

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1444

Amending Criminal Rule 16(c)(6)  
concerning disclosure of physical  
evidence by the defense.

IT IS ORDERED:

Criminal Rule 16(c)(6) is amended to read:

(6) *Physical Evidence.* ~~Defense counsel shall turn over to the prosecutor any physical evidence of the offense received by counsel. If defense counsel or defense counsel's agent acquires physical evidence of the offense, defense counsel must immediately notify the prosecutor and must make arrangements to turn over the evidence to the prosecutor within a reasonable time. Differences concerning what amount of time is "reasonable" shall be resolved by the court. Defense counsel must not test or substantively alter the evidence, unless defense counsel has first notified the prosecutor and given the prosecutor a reasonable opportunity to seek court action. If the physical evidence is received from the client or the client's agent or acquired as a direct result of information communicated by the client, defense counsel may not be compelled to provide any information concerning the source of the evidence or the manner in which it was obtained. In such cases, the prosecutor may not reveal the source of the evidence to the jury. If the physical evidence is not received from the client or the client's agent or acquired as a direct result of information communicated by the client, defense~~ Defense counsel shall must reveal the manner in which the

physical evidence was obtained all information concerning the manner in which the evidence was obtained and handled unless that information is otherwise privileged. When physical evidence is disclosed by the defense, the prosecutor cannot reveal to the jury that the evidence was obtained from the defense.

DATED: May 24, 2001

EFFECTIVE DATE: October 15, 2001

/s/

Chief Justice Fabe

/s/

Justice Matthews

/s/

Justice Eastaugh

/s/

Justice Bryner

/s/

Justice Carpeneti