

Haeg does not provide any further information that describes the alleged crimes that these persons committed. Nor does he provide any description of the information that Southwell wanted to present the grand jury.

The authority of the grand jury is defined by the Alaska Constitution, Alaska statutes, and the Rules of Criminal Procedure. Article 1, section 8 of the Alaska Constitution provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused. In that case the prosecution shall be by information. The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return an indictment. 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 provides:

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.

The grand jury has two basic functions. It may investigate alleged crimes and, under certain circumstances, charge citizens with crimes. Its second function is to investigate and make recommendations about the public welfare and safety. The Court construes Haeg's petition to be a request that the grand jury exercise either or both functions. Thus he seeks to have the grand jury either issue

a criminal indictment, charging persons with crimes, and/or issue a report concerning the public welfare or safety.

Haeg appears to be requesting that Southwell be permitted to present his information to a grand jury. He also seeks to have an independent counsel assist the grand jury. He identifies Henry F. Schuelke as the person to play this role. Haeg provides no other information about Schuelke.

It is the prosecutor's responsibility to bring to the grand jury allegations of criminal activity.² Prosecution of crimes is an executive branch function. The judiciary does not have the authority to charge a person with a crime or to initiate a criminal presentation to the grand jury.

The Court will forward Haeg's petition to Robert Henderson, the deputy attorney general of the criminal division of the Department of Law for his consideration. Henderson may consider whether to seek a criminal indictment or have the grand jury evaluate Haeg's petition to determine if it wants to investigate his allegations of harm to the public safety or welfare. The grand jury may elect not to charge any person or may elect not to investigate the allegations of harm to the public safety or welfare. If it undertakes an investigation, it may identify witnesses that it would like to hear from but need not. Whether or not it issues a report is for the grand jury to decide.

² AS 12.40.070 and Criminal Rule 6(i) (prosecuting attorney shall prepare indictments and presentments to the grand jury).

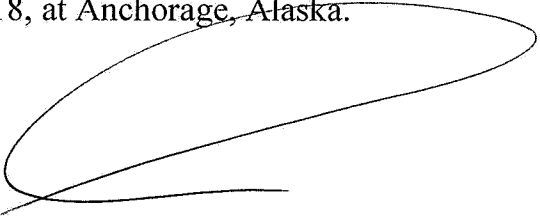
Among Haeg's apparent allegations is that one or more prosecutors is corrupt. That is something the Department of Law might investigate. Or the Attorney General or her designee might determine that an independent counsel should be appointed.

Haeg has not pointed to any source of authority that would empower the judiciary, in general, or a presiding judge, in particular, to appoint an independent counsel to present his or Southwell's allegations to the grand jury. Assuming, only for the purposes of this discussion, that some judge might have that authority in appropriate circumstances in order to avoid any conflict the Department of Law might have, the Court is unwilling to exercise that authority on the present record.

Haeg makes only the most skeletal allegations of unspecified wrongdoing by named and unnamed persons. These allegations are supported by absolutely no evidence in the petition. Far more than this is required for the Court to exercise any authority it might have to appoint independent counsel for the grand jury.

The Court will take no further action on the petition and will close the file.

DONE this 16th day of May 2018, at Anchorage, Alaska.




William F. Morse
Superior Court Judge

CERTIFICATE OF SERVICE

I certify that on 16 May 2018
a copy of the above was emailed/mailed to each of the
following at their addresses of record:

R. Henderson

D. Haeg
PO Box 123
Soldotna AK 99669



Ellen Bozzini
Judicial Assistant

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