

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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ACTING ADMINISTRATIVE DIRECTOR
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Directive # 23-06

[Questions or comments may
be directed to 609-292-2634.]

**To: Assignment Judges
Trial Court Administrators**

From: Philip S. Carchman

Subject: Grand Jury Standards -- Implementation and Questionnaire

Date: December 22, 2006

This Directive promulgates the attached Grand Jury Standards for statewide use, as approved at the October 18, 2006 Judicial Council meeting.

The Grand Jury Standards, developed by the Committee for Jury Management for the Conference of Operations Managers/ATCAs and the Administrative Council, complement the earlier Jury Management Standards promulgated by then Administrative Director Richard J. Williams by memorandum dated May 20, 2004. The Grand Jury Standards address practices that are solely within the grand jury area, including the term of service, orientation requirements, a uniform secrecy oath (required by Rule 3:6-7) for Judiciary staff who attend grand jury sessions, and a standard grand jury charge (previously promulgated by Directive #12-06). The Standards set forth the tasks and responsibilities of grand jury clerks and requires the development of uniform training for that position. Additionally, the Grand Jury Standards include requirements relating to providing interpreters for witnesses and making the record of grand jury proceedings. Attached to the Grand Jury Standards are the following five documents:

- Attachment 1 -- Grand Juror Initial Orientation
- Attachment 2 -- Orientation for Sitting Grand Jurors
- Attachment 3 -- Standard Grand Jury Charge
- Attachment 4 -- Standard Supplemental Charge -- Presentments
- Attachment 5 -- Grand Jury Oath of Secrecy

Most vicinages already comply with many of the practices required by the Grand Jury Standards, e.g., terms of grand jury service. Some standards, however, such as the new grand juror orientation package and the annual oath of secrecy for Judiciary staff, are new to most vicinages. Thus, each vicinage will need to examine its current practices in order to determine the changes that will be required locally to implement these standards.

In order to determine the level of statewide implementation, I am asking that each Assignment Judge/Trial Court Administrator complete and return the attached questionnaire, including details of your plans to address any areas not currently in compliance with the Standards. The questionnaire covers as well the several grand jury areas included in the previously promulgated Jury Management Standards, e.g., the requirement that grand jury proceedings be conducted in a Judiciary facility. Please submit your completed implementation questionnaire to me by February 1, 2007.

Thank you for your continuing leadership in the Judiciary's ongoing standardization efforts, both in the grand jury area and overall. Any questions or comments about the Grand Jury Standards may be directed to Michael F. Garrahan, Jury Management Services, at 609-292-2634.

P.S.C.

Attachment

c: Chief Justice James R. Zazzali
Criminal Presiding Judges
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Criminal Division Managers
Operations Division Managers
Marilyn C. Slivka, Manager, Special Programs
Michael F. Garrahan, Manager of Jury Programs
Jury Managers
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

GRAND JURY STANDARDS

Standard 1. Selection / Term of Service

The term of grand juror service shall be established by the Assignment Judge. That term shall not be more than one day a week for 20 weeks (or the equivalent number of days where grand jurors serve two days per week). The term that is established should require that citizens, in accomplishing the important functions of the grand jury, serve as few days of grand jury service as is practical.

Comment: Grand jurors are to be randomly selected from the source list in the same manner as petit jurors, using the Jury Automated System (JAS). Rule 3:6-10 provides that the term of service shall not be longer than 20 weeks unless the Assignment Judge orders it to be extended. Assignment Judges are encouraged to authorize a shorter term of service where practical which will reduce the inconvenience on jurors while also allowing more citizens to serve as grand jurors. Additionally, “alternate grand jurors” should not be selected because: (1) Rule 3:6-1 requires the Assignment Judge to organize grand juries “...not to exceed 23 members...,” (2) the grand jury can act without its full complement of grand jurors (twelve jurors are needed for a quorum); and (3) grand jurors can be replaced at a later time, if needed.

Standard 2. Background Checks on Grand Jurors

Where the prosecuting authority advises the Judiciary of its interest in conducting criminal background checks on grand jurors, the Judiciary shall provide a list of jurors, with appropriate identifying information, for that purpose.

Comment: The Judiciary shall not conduct criminal background checks of grand jurors other than as indicated by an individual grand juror’s responses to qualification questions. However, if the prosecutor advises the Judiciary of his or her interest in conducting such checks, the Judiciary shall provide juror information sufficient for that purpose – in a uniform manner. Where the prosecutor has concerns about a grand juror’s qualifications to serve, based on a check that was conducted or upon other information, the prosecutor shall so advise the supervising judge so that the judge can determine whether that person is qualified to serve as a grand juror. The Judiciary shall determine the best method by which to notify any jurors determined to be not qualified.

Standard 3. Grand Juror Orientations

The Jury Manager or the clerk to the grand jury shall present a uniform grand juror orientation to provide the prospective grand jurors an overview of the selection process, an understanding of the work of the grand jury, and the importance of the grand jury to the criminal justice system. In addition, those selected as sitting grand jurors also shall receive an orientation concerning any county-specific information relating to their service.

Comment: The purpose of the brief orientation to all prospective grand jurors is to educate them regarding the history, function, and importance of grand juror service and about the selection process. This effort, before the prospective grand jurors participate in the selection process, may make them more willing to serve. The standard text for this orientation is set forth in Attachment 1 to these Standards, “Grand Juror Initial Orientation.”

The orientation for sitting grand jurors shall address items such as attendance procedures, hours of service, and absentee reporting procedures. It shall be uniform with regard to the items contained therein but necessarily different with respect to the specifics regarding the individual counties. The items to be addressed in the orientation are provided in an accompanying document that is attached to these Grand Jury Standards (Attachment 2, entitled Orientation for Sitting Grand Jurors).

The information provided to grand jurors in these orientations must be coordinated with the information provided in the uniform grand jury charge so that all relevant information is provided but without unnecessary repetition.

Standard 4. Charging the Grand Jury

A uniform grand jury charge shall be used in all counties. A printed copy of the Grand Jury charge shall be provided to grand jurors by the supervising judge in accordance with Rule 3:6-3(b).

Comment: The uniform grand jury charge instructs grand jurors regarding their duties. The uniform charge, promulgated by Directive #12-06 (July 20, 2006) after approval by the Conference of Assignment Judges, consists of two parts: (1) the Standard Grand Jury Charge (appended here as Attachment 3), and (2) Standard Supplemental Charge for Grand Juries Regarding Presentments (appended here as Attachment 4). The standard charge shall be provided verbally by the Assignment Judge or a judge designated by the Assignment Judge prior to the first grand jury session. Grand jurors shall be provided with a printed copy of the standard charge before considering any grand jury matter. The intention is to provide the grand jurors with the printed charge prior to the charge being given by the judge so that they can read along as they are being charged. The

supplemental charge regarding presentments will be provided by the Assignment Judge only when a sitting grand jury indicates that a presentment is possible. Instructing the grand jurors in that way will ensure that the presentment information is provided when needed and that the grand jurors have a context in which to process that additional information.

Standard 5. Clerk to the Grand Jury

The Jury Manager shall supervise the clerk(s) to the grand jury, and grand jury staff shall be located in the Operations Division. The clerk(s) to the grand jury shall perform uniform duties consistent with constitutional and statutory requirements, the Rules of Court, and Judiciary policies.

Comment: New Jersey statutes and the Rules of Court set specific duties for the clerk to the grand jury. Jury Managers shall supervise the grand jury clerks as they perform those duties. In order to be able to function as a member of the Jury Management Office, the grand jury clerk shall be trained in, and capable of operating the Judiciary's automated jury management system (JAS). The uniform duties and responsibilities of grand jury clerks are listed below. The grand jury clerks shall not perform non-Judiciary functions.

Grand Jury Clerk Duties

Grand jury is a Judiciary proceeding and the grand jury clerk, or Judiciary staff person performing that role, is responsible for the tasks noted below. The responsibilities listed below refer specifically to the grand jury clerk and do not include the Jury Manager responsibilities relating to summoning, qualifying, and communicating with grand jurors during that phase and also do not include the duties relating to the first day selection process at which the twenty-three grand jurors are selected to serve.

Pre-Session Responsibilities

- Prepare grand juror orientation materials
- Conduct grand juror orientation
- Provide grand jurors with copy of grand jury charge
- Prepare list for criminal background checks, if requested by prosecutor
- Ensure that court interpreters/ADA assistance is provided where required
- Prepare voting slips
- Take attendance/prepare sign-in sheet
- Communicate with prosecutor's office regarding dates, questions, any "housekeeping" matters, etc.
- Prepare secrecy oaths, other administrative materials

Responsibilities at Grand Jury Session

- Take attendance to ensure that a quorum is present/follow-up on those grand jurors who are absent
- Serve as the Judiciary representative at the grand jury session
- Make the record of the grand jury session
- Prepare the log relating to the grand jury record
- Record each grand juror's vote for each vote taken
- Assist foreperson with documentation relating to the return of indictments to judge in open court
- Assist foreperson/deputy foreperson with required paperwork
- Process materials relating to "no bills," including appropriate notifications in accordance with Rule 3:6-8(b)
- Take any legal issues to the supervising judge

Responsibilities Following Grand Jury Session

- Record grand juror attendance in the Jury Automated System (JAS)
- Track transcript requests, including log of requests
- Maintain tapes and logs
- Prepare reports as required by local supervisors
- Provide appropriate notice to court and prosecutor regarding transcript requests
- Send copy (copies) of presentment in accordance with directions of the Assignment Judge
- Prepare juror materials, including attendance letters, appreciation certificates, etc
- Respond to grand juror questions following completion of their service
- Complete grand juror payment procedures in JAS
- Prepare "failure to appear" materials/follow-up as directed
- Distribute and collect grand juror exit surveys

Other Responsibilities

- Attend statewide meetings as established by the Conference of Operations Managers/ATCAs or Administrative Office of the Courts

Standard 6. Uniform Training for Grand Jury Clerks

All grand jury clerks shall receive uniform training regarding their duties.

Comment: Uniform training for grand jury clerks will help develop uniform grand jury practices and ensure that the grand jury clerks understand their role and responsibilities.

Standard 7. Oath of Secrecy

A uniform oath of secrecy shall be required of anyone who is permitted in the grand jury room, other than witnesses. Those taking the oath of secrecy shall be informed of the statutes prohibiting unauthorized disclosure of grand jury proceedings, including the possible penalties that may be imposed. Judiciary staff required to take the oath of secrecy shall have the oath re-administered annually.

Comment: Other than witnesses, every other person permitted into the grand jury room, including authorized court staff, must take an oath of secrecy regarding the grand jury proceedings. Those taking the oath of secrecy must be informed as to the possible sanctions for violation of the oath. Placing everyone on notice in that regard also indicates the importance of grand juror service. In addition to a maximum 18-month sentence for someone convicted of disclosing grand jury information with the intent to harm another, the statute also sets forth civil penalties that may be sought by the person injured by those actions. The first time an oath of secrecy is administered to Judiciary staff it shall be by the supervising judge of the grand jury, or another judge designated by the Assignment Judge. Thereafter, those staff involved with the grand jury shall have the oath re-administered annually by the Operations Manager or the Jury Manager so that staff are regularly reminded about the importance of the secrecy of grand jury proceedings, with staff receiving a printed version of the oath each time that it is administered. The uniform oath of secrecy is appended to these Grand Jury Standards as Attachment 5.

Standard 8. Interpreters Required for Grand Jury

The Judiciary shall provide interpreters required for grand jury proceedings.

Comment: The grand jury is a Judiciary proceeding. When a witness in a grand jury proceeding needs an interpreter, whether a language interpreter or a sign language interpreter, in order to testify before the grand jury, it is the Judiciary's responsibility to provide the required services. The judge supervising the grand jury shall determine whether an interpreter is required by a witness. It is the responsibility of the prosecutor to advise the supervising judge, either directly or through the grand jury clerk, that he or she believes that an interpreter is required. The supervising judge can also make that determination *sua sponte*. In practical terms, it is the prosecuting authority who locates and prepares witnesses and who therefore is most likely to be in a position to advise that an interpreter is required. The Judiciary is not obligated, however, to provide an interpreter for any sessions that the prosecuting authority may conduct in advance of the witness' testimony before the grand jury.

When a grand juror needs a sign language interpreter in order to be able to serve as a grand juror, it is the Judiciary's responsibility to provide those services. A grand juror

who requires a sign language interpreter most likely will advise the Judiciary of that need on the juror qualification questionnaire.

Standard 9. Making the Record of Grand Jury Proceedings

It is the responsibility of the Judiciary to make the record of grand jury selection as well as the record of all grand jury sessions.

Comment: The grand jury is a Judiciary proceeding. As such, it is the responsibility of the Judiciary to make the official court record of grand jury selection as well as the official court record of sessions at which grand jury testimony is presented. As with other Judiciary proceedings, there must be only one record made of grand jury selection or sessions because to do otherwise may lead to disputes regarding the nature of the official record. The Judiciary has determined that it is the responsibility of the grand jury clerk to make the record of grand jury proceedings.

ATTACHMENT 1

STANDARD TEXT -- GRAND JUROR INITIAL ORIENTATION

YOU HAVE BEEN SUMMONED TO OUR COURTHOUSE FOR THE PERFORMANCE OF ONE OF THE MOST IMPORTANT DUTIES OF CITIZENSHIP – SERVICE AS A GRAND JUROR.

THE FUNCTION OF THE GRAND JURY IS TO DETERMINE WHETHER THERE IS SUFFICIENT EVIDENCE TO ESTABLISH THAT A CRIME HAS BEEN COMMITTED AND THAT THE ACCUSED COMMITTED IT. THE GRAND JURY SERVES AS A SCREENING MECHANISM TO ENSURE THAT BEFORE PERSONS ARE REQUIRED TO STAND TRIAL ON A CRIMINAL CHARGE THERE BE AN ADEQUATE BASIS FOR IT, AND ALSO SERVES TO PREVENT CITIZENS FROM BEING EXPOSED TO THE RIGORS OF A CRIMINAL TRIAL WHEN THE CHARGE IS BASELESS. A GRAND JURY MAY ALSO BRING TO LIGHT, THROUGH A PRESENTMENT, CONDITIONS THAT AFFECT PUBLIC INSTITUTIONS OR THE GENERAL WELFARE OF THE PEOPLE.

THE GRAND JURY AS A PART OF THE CRIMINAL JUSTICE SYSTEM IS AN INSTITUTION OF ANCIENT ORIGIN WHICH HAS EXISTED FOR MANY CENTURIES. IT IS BELIEVED TO HAVE ORIGINATED, IN ITS PRESENT FORM, SOMETIME AROUND THE THIRTEENTH CENTURY, AND IT CAME TO THIS COUNTRY AS PART OF THE ENGLISH COMMON LAW. ITS CONTINUED EXISTENCE IS GUARANTEED BY OUR STATE CONSTITUTION AND THIS CONSTITUTIONAL GUARANTEE IS A RECOGNITION THAT THE GRAND JURY PROTECTS THE RIGHTS OF EVERY PERSON, AND BREATHES THE SPIRIT OF THE COMMUNITY INTO THE ENFORCEMENT OF THE LAW. AS PROSPECTIVE GRAND JURORS, YOU HAVE BEEN RANDOMLY SELECTED FROM THROUGHOUT THE COUNTY TO REPRESENT YOUR FELLOW CITIZENS IN CARRYING ON THIS VITAL FUNCTION. YOUR NAME WAS DRAWN FROM A LIST THAT CONTAINS NAMES OF REGISTERED VOTERS, LICENSED DRIVERS, FILERS OF NEW JERSEY PERSONAL INCOME TAX RETURNS, AND APPLICANTS FOR HOMESTEAD REBATES. IF SELECTED, YOU WILL BRING TO THE GRAND JURY THE ATTITUDES AND EXPERIENCE OF THE CITIZENRY. IN A VERY REAL SENSE YOU WILL FUNCTION AS THE CONSCIENCE OF THE COMMUNITY.

IN ORDER TO SERVE AS A GRAND JUROR, YOU NEED TO MEET THE FOLLOWING QUALIFICATIONS THAT ARE SET FORTH IN NEW JERSEY STATUTES. YOU WERE ASKED ABOUT THESE ON YOUR QUALIFICATION QUESTIONNAIRE THAT YOU RECEIVED WITH YOUR SUMMONS BUT YOU CANNOT SERVE AS A JUROR IF YOU DO NOT MEET EACH OF THESE QUALIFICATIONS. IF ANYONE HAS A QUESTION ABOUT ANY OF THEM, PLEASE SPEAK WITH ME AFTER THIS ORIENTATION:

1. YOU MUST BE A RESIDENT OF _____ COUNTY
2. YOU MUST BE A US CITIZEN
3. YOU MUST BE AGE 18 OR OLDER
4. YOU MUST NOT HAVE BEEN CONVICTED OR PLED GUILTY TO AN INDICTABLE OFFENSE.
5. YOU MUST BE ABLE TO READ AND UNDERSTAND ENGLISH.
6. YOU MUST BE PHYSICALLY AND MENTALLY ABLE TO PROPERLY PERFORM THE FUNCTIONS OF A JUROR, NOTING THAT THE JUDICIARY WILL, WITH ADVANCE NOTICE, PROVIDE REASONABLE ACCOMMODATIONS CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT.

IF SELECTED, A JUDGE WILL FULLY INSTRUCT YOU REGARDING YOUR RESPONSIBILITIES AS A GRAND JUROR.

[BRIEFLY EXPLAIN SELECTION PROCESS IN YOUR COUNTY]

ATTACHMENT 2

ELEMENTS -- ORIENTATION FOR SITTING GRAND JURORS

Welcome

Sign in process for daily attendance

Remind grand jurors of the term of service/number of weeks involved

Schedule -- starting time, approximate times for breaks and lunch, ending time

Restrooms and items such as vending machines, refrigerators, microwaves, lockers, etc.

Screening/security procedures

Parking locations and procedures

Dress code/appropriate attire

Smoking regulations and appropriate smoking locations

Attendance/work letters -- procedures

Emergency contact telephone number/court closing procedures

Emergency evacuation procedures

Judiciary policy regarding cell phones

Juror ID badges -- avoiding contact with others in/near the courthouse

Absence/lateness policies – need to contact Judiciary

Availability of daily calendars – to see if they know anyone listed

Procedures regarding note-taking -- including securing notes, destroying notes

Review voting procedures, quorum, duties of foreperson/deputy foreperson

Note: The grand jury foreperson and deputy foreperson will require further specific orientation regarding their duties, including required paperwork, administering oaths, procedures for returning indictments in open court, confirming appropriate attendance, and the proper procedures to bring a matter to a vote before the grand jury.

ATTACHMENT 3

STANDARD GRAND JURY CHARGE

[Promulgated by Directive #12-06 (July 20, 2006)]

Ladies and Gentlemen:

Welcome to your term of service as Grand Jurors. This charge will inform you of your duties and of the responsibilities of being a Grand Juror as well as the principles of law that govern your deliberations.

This charge contains general instructions concerning the discharge of your duties. The court will always be available to provide additional instructions, and you may request them at any time through your foreperson or your clerk.

I recognize that this experience is new for most of you and that it may be difficult to fully absorb the details of this charge and your oath at this time. However, we will provide you with a copy of this charge and your oath.

The primary function of the Grand Jury is to determine what criminal charges may be brought as a result of cases heard by you, and to determine which matters should not be continued in the criminal justice system because there is insufficient evidence for the charges. Criminal prosecutions do not begin merely because someone accuses another of violating the law. There must be an inquiry made by a Grand Jury before an accused person may be brought to trial. The Grand Jury, does not determine guilt or innocence. That is the responsibility of a petit jury. When a case reaches the Grand Jury, evidence concerning the charge is presented, primarily in the form of sworn testimony, and a vote is taken on whether or not to indict.

If you determine that criminal charges should be brought, you will return an indictment. An indictment is simply a formal writing prepared on behalf of the State of New Jersey setting forth the name of the defendant, the alleged criminal conduct, and specifying the

criminal statute or statutes of this State allegedly violated by that conduct.

The Grand Jury is an independent legal institution. It functions under our Constitution as the representative of the community. It is an arm of the court, not part of the prosecutor's office. The Grand Jury does not assist the prosecutor. The prosecutor assists the Grand Jury.

Individual grand jurors are not permitted to conduct an independent investigation of the alleged charges, such as visiting the crime scene. However, you are not limited in your investigations to matters brought to your attention by the prosecutor. As a group, and as determined by a majority of the grand jurors present, you may decide that conditions exist that warrant investigation because you believe a crime has been committed. In that connection, you are empowered to require the production of evidence, to compel witnesses to appear before you, and to return indictments if the evidence justifies that action. The prosecuting attorney is available to advise you on legal questions and, if necessary, you may request additional instructions from the court.

You may act only on the basis of the evidence you receive. You are not to return an indictment unless the State has presented evidence which together with the reasonable inferences you draw from that evidence, leads you to conclude that (1) a crime has been committed and (2) the accused has committed it. Furthermore, when determining whether to return an indictment, you should not consider the potential punishment in the event of a conviction.

The Grand Jury must ensure that no person is subjected to a criminal charge unless there is an adequate basis for it. It is only when you have received such evidence that an indictment may be returned. If an indictment is returned, further judicial proceedings will be required. The defendant is entitled to a public trial by jury, to representation by counsel, to confront the State's witnesses, to testify or choose not to testify, and to present evidence.

In addition to the power to return an indictment, the Grand Jury, under certain circumstances, may return a presentment. A

presentment is a formal document presented by you to the public in which you report on findings and recommendations as to some aspect of public affairs or to some public evil or condition to which the attention of the community should be directed.

The Grand Jury is an independent investigative body that represents the public and may therefore inquire into matters affecting community morals, health, safety, and general welfare. If the Grand Jury expresses an interest in returning a presentment, the Assignment Judge will be advised and you will receive further instructions.

Your deliberations will be presided over by your foreperson who will administer the oath to witnesses and sign all indictments and presentments. Your deputy foreperson will act in the absence of your foreperson.

The Grand Jury consists of 23 members. Twelve members of the Grand Jury constitute a quorum and the Grand Jury cannot act without a quorum present. The Grand Jury must act as a body; individual jurors have no official authority. Jurors who vote in a case must have been present and have heard all of the evidence presented. Regardless of the number of jurors deliberating and voting in any given case, no person can be indicted and no presentment can be returned unless twelve (12) or more members of the Grand Jury concur.

If the Grand Jurors vote not to return an indictment, the Grand Jury returns what is called a “No Bill” -- meaning that the Grand Jury has determined that there is insufficient evidence to move forward with the criminal charges.

It sometimes occurs that a grand juror has formed an opinion about a case before hearing evidence or may be influenced by a financial or personal relationship to a case, such as being acquainted with a victim, witness, law enforcement officer, a target for possible indictment or anyone else involved in the matter. Because every case must be decided on its own merits, it is inappropriate for your deliberations to be affected by your familiarity with such matters. In such a case you should decide whether or not you should disqualify yourself. If you are not certain whether you should excuse yourself

from a case, you are required to inform the prosecutor, and a judge will decide whether you should hear that case. If disqualified, you may return to hear other cases.

The Grand Jury must arrive at its conclusions without any outside intervention, including the intervention of the prosecutor, who may not participate in your deliberations or express views on questions of fact. The prosecutor may not comment on the weight or sufficiency of evidence or attempt to influence or direct your findings. The function of the prosecutor is to guide and assist you with the examination of witnesses, assure proper procedures, assure proper admissibility of evidence, and provide explanations of testimony and evidence with reference to the law applicable in the case based upon the evidence that is presented. If for some reason during your deliberations you do not want the prosecutor or the clerk present, you may ask either or both of them to leave the room, and they must comply. These requests are made by the Grand Jury as a group and are to be determined by a majority of the grand jurors present.

Because of the sensitive nature of the matters that come before you, your proceedings must be completely confidential. You must resist any impulse to enhance your own reputation by passing along “inside” information. Therefore, all of your deliberations and discussions must take place in the grand jury room while the Grand Jury is in session. It is improper for grand jurors to confer or deliberate privately by telephone or otherwise concerning Grand Jury matters.

Each grand juror has the right to expect that what is said to fellow grand jurors during deliberations will remain confidential. In that setting, there must be the utmost freedom of expression and debate, uninhibited by fear that any views or expressions will be revealed to others.

This requirement of secrecy is absolutely necessary to the proper administration of justice. It provides assurance that persons under investigation will have no reason to destroy evidence or place themselves beyond the reach of the court. It protects witnesses

against reprisals or the threat of reprisals. It prevents unacceptable damage to reputations.

Under New Jersey law, any unauthorized disclosure of information concerning Grand Jury proceedings with the intent to injure another is a crime punishable by up to 18 months imprisonment. If you are approached by anyone soliciting information concerning the proceedings before you as Grand Jurors, you are to report such attempts at once to the court.

Likewise, if during your service anyone should attempt to influence you in the performance of your duties, it would be a violation of the law on the part of that person. Bring any such conduct to the attention of the clerk of the Grand Jury immediately, so that those making such an attempt may be dealt with properly.

With one exception, all proceedings of the Grand Jury are recorded. The testimony of witnesses can therefore be made available to the defendant and other authorized persons if an indictment is returned. The comments of the Grand Jurors in their discussions and deliberations with each other are not recorded. The opposite is true of discussions between the prosecutor and the Grand Jurors. They are recorded to ensure that everything the prosecutor says to a Grand Jury may be known to all concerned. The names of grand jurors are not contained in the transcript of the proceedings. For example, if a grand juror asks a question of a witness, the grand juror will not be identified by name.

The Clerk of the Grand Jury will make and keep a record of the vote of each Grand Juror, by name, on each matter presented for consideration, but this record will not be made public except on the order of the Assignment Judge.

Under our law an indictment is not official until it is presented in open court to me or to my designee. Normally, indictments are returned only by the foreperson or the deputy foreperson. If the Grand Jury votes not to indict in a particular case, the "No Bill" is also returned to the court, so that the person charged may be so informed and, if necessary, may be released immediately from custody or bail.

In conclusion, ladies and gentlemen, thank you for accepting this opportunity to serve. I remind you of the importance of your duties. In our country, where the stability of the court rests upon the approval of the people, it is essential that the system for dispensing justice be so conducted and maintained that the public has absolute confidence in its integrity, impartiality, and efficiency. You need only to obey your oath of office to be certain your actions will inspire that confidence. Please give careful and impartial consideration to every matter that is presented. Every case is important. It is important to the individual who may be involved and it is important to the community.

ATTACHMENT 4

STANDARD SUPPLEMENTAL CHARGE FOR GRAND JURIES REGARDING PRESENTMENTS

[Promulgated by Directive #12-06 (July 20, 2006)]

When I charged you at the beginning of your grand jury service, I instructed you briefly about the grand jury's ability to return a presentment and briefly explained how it differed from an indictment or a no-bill. I also informed you that I would instruct you in greater detail should you indicate that you wanted to consider a presentment. I shall now provide that additional instruction.

A presentment is a formal document presented by you to the public to call to the community's attention your recommendations as to some aspect of public affairs or conditions.

The Grand Jury is an independent investigative body that represents the public and may therefore inquire into matters affecting community morals, health, safety and general welfare. In this connection you may inspect and visit public institutions, agencies, buildings, and departments. If you find unsatisfactory conditions that are of such importance that they should be brought to the attention of the public and the officials concerned, you may return a presentment for that purpose.

You may, for example, determine that there are certain conditions in a public office or public institution which demand correction or improvement and which should be revealed to the public for that purpose, even though the evidence does not reach the level of constituting criminal conduct which would normally warrant an indictment. In other words, a presentment generally deals with non-criminal conduct.

To investigate such matters you have the same broad, comprehensive and independent powers previously discussed. In an investigation that may lead to a presentment, you may cause

witnesses to appear before you, and again you are not limited simply to a consideration of matters that are presented to you by the prosecutor.

Unlike an indictment, a presentment is not the beginning of a criminal process and does not result in trials of individuals. A person who is named in a presentment has no defense nor any way of answering the presentment except under very limited technical procedures. For this reason, presentments require the exercise of sensitive judgment on your part, as well as a review by the Assignment Judge before they can be made public. If the public should be made aware of a condition that is caused by the non-criminal misconduct of a public official, that individual may be named and criticized. Before such a presentment seeking censure of an individual is approved, you must be satisfied that the proof of such wrongdoing is conclusive to show that the conduct of the individual is unquestionably related to the undesirable condition reported upon. Criticism of a public official is allowable only where it is closely associated with the need to draw critical attention to the undesirable public condition. It would not be fair to name a person unjustifiably in a presentment and perhaps destroy that person's reputation and standing in the community.

And so, as a matter of fundamental fairness, if you return a presentment naming and censuring a specific individual, it will not be made public until I, as Assignment Judge, obtain and review the full record of the testimony and exhibits and determine that sufficient evidence has been presented to support such charges.

If the Assignment Judge determines that the presentment is proper, it will be filed with the clerk of the court and disclosed to the public. Please be aware that the secrecy provisions relating to your service as a grand juror also prevent you from disclosing any matters relating to a presentment.

**Questionnaire on Implementation of the
Grand Jury Standards**

(Promulgated by Directive #23-06, December 22, 2006)

Please complete and submit to the Administrative Director by February 1, 2007

Standard 1. Selection / Term of Service

The term of grand juror service shall be established by the Assignment Judge. That term shall not be more than one day a week for 20 weeks (or the equivalent number of days where grand jurors serve two days per week). The term that is established should require that citizens, in accomplishing the important functions of the grand jury, serve as few days of grand jury service as is practical.

A. What is your current term of service for seated grand jurors?

___ THE TERM IS ONE DAY A WEEK FOR THE ENTIRE SESSION

___ THE TERM IS OTHER THAN ONE DAY A WEEK FOR THE ENTIRE SESSION. (Please fully describe the term below.)

Standard 2. Background Checks on Grand Jurors

Where the prosecuting authority advises the Judiciary of its interest in conducting criminal background checks on grand jurors, the Judiciary shall provide a list of jurors, with appropriate identifying information, for that purpose.

A. Does the Prosecutor request information so that he or she can conduct criminal background checks on grand jurors?

___ YES

___ NO

B. If the answer to A is Yes, are criminal background checks run on all prospective grand jurors, only those seated as grand jurors, or some other classification of grand jurors?

___ ALL PROSPECTIVE GRAND JURORS

___ ONLY SEATED GRAND JURORS

___ ANOTHER CLASSIFICATION (Please explain below).

Standard 3. Grand Juror Orientations

The Jury Manager or clerk to the grand jury shall provide a uniform grand juror orientation to give the prospective grand jurors an overview of the selection process, an understanding of the work of the grand jury and the importance of the grand jury to the criminal justice system. In addition, those selected as sitting grand jurors shall also receive an orientation concerning county-specific information relating to their service.

A. Are the two orientations specified in Standard 3 currently being provided to grand jurors at this time?

___ YES

___ NO

If your response is No, please provide your plan to come into compliance with this standard, including the anticipated date on which this effort will be completed.

B. Please provide a copy or an outline of your orientation for sitting grand jurors that incorporates the elements set forth in Attachment 2 of the Grand Jury Standards.

Standard 4. Charging the Grand Jury

A uniform grand jury charge shall be used in all counties. A print copy of the Grand Jury charge shall be provided to grand jurors by the supervising judge in accordance with R.3:6-3(b). Note: A uniform grand jury charge was separately implemented by Directive #12-06 (July 20, 2006).

Are grand jurors provided with print copies of the charges as required?

YES

NO

Standard 5. The Position of Clerk to the Grand Jury

The Jury Manager shall supervise the clerk(s) to the grand jury, and grand jury staff shall be located in the Operations Division. The clerk(s) to the grand jury shall perform uniform duties consistent with constitutional and statutory requirements, court rules and Judiciary policies.

A. Does the Jury Manager supervise the grand jury clerk(s)?

YES

NO

B. Are grand jury staff, including the grand jury clerk(s) located within the Operations Division?

YES

NO

C. Does the grand jury clerk perform the duties set forth in this Standard?

YES

NO

Please briefly explain any NO response.

D. Does the grand jury clerk perform any duties that are inconsistent with constitutional and statutory requirements, court rules, and Judiciary policies? If so, please specify those duties and provide your plans for addressing any situations of that kind, including the anticipated date when the grand jury clerk will no longer perform those duties.

Standard 6. Uniform Training for Grand Jury Clerks

All grand jury clerks shall receive uniform training regarding their duties.

The curriculum for grand jury clerk training will be developed. There are no survey questions at this time that relate to Standard 6.

Standard 7. Oath of Secrecy

A uniform oath of secrecy shall be required of anyone, other than witnesses, who is permitted into the grand jury room. Those taking the oath of secrecy shall be informed of the statutes prohibiting unauthorized disclosure of grand jury proceedings, including the penalties that may be imposed. Judiciary staff required to take an oath of secrecy shall have the oath re-administered annually.

A. Are procedures in place that require Judiciary staff who go into the grand jury room to take an oath of secrecy? Please explain a "NO" response.

YES NO

B. Is the standard oath of secrecy, included as Attachment 5 to the Grand Jury Standards, the oath that is administered to Judiciary staff at this time? Please explain a "NO" response.

YES NO

C. Are procedures in place that ensure that those Judiciary staff required to take the oath of secrecy have that oath re-administered annually? Please explain a "NO" response.

YES NO

D. Are those taking the oath of secrecy informed of the statutes prohibiting unauthorized disclosure of grand jury proceedings and the penalties that may be imposed for such actions? Please explain a "NO" response.

YES NO

E. Is the information referred to in Question D provided to Judiciary staff in a printed document? If so, please include a copy with your response.

YES NO

Standard 8. Interpreters Required for Grand Jury

The Judiciary shall provide interpreters required for grand jury proceedings.

Grand Jurors

A. Is the Judiciary providing American Sign Language interpreters for deaf grand jurors when advised of the need for those services?

YES NO NOT APPLICABLE

B. Are American Sign Language interpreter services for deaf grand jurors arranged through your Vicinage Coordinator of Interpreting Services or his or her designee?

YES NO NOT APPLICABLE

C. Are the interpreter services required for grand jurors being reported, which will ensure that they are included in the statistical reports relating to interpreter services?

YES NO NOT APPLICABLE

Grand Jury Witnesses

D. Is the Judiciary providing interpreters for grand jury witnesses when advised of the need for those services?

YES NO NOT APPLICABLE

E. Are interpreter services for grand jury witnesses, whether for ASL or spoken languages, arranged through your Vicinage Coordinator of Interpreting Services or his or her designee?

YES NO NOT APPLICABLE

F. Are interpreter services required for grand jury witnesses being reported, which will ensure that they're included in the statistical reports relating to interpreter services?

YES NO NOT APPLICABLE

Standard 9. Making the Record of Grand Jury Proceedings

It is the responsibility of the Judiciary to make the record of grand jury selection as well as all grand jury sessions.

A. Is grand jury selection done on the record?

___ YES

___ NO

B. Please briefly explain, below, how the record is made and provide the position and title of the person who makes the record.

1. How is the record made?

2. What is the position and title of the person who makes the record?

C. If selection is not done on the record, please report on your plans to achieve compliance with this Standard and the anticipated date by which you expect to complete that effort.

D. What is the position and title of the Judiciary staff person who makes the record of grand jury sessions (those at which testimony is heard and votes are taken)?

ADDENDUM:

In addition to the above questions, as a follow-up to the approved Jury Management Standards (promulgated May 2004), please respond to the following questions regarding implementation of the portion of Jury Management Standard #5 that relates to the location at which grand jury is conducted (shown as underlined, below). Thanks.

**Jury Management Standards [promulgated May 2004]
Standard 5: County Grand Jury Operations**

All Judiciary jury operations, including the supervision of Judiciary grand jury functions and grand jury staff, shall be under the supervision of the Jury Manager. It is recommended that county grand jury operations take place in a court facility, preferably the courthouse.

A. Are grand jury operations conducted in a court facility at this time?

___ YES

___ NO

B. Please identify the facility. _____

C. Where grand jury operations are conducted in the courthouse, please state whether those operations are conducted in an area that is a Judiciary area or an area considered to be within the prosecutor's area of the courthouse.

___ IN JUDICIARY AREA OF THE COURTHOUSE

___ IN THE PROSECUTOR'S AREA OF THE COURTHOUSE

___ NOT APPLICABLE (NOT IN THE COURTHOUSE)

D. If grand jury operations are not currently conducted in a court facility, please provide your plans to comply with this Standard, including the date on which you anticipate being in full compliance with this provision of Jury Management Standard 5.
