

WITNESS IMMUNITY¹

_____, a witness for the State, has testified that (he/she) has been granted immunity in return for his testimony.

What do we mean by immunity? Generally in any criminal proceeding before a court or Grand Jury a person may refuse to answer a question or produce evidence of any kind on the ground that (he/she) may be incriminated thereby, if there is a basis for (his/her) refusal. In New Jersey we have a law whereby under certain conditions the court may order the witness to testify, and the witness may not refuse to comply with the order on the basis of (his/her) privilege against self-incrimination. However, none of (his/her) testimony or any information derived directly or indirectly from (his/her) testimony which was compelled by the court order may be used against the witness in any criminal case, except, as with any other witness, a prosecution for perjury or for giving a false statement.

The fact that the witness has been granted immunity with respect to any testimony which might incriminate (him/her) is a factor which you should consider in evaluating (his/her) testimony and in determining the weight you will give to the testimony. The testimony of such a witness should be given careful scrutiny. In weighing (his/her) testimony, therefore, you may consider whether in order to obtain the immunity for (himself/herself), (he/she) is telling a lie to you or whether, having been granted immunity, (he/she) is telling the truth.

If you believe this witness to be credible and worthy of belief, you have a right to accept (his/her) testimony in the same manner as any other witness' testimony.

It is important that you understand, however, that the immunity granted the witness is not immunity from prosecution, but simply immunity from the use of (his/her) testimony against (him/her) in a criminal proceeding. In other words, what (he/she) is saying in court or any information derived directly or indirectly from what (he/she) says in court may not be used

¹ N.J.S.A. 2A:81-17.3 as amended and eff. May 7, 1973. P.L. 1973, c.112.

NOTE:

Young v. Paterson, 132 N.J. Super. 170 (App. Div. 1975) holds that a Grand Jury witness, granted immunity pursuant to N.J.S.A. 2A:81-17.3, is not immunized in connection with a civil departmental hearing pertaining to or involving the offense which was the subject matter of his grand jury testimony.

In re Addonizio, 53 N.J. 107 (1968); State v. Sotteriou, 123 N.J. Super. 434 (App. Div. 1973).

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against (him/her) in a criminal proceeding by the State, but the State is not precluded from prosecuting (him/her) for a crime on other evidence that is not derived directly or indirectly from (his/her) evidence given here in court.