§ 210.30 Motion to dismiss or reduce indictment on ground of insufficiency of grand jury evidence; motion to inspect grand jury minutes.

1. A motion to dismiss an indictment or a count thereof pursuant to paragraph (b) of subdivision one of section 210.20 or a motion to reduce a count or counts of an indictment pursuant to subdivision one-a of section 210.20 must be preceded or accompanied by a motion to inspect the grand jury minutes, as prescribed in subdivision two of this section.

2. A motion to inspect grand jury minutes is a motion by a defendant requesting an examination by the court and the defendant of the stenographic minutes of a grand jury proceeding resulting in an indictment for the purpose of determining whether the evidence before the grand jury was legally sufficient to support the charges or a charge contained in such indictment.

3. Unless good cause exists to deny the motion to inspect the grand jury minutes, the court must grant the motion. It must then proceed to examine the minutes and to determine the motion to dismiss or reduce the indictment. If the court, after examining the minutes, finds that release of the minutes, or certain portions thereof, to the parties is necessary to assist the court in making its determination on the motion, it may release the minutes or such portions thereof to the parties. Provided, however, such release shall be limited to that grand jury testimony which is relevant to a determination of whether the evidence before the grand jury was legally sufficient to support a charge or charges contained in such indictment. Prior to such release the district attorney shall be given an opportunity to present argument to the court that the release of the minutes, or any portion thereof, would not be in the public interest. For purposes of this section, the minutes shall include any materials submitted to the grand jury pursuant to subdivision eight of section 190.30 of this chapter.

4. If the court determines that there is not reasonable cause to believe that the evidence before the grand jury may have been legally

insufficient, it may in its discretion either (a) deny both the motion to inspect and the motion to dismiss or reduce, or (b) grant the motion to inspect notwithstanding and proceed to examine the minutes and to determine the motion to dismiss or reduce.

5. In any case, the court must place on the record its ruling upon the motion to inspect.

6. The validity of an order denying any motion made pursuant to this section is not reviewable upon an appeal from an ensuing judgment of conviction based upon legally sufficient trial evidence.

7. Notwithstanding any other provision of law, where the indictment is filed against a juvenile offender or adolescent offender, the court shall dismiss the indictment or count thereof where the evidence before the grand jury was not legally sufficient to establish the offense charged or any lesser included offense for which the defendant is criminally responsible. Upon such dismissal, unless the court shall authorize the people to resubmit the charge to a subsequent grand jury, and upon a finding that there was sufficient evidence to believe defendant is a juvenile delinquent as defined in subdivision (a) of section seven hundred twelve of the family court act and upon specifying the act or acts it found sufficient evidence to believe defendant committed, the court may direct that such matter be removed to family court in accordance with the provisions of article seven hundred twenty-five of this chapter.