

# **Grand Juror Information**

## **THE IMPORTANCE OF THE GRAND JURY**

This handbook is intended for citizens of South Carolina who have been chosen to serve on a county grand jury. It will explain some of the terms, as well as the duties and powers of the grand jury.

Serving on the grand jury is an important responsibility and should be taken seriously and honestly. Grand jurors are watchmen stationed by the law to survey the conduct of their fellow citizens and to inquire where and by whom public authority has been violated or our constitution and laws infringed. A grand jury is an informing and accusing body rather than a judicial trial. It does not try a case nor does it hear both sides. The grand jury's function is to evaluate the evidence presented by the prosecution to determine if an indictment should follow, which is afterwards to be heard and determined in a court of law. However, the grand jury is not part of the solicitor's (prosecutor's) office; it answers only to the court. This independence is important for the grand jury so that they may reach a fair decision. The purpose of the grand jury is to bring to trial persons accused of crimes, upon just grounds, and to protect innocent people from being required to appear in response to improper accusations.

Unlike a state grand jury, which has statewide jurisdiction, a county grand jury is limited to investigating wrongful acts occurring within the county where the grand jury is sitting.

## **THE ORIGIN OF THE GRAND JURY**

The grand jury originated in England during the twelfth century. It was recognized in the Magna Carta, granted by King John in 1215, and can be traced as far back as 1164. The idea of the grand jury was brought to America by the English settlers and, with other concepts of English Common Law, has become a part of the judicial system in this country. It is provided for in the federal judicial system in the Fifth Amendment to the United States Constitution, and most states have created a state grand jury system in their state constitutions. South Carolina provides for grand juries in each county in Article V of the State Constitution, adopted in 1895 and amended in 2003.

## **THE NATURE OF THE GRAND JURY**

The grand jury has two main functions. First, it is the principal body that decides whether a person charged with a serious crime will be tried. In South Carolina, no one can be prosecuted for a crime where the punishment exceeds thirty days in jail or a fine up to five hundred dollars unless the grand jury decides there is good reason for an accusation and a trial, based on evidence presented to it by the prosecution. Only the defendant may waive this requirement.

When the grand jury decides that a case should be tried, its finding is called a TRUE BILL. In order to find a true bill, at least twelve members of the grand jury must agree that probable cause to indict exists after evaluating the evidence. The probable cause determination is a two-step process. First, the grand jury must determine that a wrongful act did, in fact, occur. Second, the grand jury must determine that it is more probable than not that the accused committed the wrongful act. When the grand jury

finds that probable cause does not exist, the finding is a NO BILL, and the case is not presented for trial.

The grand jury should bear in mind that its interest in a case extends only to the decision of whether or not to make someone stand trial, based on the evidence before it. The grand jury does not try cases. Its duties are different from those of a trial (or petit) jury. The grand jury considers only whether there is good reason or sufficient evidence to present a person for indictment and for a trial. When the grand jury finds for a true bill of indictment, it should be careful to refrain from any expression of opinion on the guilt of the person, or any words of condemnation. It is the duty of the trial jury, not the grand jury, to decide guilt or innocence.

No one has the right to approach a grand juror to try to persuade a vote or decision. Anyone doing so should be reported to the solicitor or the judge immediately. When you serve on the grand jury, you are a public official with a duty to follow the law as it is written. Whether you agree with a certain law does not matter. You must perform your duties and make your decisions using the law as a guideline, not your personal feelings. As a public official, you must obey the law as it exists.

The second duty of the grand jury is to perform and make such investigations and recommendations relative to the government affairs in your community as you deem appropriate. With this said, the power of the grand jury to investigate matters as to which no formal charge has been laid before them is narrowly limited. While grand juries have large inquisitorial powers, those powers are not unlimited. The grand jury is an integral part of the machinery of the court, all of which is under the control and direction of the presiding judge.

The grand jury is authorized to employ one or more expert accountants to aid them to examine and investigate the offices, books, papers, vouchers, and accounts of any public officer of their respective counties and to fix the amount of compensation or per diem to be paid therefore, upon the approval of the presiding or circuit judge given before any expert is employed.

If in any general investigation the grand jury encounters facts, which may constitute criminal conduct on the part of any person, the grand jury should immediately consult the solicitor for guidance. Keep in mind that in a presentment reporting on an investigation, the grand jury should not name anyone as responsible for the problem, as they would in an indictment, because the person would not be able to answer the charge as he could in an indictment. All the grand jury can do relating to an investigation is present the facts and suggest a remedy. It is advisable that a grand jury consult the solicitor's office or judge before making any investigation.

### **THE ORGANIZATION/OATH/CHARGE TO THE GRAND JURY**

When you report for service, the court will consider any reason you may have for needing to be excused from duty. This is the time to present any request for being excused.

When all members of the panel are present, you will be taken into court, where the judge will select a foreperson or permit the members to elect a foreperson. The foreperson will preside over the grand jury like a chairman at a meeting and will act as a spokesperson for the group although his vote will be counted the same as the other jurors' votes. An oath or affirmation will be administered to the foreperson and then to the other

members. After that is done, the judge may make a formal address to the grand jury, explaining how to conduct the duties of the panel. This is called the CHARGE TO THE GRAND JURY.

After receiving the charge by the judge, you will go into the grand jury room where evidence in each case will be presented for your consideration.

### COMMON TERMS

**Quorum.** The Constitution of the State of South Carolina states that the grand jury panel will be made up of eighteen members; at least twelve of the eighteen must be present and in agreement before the grand jury can return an indictment or presentment to the court.

**Witnesses.** Most of the work of the grand jury is concerned with hearing witnesses. The witnesses may appear voluntarily, or they may appear at the request of the solicitor or the grand jury, or by subpoena from the court. Typically, the state's witnesses will be listed on the back of the indictment which is given to the grand jury for determination. The grand jury should advise the court of any properly notified witness' failure to appear as requested. Further legal questions may arise as to whether certain evidence to be considered is proper or obtainable. The law of evidence is very technical; therefore the grand jury may look to the presiding circuit court judge or the solicitor's office for legal guidance.

**Indict or dismiss.** When all the evidence has been heard concerning a possible indictment and everyone, except the members of the grand jury have left the room, the foreperson will ask the grand jury to discuss and vote on the question of whether to present the indictment as a true bill or as a no bill. Every grand juror has the right to comment on the evidence and express his views on the matter. After discussion, the grand jury will vote. No indictment may be returned unless at least 12 members agree. The outcome of the vote should be indicated by writing either "True Bill" or "No Bill" on the front of the indictment, accompanied by the foreperson's signature.

### SECRECY

Secrecy in every aspect of the proceedings is very important because:

1. Secrecy protects grand jurors from being subjected to pressure by persons who may be interested in the outcome of the grand jury action.
2. Secrecy may prevent the escape of the persons who are under consideration for an indictment.
3. Secrecy encourages witnesses to speak the truth freely before the grand jury.
4. When an indictment has been dismissed, secrecy protects the innocent from the public disgrace of being accused of criminal activity.

It is imperative that grand jurors not say anything to an accuser's family, friends or to anyone about what took place in the grand jury room. Secrecy should be maintained even after the term of service is over, unless the court says otherwise.

## **PROTECTION OF GRAND JURORS**

The secrecy of the grand jury proceedings is a protection for the grand juror. Being accountable only to the court further protects the grand jury. It is against the law to make any inquiries as to how a grand juror voted or to what he may have said during the discussion of a case. The law gives the grand juror complete immunity for official acts performed while serving on the grand jury.

## **PRACTICAL SUGGESTIONS**

1. Attend the sessions of the grand jury regularly. If you are unable to attend a session of the grand jury, contact the clerk of court or the foreperson of the grand jury, depending on the county, prior to the scheduled date of the session so that an alternate grand juror may be contacted.
2. Pay close attention to the evidence presented.
3. Be courteous to the witnesses and to your fellow jurors.
4. Remember, the hearing is a serious judicial proceeding, and should be handled as such.
5. Listen to the opinion of your fellow jurors, but make your own decisions.
6. Be independent, but not stubborn; try to see other points of view.
7. Be as fair as you can.
8. Remember, all grand jurors have an equal voice and an equal vote.
9. Do not keep silent when a case is being discussed, and then begin to talk about it after a vote has been taken.
10. Do not discuss cases with your fellow jurors out of the grand jury room.
11. If members of the grand jury have questions or run into problems, they should seek assistance from the presiding circuit court judge or the solicitor's office.
12. Your membership on the grand jury is a high honor; you are among a small number of citizens in your community who are chosen to serve on the grand jury. Discharge your duties responsibly.