Rights, and Duties

Alaska Constitution, Article 1, Section 8: *The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

Alaska Statute 12.40.030: “Duty of inquiry into crimes and general powers. *The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.*”

Alaska Statute 12.40.040: “Juror to disclose knowledge of crime. *If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.*”

Alaska Constitutional Convention (1955-1956)

Proposal No. 7 *“The power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended.”*

[After extensive discussion by the delegates, this was modified so grand juries could investigate things in addition to willful misconduct in office of public officers, resulting in the current verbiage in Article 1, Section 8 of Alaska’s Constitution.]

Taylor at 1324: *“I am against the use of a grand jury in criminal prosecutions...I would say retain the grand jury all right for investigative purposes of officials in public institutions... it serves no useful propose except for just investigative purposes.”*

Hellenthal at 1325-1406: *“The grand jury should certainly and definitely be preserved as an investigatory agency. There is no question about it at all. I agree with Mr. Barr that the investigatory power of a grand jury is extremely broad...I think a grand jury can investigate anything...I think that the broad statement of power that Mr. Barr asked for is proper and healthy.”*

Kilcher [Yule Kilcher of Homer, Alaska] at 1328: *“I recall personally a situation eight or nine years ago that brought it to my attention forcefully how the grand jury can be utterly vital. The grand jury in its investigative power as well as for the fact that it is sitting there as a panel sometimes is the only recourse for a citizen to get justice, to get redress from abuse in lower courts...it is the only safeguard a citizen occasionally has when for any reason and very often for political reasons, a case is not dealt with properly. The grand jury can be appealed to directly, which is an invaluable right to the citizen.”*

The Investigative Grand Jury in Alaska

(1987 Alaska Judicial Council report upon request by Alaska State Senate)

Art. I, Sec. 8 of the Alaska Constitution states:

"The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended."

"Public welfare or safety" has been interpreted very broadly and includes concerns with public order, health, or morals. Black's Law Dictionary defines general welfare as "the government's concern for the health, peace, morals, and safety of its citizens." "Suspend" is defined in case law and by Black's as "to cause to cease for a time; to postpone; to stay, delay or hinder." In other words, the Alaska Constitution gives grand juries the power to investigate into and make recommendations addressing virtually anything of public concern. This broad general power can never be hindered or delayed.

State grand juries have often exercised investigative powers to battle political corruption. At times, that have acted on their own initiative in the face of opposition from a district attorney. In New York City an extensive grand jury probe toppled the notorious Boss Tweed and his cronies. Since the district attorney was closely associated with Tweed, the panel acted independently of him, conducting its own investigation and interviewing witnesses without the prosecutor's help.

Alaska's grand jury serves two distinct functions. First, it acts as the charging body for crimes committed within its jurisdiction. The grand jury considers evidence presented to it by the state district attorney who has investigated the crime or crimes in each case. The grand jury decides whether the district attorney's evidence is sufficient to call for the individual or individuals facing the charge to stand trial. If the majority of grand jurors finds the evidence sufficient, the foreperson of the grand jury signs the indictment prepared by the district attorney and marks it a true bill. If the majority of grand jurors do not find the evidence sufficient, the foreperson marks the indictment not a true bill, and signs what is then referred to as a no-true-bill. This function is the grand jury's charging function.

Although infrequent, the grand jury can also sit as an investigative body. In response to instructions from the court or the district attorney, or in response to petitions or requests from the public, or on the initiative of a majority of the members of the grand jury, the grand jury may investigate concerns affecting the public welfare or safety. These public welfare or safety concerns may arise from criminal or potentially criminal activity, or they may involve noncriminal public welfare or safety matters. After completing its investigation, if the grand jury has found sufficient evidence to charge an individual or individuals with a crime, the grand jury may ask the district attorney to prepare an

indictment or indictments. The foreperson of the grand jury then signs the indictment designating it a true bill.

The clear intent of the drafters of the state constitution was to provide the grand jury with broad investigative powers. The language of state statutes is equally broad and no case law in Alaska defines the appropriate subject matter or scope of grand jury investigations.

Constitutional Convention

The Committee on the Preamble and Bill of Rights of the Alaska Constitutional Convention submitted a proposal entitled “*Grand Juries, Indictments and Information*”. The clause that addressed the investigative function read:

...the power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended.

The commentary of the section stated: ‘*The grand jury is preserved, for all purposes, particularly for investigation of public officials.*’

‘*...I am against the use of a grand jury in criminal prosecution...I would say retain the grand jury all right for investigative purposes of officials in public institutions...it serves no useful purpose except for just investigative purposes.*’ (Taylor, 1324)

‘*The grand jury should certainly and definitely be preserved as an investigatory agency. There is no question about it at all...*’ (Hellenthal, 1325)

The debate suggests that some votes for mandatory grand jury indictment may have been cast to assure free exercise of the grand jury’s investigative function:

‘*[I]t is true the investigative grand jury had been preserved in the bill as set forth here. However, an investigative grand jury will only be called under certain specific circumstances, and somebody is going to have to find conditions pretty bad before an investigative grand jury will be called. Whereas a grand jury which is empaneled regularly, once or twice a year in our division, has full investigative power as well as the power to consider indictments. The grand jury is there and may take any step that it feels may be necessary towards investigations*’ (Davis, 1326)

‘*...The grand jury in its investigative power as well as for the fact that it is sitting there as a panel sometimes is the only recourse for a citizen to get justice...*’ (Kilcher, 1328)

‘*The new amendment does not make any mention of the investigating powers of the grand jury, and I’ve been told they would still have those powers under the Federal Constitution, but I believe it should be mentioned in our constitution because I think it is one of the most important duties of the grand jury.*’ (Barr, 1344)

‘*Mr. President, my suggestion was that the word “detrimental” be stricken and the word “involving” being inserted because I agree with Mr. Bare that the investigatory power of a grand jury is extremely broad, not as narrow as Mr. Rivers contends. I think a grand jury can investigate anything, and it is true that there is little protection against what they call in the vernacular, a runaway grand jury, but in the history of the United States*

there have been few runaway grand jury's, extremely few, and I think that the broad statement of power that Mr. Barr asked for is proper and healthy. (Hellenthal, 1406)

Initiation: Law and Practice in Alaska

Statutory procedures in Alaska distinguish initiation of an investigation from the exercise of the grand jury's usual charging duties. One Alaska statute provides that *"if an individual grand juror knows or has reason to believe that a crime has been committed which is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it."* This provision suggests that an investigation might be initiated at the request of an individual grand juror.

Prosecutors interviewed in the course of this study noted that private citizens occasionally request the grand jury to investigate a matter. Prosecutors report that they ordinarily review these requests before presenting them to the grand jury and made a recommendation regarding the grand jury's action.

The Reportorial Power of the Alaska Grand Jury (1986 Duke Law Review, 295-330)

The History of the Grand Jury's Reporting Power

The principal functions of the grand jury is to serve *"as a body of accusers sworn to discover and present for trial persons suspected of wrongdoing and as a protector of citizens against arbitrary and oppressive governmental action."*

Prior to Alaska's statehood, the territorial legislature adopted a statute that required grand juries to investigate the conditions and management of prisons and judicial offices. In 1954, a Ketchikan grand jury investigated police corruption in connection with prostitution and returned a famous report that led to the indictments of the chief of police and the United States Attorney in Ketchikan.

After statehood, article I, section 8 of the Alaska Constitution granted grand juries the power to "investigate and make recommendations concerning the public welfare or safety." Grand juries have also issued reports critical of specific individuals. For example, in 1967, a Fairbanks grand jury investigated jail conditions and returned a report criticizing management of the jail generally and holding the named superintendent responsible. And in 1975, an Anchorage grand jury investigated the criminal justice system and made recommendations concerning a correctional officer, the public defender's office, and the district attorney's office.

Courts in jurisdictions favoring reports have emphasized the growing complexity of modern government "that defies the best intentions of the citizen to know and understand it." With an ever-expanding government bureaucracy, public employees become further removed from those officials directly answerable to the voters, while the public's awareness of the activities even of elected officials lessens. **If the people are to remain**

confident in this type of government, there should be a body of citizens capable of monitoring official wrongdoing.

Proponents of the grand jury's reportorial power maintain that the grand jury is the appropriate body to accomplish this important purpose. Increasing government complexity has spurred the adoption of other investigatory bodies. These include legislative and executive bodies as well as private organizations, most notably the news media. These bodies may lead to greater accountability among public officials, but they are unlikely to be as effective as the grand jury in achieving impartial disclosure of official misconduct. A comparison of the grand jury with these groups suggests that the grand jury should continue as an investigatory body.

One significant problem with legislative and executive committees is that political concerns often influence their investigations.

Since the outcome is often politically influenced, there may be an intentional lack of thoroughness in legislative and executive investigations.

Finally, no overseeing body exist to monitor the conduct of these investigatory bodies.

The grand jury is not without shortcomings as an investigatory body. Jurors are not professional investigators. Because grand juries have limited budgets, they seldom hire their own counsel or detectives. This increases the grand jury's dependence on the prosecutor to perform the investigation and to conduct the proceedings. If the prosecutor is able to dominate the proceedings, he may interject his own political ambitions into the investigation.

Although some authorities suggest that grand juries are not completely free from political motivations, most agree that jurors do not have the same sensitivity to political considerations as legislative or executive committees. The subpoena power possessed by grand juries facilitates complete investigations.

Alaska Constitution, article I, section 8 provides in pertinent part: "The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended." No Alaska appellate court has addressed the meaning of this sentence.

On December 15, 1955, the Alaska Constitutional Committee on the Preamble and the Bill of Rights submitted Committee Proposal Seven, which included the section on grand jury authority. Proposal Seven initially provided in pertinent part: "[T]he power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith shall never be suspended."

The Convention, however, did not adopt the Proposal. Instead, the framers approved a slightly altered version of an amendment to Proposal Seven offered by Delegate Barr. On January 6, 1956, Delegate Barr proffered the following amendment: "The power of grand juries to investigate and make recommendations concerning conditions detrimental to the public welfare shall never be suspended." This provision grants broad investigatory powers to the grand jury. Although courts in other jurisdictions disagree as to whether the

power to investigate, standing alone, implies the power to report the results of such an inquiry, the Convention expressly granted Alaska grand juries the power to make recommendations in connection with its investigations. Thus, the framers contemplated a power to issue statements other than indictments. Conversations between the delegates also shed light on the proper subject matter of these recommendations. During the debates over article I, section 8, Delegate Rivers explained that the grand jury's authority at the time of the Convention extended to the investigation of public officers and institutions. Rivers then asked Delegate Barr if he would agree to express the grand jury's authority as the power to "investigate public offices and institutions and make recommendations." Barr would not so consent. He stated that his amendment would grant a broader power than Rivers suggested. Barr's amendment would allow the grand jury to "make recommendations concerning other things than public offices and officers." By implication, the framers intended, at the least, to grant the grand jury the power to issue recommendations concerning public offices and officers, something which Barr maintained was the duty of the grand jury.

As noted above, a true report on conditions concerning public welfare can be beneficial in ensuring an effective government, even if it contains incidental criticism of a public official responsible for the conditions. Indeed, the framers of the Alaska Constitution considered this power sufficiently important to preserve it in the constitution. They viewed this power as necessary *"to protect the rights of... citizens."*

If the prosecutor dominates the investigation, his own ambitions can lead to a one-sided investigation and presentation of evidence. The prosecutor may initiate investigations into areas where there is no apparent corruption merely to harass certain officials or to guide the grand jury to a result he desires.

CONCLUSION The framers of the Alaska Constitution intended that the grand jury have the power to investigate and make recommendations on matters that concern the public welfare. They contemplated that such recommendations would contain criticism of public officials in limited circumstances.

APPENDIX: MINUTES OF THE PROCEEDINGS OF THE ALASKA CONSTITUTIONAL CONVENTION CONCERNING ARTICLE I, SECTION 8.

R. RIVERS: The present province of our grand jury is to investigate public offices and institutions, not just to investigate anything involving the public welfare. I wonder if Mr. Barr is intending to try to preserve what we already have now, as the province of the grand jury. Would you consent to having it worded as "investigate public offices and institutions and make recommendations"?

BARR: No. I think that their power should be a little broader than that. I don't know what the powers are right now exactly, but I do know that they make recommendations concerning other things than public offices and officers, and under this provision it would only investigate and make recommendations concerning things that endangered public welfare's safety, and I believe that is what the grand jury is for is to protect the rights of its citizens. They do not necessarily have to defame any person or mention him by name.

If the tax collector was using methods not acceptable to the public, they might make a recommendation for a change in the system of tax collection, etc., and I think it would be their duty to do so.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment? Mr. Hellenthal.

HELLENTHAL: Mr. President, my suggestion was that the word "detrimental" be stricken and the word "involving" be inserted because I agree with Mr. Barr that the investigatory power of a grand jury is extremely broad, not as narrow as Mr. Rivers contends. I think a grand jury can investigate anything, and it is true that there is little protection against what they call in the vernacular, a runaway grand jury, but in the history of the United States there have been few runaway grand juries, extremely few, and I think that the broad statement of power that Mr. Barr asked for is proper and healthy.

PRESIDENT EGAN: Mr. Sundborg. [Vol. 3:295 1986]

SUNDBORG: Mr. President, I move and ask unanimous consent that the amendment to the amendment offered by Mr. Barr be amended by striking the words "detrimental to" in the second line and substituting therefore the word "involving."

BARR: I would like to submit the same amendment but using the word "involving" instead of "detrimental to" and I ask unanimous consent for its adoption.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr moves and Mr. Johnson seconds the motion. If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Barr to the amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment as amended will signify by saying "aye," all opposed by saying "no." The "ayes" have it and the proposed amendment is ordered adopted.

Yeas: 44 - Armstrong, Awes, Barr, Boswell, Coghill, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 8 - Buckalew, Doogan, H. Fischer, Laws, Riley, V. Rivers, Smith, Mr. President.

Absent: 3 - Collins, Cooper, Hilscher.

United States v. R. Enterprises US Supreme Court 498 US 292 (1991)

Unlike this Court, whose jurisdiction is predicated on a specific case or controversy, the grand jury *"can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not."* United States v. Morton Salt Co., 338 U.S.

632, 642 -643 (1950). The function of the grand jury is to inquire into all information that might possibly bear on its investigation until it has identified an offense or has satisfied itself that none has occurred. *"A grand jury investigation is not fully carried out until every available clue has been run down and all witnesses examined in every proper way to find if a crime has been committed."* Branzburg v. Hayes, 408 U.S. 665, 701 (1972), quoting United States v. Stone, 429 F.2d 138, 140 (1970).

The teaching of the Court's decisions is clear: *A grand jury "may compel the production of evidence or the testimony of witnesses as it considers appropriate, and its operation generally is unrestrained by the technical procedural and evidentiary rules governing the conduct of criminal trials,"* id., at 343.

A grand jury need not accept on faith the self-serving assertions of those who may have committed criminal acts. Rather, it is entitled to determine for itself whether a crime has been committed. See Morton Salt Co., 338 U.S., at 642 -643.

Alaska Grand Jury Handbook, (Alaska Court System Form J-185)

[Page 16] Can a grand juror ask the grand jury to investigate a crime that the district attorney has not presented to them?

Yes. The Alaska Statutes state: *"If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it."*

[Page 26] Who decides that the grand jury should investigate something?

Generally, grand jury investigations are initiated by the district attorney. They can also be initiated by the presiding judge or by members of the grand jury. Prosecutors also sometimes receive letters from the public, addressed to the grand jury, requesting investigations. In these situations, the prosecutor will probably conduct a preliminary investigation and make a recommendation to the grand jury about whether to take action. It will be up to the grand jury to decide whether to investigate the matter requested in the letter.

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 11:18 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Resolution 2022-004

-----Original Message-----

From: Gerald <dogcraphorsecrap@yahoo.com>
Sent: Tuesday, January 18, 2022 11:15 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Resolution 2022-004

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Hello,

I'd like this comment to be read to the assembly in the meeting on 01/18/2022 as my work schedule will not let me be in attendance. I support resolution 2022-004. I have experienced the corruption of law enforcement, the court system, and the Alaska Bar (lawyers). Please pass this resolution as a grand jury is the only way to catch and rid the current system of corruption. Police investigating police, judges investigating judges and lawyers is wrong and needs a check and balance from the citizens.

Thank you,

Gerald W. Miller

Sent from my iPhone

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 11:18 AM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Please disseminate to the assembly
Attachments: 1-18-21 borough testimony.docx

Public comment

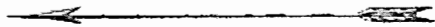
From: martyusak@me.com <martyusak@me.com>
Sent: Tuesday, January 18, 2022 11:12 AM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Please disseminate to the assembly

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Hello Johnni,
Please disseminate my testimony in advance of the meeting tonight. I will be calling in through zoom to testify.

Thank you,
Marty

ARROW PRIVATE INVESTIGATIONS
Martin T. Anderson--Investigator
907-252-7800
martyusak@me.com
PO Box 1388
Sterling, AK 99672
AK Licesnce #2142994



"Finding the truth, when others won't."



This email has been checked for viruses by AVG antivirus software.
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Thank you, Mr. President and Assembly,

My name is Marty Anderson and I live at 36696 Kimball Court in Sterling, AK. I have been part of this community since August of 1981, graduating from Soldotna High School in 1982. I have been a member of this community for 41 years.

I graduated from UAA and have served as an adjunct at the local college and an adjunct instructor for more than 10 years at AVTEC in Seward Alaska. I have been a little league coach, a Sunday school teacher, adult church teacher, and mentor to hundreds of individuals. I have awarded more than \$500,000.00 in scholarships from my former technical school which I owned locally.

I have been the President of a local chamber of commerce, board member of KDLL Radio and the Peninsula Oilers. I served 15 years as an elected school board member of the Kenai Peninsula School District from 2003 to 2018 representing Sterling and Funny River.

I have served various other societies and boards locally, nationally, and internationally receiving mentor awards, instructor of the year and fellow awards.

I have served two former Alaska Governors, Palin and Parnell on the Alaska Workforce Development Board and serve our current Governor on the Alaska Oil and Gas Royalty Board. There is much more to my community service, but my time is limited tonight by protocol.

I speak today in support of this resolution before you. I have always been a staunch supporter of our police and our criminal justice system, so much so, as to be naïve that corruption exist in all things.

This past year, I have been the victim of falsified evidence by a public officer and unjust persecution. I spent well over \$100,000.00 protecting my innocence and my family suffered from what I believe was willful negligence, willful omission, and falsified evidence. Just a brief example, an affidavit was signed by a local police officer that listed my home located in two cities (Sterling and Soldotna/same street address) and he accused of an action I was alleged to have committed four months into the future (yes that is correct, he claimed I committed and act four months in the future) Both facts are physically impossible, yet a local judge signed

a search warrant based on this evidence and over 14 other false statements by the officer. Physical evidence clearly contradicts the officer's false statements.

More than a dozen local, state and federal former criminal justice employees such as prosecutors, district attorneys, homicide detectives, police intelligence officers and state troopers have reviewed the evidence I have been able to obtain, and their analyses reveals severe flaws and breaches of justice. I have made a FOIA and Alaska Public Records Request to local police but not all pertinent information has been willfully released. I filed a complaint with the Alaska Police Standards Council last month concerning the officer's conduct and hopefully his motives will also be closely examined. I am still waiting pertinent documents I have requested from local police which are being withheld from me.

After six months of a nightmare, I was not charged by the DA's office for any crimes but the pain and suffering my family and I endured should never be inflicted upon another innocent member of this community. We have serious local problems, as other communities in this country have with certain members of the criminal justice system. Let us be different and protect our citizens from those who should be protecting us. I ask the assembly tonight to pass this resolution and that it be a step closer to having an independent vehicle protecting us from those who should be protecting us but would willfully violate our trust and encroach upon inherit freedoms for self-serving motives.

Thank you, Mr. President, and assembly.

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 12:36 PM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Alaskans for an Independent Grand Jury

-----Original Message-----

From: Tracey Earll <scrapqueen2010@hotmail.com>
Sent: Tuesday, January 18, 2022 12:28 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Alaskans for an Independent Grand Jury

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My name is Tracey Earll and unfortunately I can not attend tonight's meeting because I am out of state dealing with a family death. I want my opinion known on resolution 2022-004. I 100% support this resolutions and I hope that you vote what the people want. It appears Alaskas Judicial system may be corrupt to the very core. We need to restore accountability. I fully support the right of grand juries to investigate.

Tracey Earll
907-398-1135
46740 Gadwall Ave.
Kenai, Alaska 99611

Sent from my iPhone

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 12:37 PM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Resolution 2022-004

-----Original Message-----

From: Tracey Earll <scrapqueen2010@hotmail.com>
Sent: Tuesday, January 18, 2022 12:28 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Resolution 2022-004

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I am sending this email so that my voice can be heard. I am currently out of state because a death in the family and can't attend the meeting tonight. I 100% support this resolution. It appears that Alaska's judicial system may be corrupt to the very core. We need to restore accountability and equality for all Alaskans. I support the right of an Independent grand jury to investigate.

I hope you will vote for what the people want and to keep Alaskans rights. It may be one of you next time that is railroaded with the injustice's on a corrupt system. Think about that when you place your vote.

Thank you

Tracey Earll
907-398-1135
46740 Gadwall Ave
Kenai, Alaska 99611
Sent from my iPhone

Turner, Michele

From: Blankenship, Johni
Sent: Tuesday, January 18, 2022 4:24 PM
To: Turner, Michele
Subject: FW: <EXTERNAL-SENDER>Resolution 2022-004

-----Original Message-----

From: Pattie <quilting@eaglesroost.us>
Sent: Tuesday, January 18, 2022 4:06 PM
To: G_Notify_AssemblyClerk <G_Notify_AssemblyClerk@kpb.us>
Subject: <EXTERNAL-SENDER>Resolution 2022-004

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The referenced Resolution is quite concerning to me and I would like to request that this be passed.

Thank you,
P. A. Wright

Ak. Resident 55 years, Kenai Peninsula Resident 28 years.

Sent from my iPhone