



Public Officials vs. The People: Alaska's Due Process Controversy

Description

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Alaska's Flag to Alaskans dear; the simple flag of the Last Frontier.

By DONN LISTON & Jessica Pleasant, The Conservative Fem, and DONN LISTON

The **State of Alaska** is owned by Public Sector Unions organized into represented bargaining units of workers, apparently creating confusion for some *appointed public officials* who believe they, too, should be afforded Due Process as if they were part of a Union Collective Bargaining Agreement (CBA), too. Under current laws when these appointed officials make expensive mistakes, or cause harm to Alaskans in performance of their duties and responsibilities, that negotiated process is not part of THEIR job contracts. Rather, **We The People** under the Constitution fire their sorry asses and if possible prosecute them.

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Alaska Constitution, Section 2. Source of Government

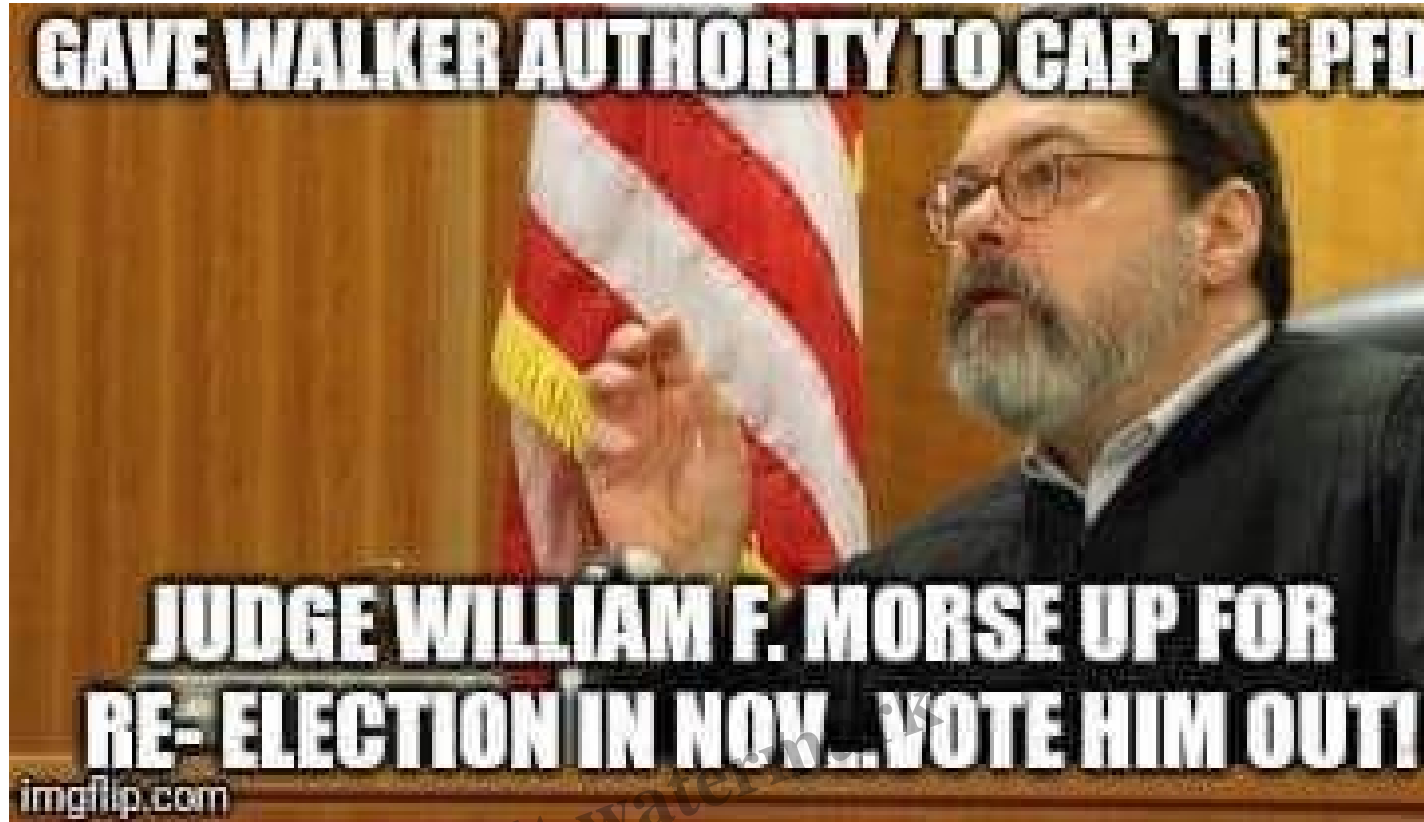
This has become a matter of concern for some SOA Appointed Officials lately in Light of the perjury indictment of Retired Homer Judge, Margaret Murphy.

[1] Anchorage Daily News, January 8, 2023: State court hears arguments to dismiss rare grand jury indictment against retired judge

Alaskans further know appointed officials want union protections because over the last year or so **Alaska Court System's** General Counsel **Nancy Meade** and Attorney General **Treg Taylor's** boy, **John Skidmore**, have facilitated the **Alaska Supreme Court** in neutering the **Independent Grand Jury**—apparently to protect future public officials from secret investigation leading to their prosecution. After decades of what could be cover-up of criminal acts by **Murphy**, these Gov. **Michael Dunleavy** officials want citizens to have no right to investigate public official wrongdoing without first gaining permission from the governor-appointed AG. They want **Due Process** administrative hearings to determine **Just Cause** like any other Alaska Public Sector Union State worker, instead of objective and secret Independent Grand Jury Investigations by regular citizens such as those who have investigated Judge Murphy and found likely criminal wrongdoing.

Due Process requires persons be entitled to “procedural justice” whenever they are threatened with the loss of life, liberty, or property at the hands of the government. In discussions by Judges and public officials, right to *Due Process* of accused State Officials has been of utmost concern to those opposing use of grand juries. They believe that like the majority of all State workers, Public Officials are entitled to Just Cause as has been negotiated by their union brethren by default—replacing grand juries with preliminary hearings that will allow an accused official to raise a Just Cause defense. This is not appropriate because citizens subject to the power of government must endure failures in application of policy and procedures and possible misconduct. Judgment of appointed officials matters! As proposed, the wheels of bureaucracy will grind through administrative processes while malpractice/malfeasance continues for our already very expensive state Labor Relations superstructure bureaucracy.

[2] Employment At-Will; Due Process and Just Cause



Judge Morse cut off discussion with parents after a hearing with Thomas Garber demanding consideration from Alaska Courts for OCS violations. During the hearing Judge Morse recognized federal courts are now looking into the OCS travesty which continues to damage Alaska Families.

[3]Alaska OCS Crisis; Parents are Pursuing Accountability

We The People demand Accountability NOW

The ***Alaska Constitution*** and past practice provide for Grand Jury investigations. In Gov, **Dunleavy's** Banana Republic, statutes and past practice don't matter anymore. Every Alaskan has been impacted by the arbitrary and capricious assault against the statutory ***Permanent Fund Dividend*** by elected and appointed public officials. Our money pit public education system feeds special interests at the expense of Alaskan Children. Public agencies are blatantly harming Alaskan families. The ***Alaska Supreme Court*** has established an unconstitutional SCO 1993 to support members of this unnamed phantom bargaining unit from Independent Grand Juries with blessing of the ***Alaska Legislature***.

Who knows how many MORE retired judges and former appointed officials could be found to have committed wrongdoing while the *State of Alaska* was out to lunch since our latest Oil Boom beginning in the early 1980s?

Assistant AG Skidmore apparently sees his role being Business Agent for all appointed state workers who are members of a phantom bargaining unit and don't pay dues to an official union to negotiate salaries and benefits with the SOA, including appointed lawyers in black robes. As a actual former ***Alaska State Employees Association/AFSCME***

Union Business Agent in Juneau five years, DONN LISTON has seen in the labor-relations process high-handed appointed officials often being source of many problems in AK Labor Relations. It is a privilege to be appointed to a State position, not requiring extraordinary labor protections. Judges stand for re-election every five years—that's THEIR Due Process. Why wouldn't these state officials want a panel of normal citizens empowered as a Grand Jury to discover malfeasance in state government even after they have retired?

In fact, as ASEA Business Agent LISTON won an arbitration award against Commissioner of Administration, **Mark Boyer** who was the only member of Gov. **Tony Knowles**' cabinet who didn't return to serve again upon Knowles' second term re-election for four more years in 1998.

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Contracting Out:

Who's Next?



The Commissioner of Administration who signed the Bargaining Agreement between ASEA/AFSCME Local 52 and the State of Alaska has purposely underfunded GGU Health Insurance Benefits by \$3.36 million and violated or attempted to violate our contract more than any government official. Now he has decided to lay off these dedicated workers and close the State print shop although it's a bad \$deal\$.

Contact the Governor today and ask:

(465-3500, FAX 465-3532, EMAIL tony_knowles@gov.state.ak.us)

Why are you deserting State Employees?

Joely Gonzales, 18yr State Employee

Walter Soboleff, Jr. 14yr State Employee

Bill Carter, 16yr State Employee

Cynthia Creekpaum 7yr State Employee

Bill Fidler, 8-1/2yr State Employee



Mike Nickles, 14yr State Employee

Steve Seymour, 13yr State Employee

Jerry Schaff, 22yr State Employee

Danny Lazaro, 11yr State Employee

Tom Barton, 8 yr State Employee

Tom Pettyjohn, (not shown) 25yr State Employee

When assigned by Business Manager, **Chuck O'Connell** to take over this situation from a

compromised Juneau ASEA Business Agent, DONN LISTON created and published this flier, used to organize members to stand up for their contract terms. Upon winning this arbitration, the State had to pay lost wages and benefits and find new jobs for these state workers.

Imagine Alaska judges protesting a lack of due process in their discipline procedure after all the arbitrary decisions they have made impacting other Alaskans!.

The End Goal

On March 15th 2023, Alaskans protested outside courthouses across Alaska. They demanded the **Alaska Supreme Court** overrule its Order 1993 (SCO 1993). With essentially no input by members of The **Alaska's Legislature's Rules Committee**, the highest court had created rule 6.1 of whole cloth.

Legislature's Rules Committee reviews language with recommendations from **Legislative Legal** for constitutionality. This was a reactionary act by the **AK Supreme Court** responding to demands from Alaskans in Kenai for accountability.

[4]Kenai Court Judges Jennifer K. Wells & William F. Morse: "Never Mind the Alaska Constitution..."
July, 2022

The court and the **Dunleavy Administration** were in cahoots and this high-handed new law as written by the court restricts citizens' rights to petition the grand jury to investigate official misconduct in lieu of having an Elected Attorney General.

[5] AK Court System Explanation of SCO 1993

This Order was a political act: The **AK Supreme Court** placed active **Offices of Children's Services (OCS)** complaints on hold until it could pass the due process laws for public officials in light of charges against Murphy. According to the **Peninsula Clarion**, General Council for the **Alaska Court System** Meade openly admitted the rule changes were prompted by three active Grand Jury petitions.

Why three? Why is that a problem?

Why Independent Grand Jury?

Grand jury process has been debated for centuries. In this case there was no need to rush, except, subpoenaed testimony of Alaska's lead judicial investigator **Marla Greenstein** was pending. She has had the role for nearly 35 years. This appointed board and agency protects judges.

According to the **Peninsula Clarion**, the **Kenai Peninsula Borough Assembly** held a hearing with Alaska's Deputy Attorney General for the Criminal Division of the Department of Law, **John Skidmore**, and aforementioned counsel, Mead. Skidmore made clear that investigative grand juries do not investigate crime.

Skidmore's Strawman

As a representative of the Dunleavy Administration Skidmore's spurious charges were made knowing active petitions for investigations had not sought criminal charges. *The requests are for investigations into how policies and procedures of official offices may need changes.*

Administrative Protections for Wrong Doing

Previously grand jury proceedings were held in secret, with a body of 12-18 members. In the room is supposed to be an unbiased prosecutor guiding the grand jurors through the legal process and understanding. An accused official would not know of a secret grand jury. He/she would not be present to give a defense. Rather, defense may be raised after an indictment and/or investigative reports.

The SOA, having convened a grand jury of only 12 for Judge Murphy, provided a complaint for Murphy's Defense to argue her indictment should be thrown out. **See how a good Business Agent can work with Management in Labor Relations?**

Past Practice as Defined Process in 1975

A 1975 **Alaska Judicial Council** article, *Tentative Recommendations* clearly describes the grand jury process, proving a process is already established for petitions for investigations, but not for due process of accused officials. According to the article, it is possible an investigative grand jury's *probe* may result in indictments as by-products of the investigation.

[6]1975 ML Rubenstein Grand Jury Operation and Tentative Recommendations

Upon indictment petitioners often abandon their right to damages to seek an investigation into official misconduct for the greater good. Primary concern is *public welfare and safety of citizens*. It is Skidmore who assumes investigations may lead to criminal charges, as well would any good Union Business Agent attempting to protect a state bargaining unit member from charges of perjury from actions as a state worker.

What does the word *Directly* mean?

Oposing parties are now down to debating use of the word *directly*. Meade claims there has never been a citizen's right to go *directly* to the grand jury for petitioning an investigative grand jury. In public presentations Meade appeared particularly upset that a citizen would go to the grand jurors when the attorney general has denied petitions reaching the grand jury in the past.

But the founders who wrote the *AK Constitution* saw it as civic obligation by design, to expect any citizen to provide any sitting grand juror with evidence of official misconduct. Whether stranger or neighbor—a grand juror has the legal duty, obligation, and expressed expectation of the founding fathers to provide such evidentiary materials to grand juries.

Of course, findings of wrong doing by public officials can get out of the State's control quickly, as it has in recent years. Hence the rush to pass SCO 1993.

According to counselor Meade, *The (Alaska) Supreme Court took note of the fact that around the state in 2022, there were three different citizens who wanted an investigation of grand juries as allowed by the Constitution, but there were no procedures in place for where they would go and how that investigative grand jury would be conducted.*

No Procedure was their Excuse to Suspend the Process

During a meeting with these collaborating court/administration officials, one **Kenai Borough Assembly** member from Homer, **Lane Chesley** warned Skidmore and Meade of the fallout of making major constitutional changes to grand jury rights for what is essentially administrative housekeeping:

I just wanted to say, after listening to hours and hours and hours and hours of public testimony on this issue ... that you have a real crisis of confidence in your court system here, Chesley said. I just encourage you to take that seriously. If I can do anything on behalf of all the people who come here to testify, it's to share with you how serious it is, how important they take it, and how they're really, really struggling to have their voice heard.

Skidmore and Mead Articulated the Union Position

Let's take a look at what the word *directly* means in law, and the argument made by Meade. She stated that Alaska lacked a process to handle the three citizen complaints mentioned above—an exposure of the revealed intentions of the **State of Alaska**, among others, to replace the grand jury entirely with bureaucratic Administrative Hearings.

What is Statute Construction and Interpretation?

According to **Cornell Law**, *statutory construction is the process of determining what a particular statute means so that a court may apply it accurately; also known as statutory interpretation.*

[7] Cornell Law. Statutory Construction.

A judge shall interpret laws for their true meaning when there is any ambiguity in language. *Statutory construction begins with looking at the plain language of the statute to determine its original intent. To determine a statute's original intent, courts first look to the words of the statute and apply their usual and ordinary meanings.*

Counsel Meade claimed there was never a right to petition a grand jury investigation **directly**. The plain language of **directly**, with no other stipulations, would be interpreted thus by Blacks Law Dictionary, 10th Edition: **directly, adv. 1. In a straightforward manner. 2. In a straight line or course. 3. Immediately.**

Directly is not a weasel word.

The Debate of *Directly*

A long-standing precedent exists:

Where from the generality of terms of description or for any other reasonable doubt arises that doubt is to be resolved against the operation of the law in favor of the voter. (Reconstruction Act, 12 U.S. Op. Attorney General, 141, 160 (1867)).

According to the **Rules of Statutory Interpretation**, if there is an unclear statute, the courts attempt to ascertain the intent of the legislation's authors, by looking at legislative history and other related sources. Procedure for grand jury hearings and rules comes from a combination of statutes, agency regulations, and legal precedence, aka, stare decisions.

Rights of *We The People*

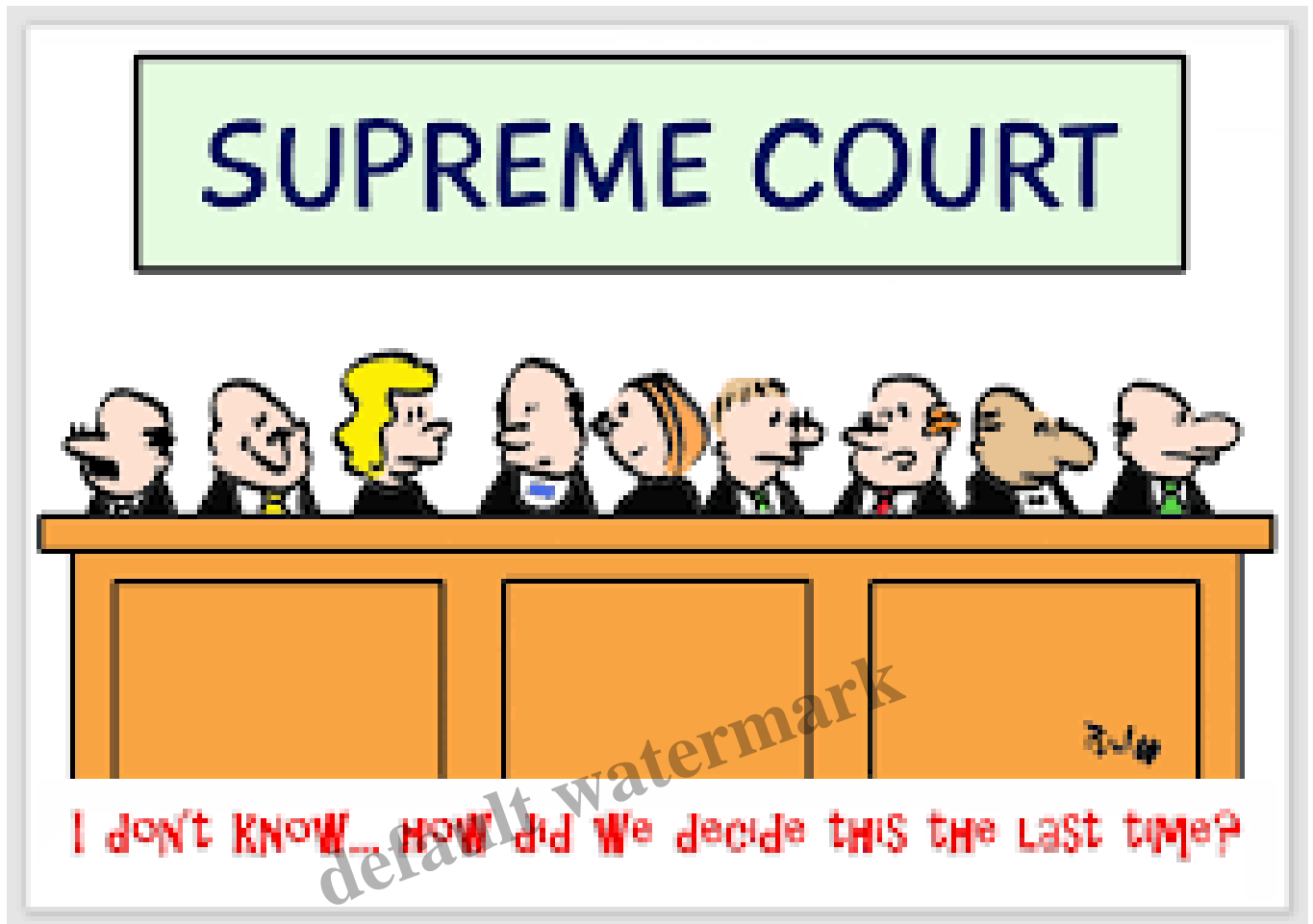
Senior English judge, Sir John Laws, stated the principles as: ***For the individual citizen, everything which is not forbidden is allowed; but for public bodies, and notably government, everything which is not allowed is forbidden.*** (Laws, October 2, 2017)

Statutory interpretation requires the Court to assume the intentions of the authors of a law. Therefore, we should rely on the intentions of the 55 Delegates who wrote ***Alaska's Constitution***. Not a single delegate opposed the following: ***The Grand Jury can be appealed to directly, which is an invaluable right to the citizen.***

[8] Alaska Constitutional Convention transcript page 1328.

While admittedly political Progressives, the founders never considered the possibility that public officials would be exempt from Grand Jury Investigation in favor of a negotiated administrative process like all other state workers.

Lacking Process?



Stare Decisis

Given where procedures are developed—combination of statutes, agency regulations and stare decisis The **Attorney General Handbook** delegates authorities and duties of that appointed position, including as an *intake officer*. Counsel Meade admitted the AG has received letters in the past from citizens petitioning the grand jury.

The AG's duty as a prosecuting attorney is outlined in AS 12.40.070.

In fact, according to Alaska's **Original Grand Jury Handbook**, four ways are possible for crime to come to the grand jury's attention.

1. The Court.
2. A prosecutor.
3. From personal knowledge, or from others.
4. By private citizens heard by the Grand Jury in formal session, with the Grand jury's consent

Multiple Alaska grand jury investigations since statehood have established a process for complaints. Based on research, due process is the most prevalent complaint of State officials during grand jury investigations. Now the **AK Supreme Court's** newly established *public official business agent attorney general* will assume that function.

Protecting Wrongdoing with Complex Procedures

Criminal Rule 6.1 created hurdles and unnecessary steps to petition the grand jury for official investigations. The rules are not “least restrictive” to further the statutes purpose of serving the public welfare and safety. The true end goal is obviously to eradicate use of the grand jury except by permission of the appointed Attorney General.

According to the *Anchorage Daily News*, during the impeachment of Gov. William Sheffield, Jr., his (appointed) chief of staff, John Shively, was given immunity to report the Governor’s questionable actions. This immunity prevented Shively’s prosecution after he admitted to throwing away evidence. A prosecutor can sadly be persuaded to give immunity to specific people that may benefit the prosecutor personally or politically.

[9]Old Time Alaska Corruption; the failed Impeachment of William Sheffield, DONN LISTON, December 2019.

Both sides of the grand jury’s validity agree the prosecutor’s personal and political interest might lead him to abuse his position. Regardless, those who want to abolish the grand jury call for grand jury powers to be transferred to the prosecutor. Alaskans opposing SCO 1993 and insisting on adherence to the Constitution call for MORE independence of the grand jury.

Banana Republic Alaska Courts are suffering a crisis of confidence among Alaskans from these self-serving shenanigans.

Meet the *Dunleavy* Supreme Court



Alaska Supreme Court Justices

Front Row (L-R): Justice Susan M. Carney, Chief Justice Peter J. Maassen, Justice Dario Borghesan

Back Row (L-R): Justice Jennifer S. Henderson, Justice Jude Pate

The Petition calling for investigation into Alaska Court System Corruption is here:
<https://alaskagrandjurorsassociation.org/petition/?fbclid=IwAR2oFxSVgyYkmxq4Ox2S-WyvieJdhi5HAJzsnRklwSPGUJhrVeZ2YQMBks>



Jessica Pleasant is a disabled **US Militant**. She first came to Alaska with her son from Tennessee, where she had obtained a **Life Sentence** from that state's courts, against her ex-husband. She moved to Alaska and again initiated violence against her son in the **AK Courts**, as she suffered mental health issues. **Superior Court Judge Yvonne Lamour** ruled in favor of the mother/son, but all have been convicted.

Read the story here!

<https://donnliston.co/2023/11/how-alaska-court>

[How Alaska Courts FURTHER Damage Children In Broken Families](#)

References and Notes of Interest:

[1]Anchorage Daily News, January 8, 2023: State court hears arguments to dismiss rare grand jury indictment against retired judge
<https://www.adn.com/2024/01/08/state-court-hears-arguments-to-dismiss-rare-grand-jury-indictment-against-retired-judge/>

[2]Employment At-Will; Due Process and Just Cause

Just Cause Dismissal

[https://content.next.westlaw.com/practical-law/document/1073b9c5288e811ec9f24ec7b211d8087/Just-Cause?viewType=FullText&transitionType=Default&contextData=\(sc.Default\)#:~:text=A%20%22just%20](https://content.next.westlaw.com/practical-law/document/1073b9c5288e811ec9f24ec7b211d8087/Just-Cause?viewType=FullText&transitionType=Default&contextData=(sc.Default)#:~:text=A%20%22just%20)

A “just cause” dismissal (also referred to as “dismissal for cause” or “summary dismissal”) is the termination of employment initiated by the employer in response to employee misconduct that is so serious that it either:

Violates an essential condition of the employment contract.

Breaches the trust or faith inherent in the working relationship.

Is fundamentally or directly inconsistent with the employee’s obligations to the employer.

Due Process

Among the lesser-known rights held by each American citizen is the right to [due process](#). This right pertains to how the government cannot take away a citizen’s life, liberty, or property interest without giving them notice and a fair hearing.

The right to due process is enshrined in the [Fourteenth Amendment](#) to the U.S. Constitution. The right to due process often comes up when the [government needs to take someone’s property](#) for public use. However, from time to time, government employees have a property interest in their jobs and are entitled to due process before they can be fired.

This typically comes into play when there is a disciplinary action taken against a government employee whose employment terms are spelled out in a contract. This is often the case when that contract is negotiated by a union. In most states, private employment is considered “[at will](#),” which means that the employer may terminate employment at any time for any reason without due process.

When is a Government Employee Entitled to Due Process?

Not every government employee has a right to due process. The right only exists when the employee has a property interest in their job. For example, a public employee who doesn't have a contract or a legitimate claim of entitlement is typically not entitled to due process. An employee will also typically not have due process rights during the probationary or trial period of their employment.

[3]Alaska OCS Crisis; Parents are Pursuing Accountability
<https://donnliston.net/2022/11/alaska-ocs-crisis-parents-pursuing-accountability/>

[4]Kenai Court Judges Jennifer K. Wells & William F. Morse: "Never Mind the Alaska Constitution..."
July, 2022
<https://donnliston.net/2022/07/kenai-court-corruption/>

[5] AK Court System SCO 1993
<https://courts.alaska.gov/sco/docs/sco1993leg.pdf>

[6]1975 ML Rubenstein Grand Jury Operation and Tentative Recommendations
<https://www.ojp.gov/ncjrs/virtual-library/abstracts/grand-jury-alaska-tentative-recommendations-judicial-council>

[7] Cornell Law. Statutory Construction.
https://www.law.cornell.edu/wex/statutory_construction

[8]AKLEG.gov; Alaska Constitutional Convention transcript page 1328.

[[9]Old Time Alaska Corruption; the failed Impeachment of William Sheffield, DONN LISTON,
December 2019.
<https://donnliston.net/2019/12/alaska-corruption-and-failed/>

Principles of Interpretation of Statutes

1. Purpose of the statute
2. Intention of law authors.
3. Is the statute capable of being implemented?
4. If a meaning of a word is clear and unambiguous the effect must be given regardless of the outcome. Also known as The **Literal Rule of Interpretation**.
5. The process of construction should be the combination of the literal and opposite approach.
6. If the literal construction leads to absurdity, the construction must be shifted to another Interpretation.
7. If two or more than two provisions of the same statute are conflicting with each other in that situation the court will try to construe the provisions in such a way to give the effect for both the provisions by maintaining the harmony between both the laws.

Alaska Criminal Rule 6.1(a)(3): "[T]he issue involves a matter of general importance to a large number of people rather than to an individual or small group of individuals "

"An issue that concerns primarily a private matter than one that concerns the general public is not

generally an issue concerning the public welfare or safety within.”

Alaska Commentary to Criminal Rule 6.1(c)(1)(e): Subpoenas; Evidence; Proceedings:

“While conducting an investigation and preparing a report concerning the public welfare or safety as described in this rule, a grand jury may issue a subpoena to compel testimony from witnesses or to compel the production of documents only with the approval of a majority of the grand jurors, after due consideration of the reasonableness of the proposed subpoena, the necessity of the anticipated testimony or documents, and the anticipated burden on and inconvenience to the recipient of the subpoena. If the prosecuting attorney reasonably believes that a subpoena approved by a majority of grand jurors was not approved in good faith, would be unreasonably burdensome on the recipient, is not reasonable, or is not necessary, the prosecutor may, without consent from or authorization by the grand jury, inform the superior court and seek a judicial determination whether the subpoena shall issue.”

In *US v. Amazon Indus. Chem. Corp.*, 55 F.2d 254, 261 (D. Md. 1931) discussed policy concerns with the Secrecy Rule::

- A. To prevent the escape of those whose indictment may be contemplated;
- B. To insure the utmost freedom to the grand jury in its deliberation, and to prevent persons subject to indictment or their friends from importing the grand jurors;
- C. To prevent subordination of perjury or tampering with the witnesses who may testify before the grand jury and later appear at the trial of those indicted by it;
- D. To encourage free and untrammelled disclosures by persons who have information with respect to the commission of crimes;
- E. To protect the innocent accused who is exonerated from disclosure of the fact that he has been under investigation and from disclosure of the fact that he has been under investigation, and from the expense of standing trial where there was no probability of guilt.”

Sources

1. O’Hara, Ashlyn. (March 15, 2023). State Officials Clarify Grand Jury Role. Peninsula Clarion. Retrieved on December 15, 2023.
<https://www.peninsulaclarion.com/news/state-officials-clarify-grand-jury-role/#:~:text=Investigative%20grand%20juries%2C%20he%20said,%2C%E2%80%9D%20the%20A>
2. Supreme Court Order 1993
3. Alaska Criminal Rule 6.1

[6]Rubinstein, M.L.. (1975,

“This procedural rule is not the least bit deferential to the “anti-suspension” clause. Indeed, it mocks it...Its constitutional power shall never be suspended by the overlay of cumbersome procedures which provide for private, judicial adjudication and review of whether the report is to publish adversely reflects on someone, or otherwise violates his or her constitutional right.” (O’Leary v. Supreme Court)

Category

1. Alaska Courts

2. Alaska Elected Officials
3. Alaska Legislature
4. ALASKA! GOVERNMENT
5. Kenai Peninsula Activism

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