

Handbook for Virginia Grand Jurors

FOREWORD

This handbook is intended for citizens who have been selected as members of the Grand Jury and are about to report to the court to perform their duties. It does not purport to be a complete statement of the law affecting the Grand Jury and its work. The court itself is the sole authority in its charge to the Grand Jury and in any later instructions, as to these governing principles of law. This handbook merely attempts to give a Grand Juror an understanding of the general nature of his functions, with some practical suggestions as to how best he can carry them out.

In order that each Grand Juror may perform his or her duties as intelligently and efficiently as possible, it is suggested that the contents of this handbook be studied carefully before the term of service begins. Also, this handbook should be kept available for ready reference during the period of service.

1. NATURE OF THE GRAND JURY

1. Types

There are three types of Grand Juries - Regular, Special and Multi-Jurisdiction. A Regular Grand Jury is convened at each term of the Circuit Court of each city and county, to attend to the usual matters needing Grand Jury action. On infrequent occasions a court will convene a Special Grand Jury to investigate some particular matter. Multi-Jurisdiction Grand Juries involve more than one jurisdiction and are primarily used to investigate drug law violations.

2. Function of a Regular Grand Jury

A regular Grand Jury is composed of from five to seven citizens of a city or county, summoned by the Circuit Court of that city or county, to consider bills of indictment and to hear witnesses and determine whether there is probable cause to believe that a person accused of having committed a serious crime did commit the crime and should stand trial at a later date. The Court may summon up to nine people to ensure a sufficient number.

The Grand Jury does not hear both sides of the case and does not determine the guilt or innocence of the accused person. This is determined by a "petit (trial) jury" if and when the accused is tried later. The Grand Jury only determines whether there is probable cause that the accused committed the crime and should stand trial.

3. Function of a Special Grand Jury

A Special Grand Jury is composed of from seven to eleven citizens of a city or county, summoned by a Circuit Court to investigate and report upon any condition which tends to promote criminal activity in the community or by any governmental authority, agencies, or the officials thereof.

If a majority of the regular grand jurors so request, and if the judge finds probable cause to believe that a crime has been committed which should be investigated by a special grand jury, a special grand jury *must* be empanelled to be composed of the grand jurors so requesting and willing and such additional members as are necessary. If a minority so requests, a Special Grand Jury *may* be empanelled.

The function and duties of a Special Grand Jury are set forth in detail in Part III of this Handbook.

4. Importance of the Grand Jury

As Harlan Fiske Stone, late Chief Justice of the United

States Supreme Court, said:

- Jury service is one of the highest duties of citizenship, for by it the citizen participates in the administration of justice between man and man and between government and the individual.
- In time of peace a citizen can perform no higher public duty than that of Grand Jury service. No body of citizens exercises public functions more vital to the administration of law and order.

The Grand Jury is both a sword and a shield of justice—a sword, because it is a terror of criminals; a shield, because it is a protection of the innocent against unjust prosecution. No one can be prosecuted for a felony except on an indictment by a Grand Jury. With its extensive powers, a Grand Jury must be motivated by the highest sense of justice, for otherwise it might find indictments not supported by the evidence and thus become a source of oppression to our citizens, or on the other hand, it might dismiss charges against those who should be prosecuted.

5. Origin

The Grand Jury had its origin more than seven centuries ago in England from which, in large part, this country inherited its legal system. Many legal historians trace its origin to events in the reign of Henry II and to one of the articles of the Constitution of Clarendon in 1164. It was recognized in Magna Carta granted by King John at the demand of the people

in 1215. One of its earliest functions was to protect citizens from despotic abuse of power by the king; its other function was to report those suspected of having committed criminal offenses.

These two functions are carried forward today in the work of the Grand Jury, and its importance in controlling the start of prosecutions for serious crimes is recognized in both the Constitution of the United States and the Constitution of Virginia.

6. Preliminary Criminal Process

(a) Initial Proceedings. A person suspected of having committed a crime is usually arrested and charged in a written accusation called a Warrant or Summons.

Crimes of a serious nature are classified as "felonies," which are punishable by confinement in the penitentiary. Crimes of a less serious nature are classified as "misdemeanors," and are punishable by confinement in jail for a period not to exceed twelve months and/or by a fine not to exceed \$2,500.

A person held on a Warrant is brought to trial in a District Court. The trial is conducted before a judge without a jury. (1) If the judge determines that the accused is not guilty of any criminal offense, he or she dismisses the case. (2) If the judge determines that the accused is guilty of a misdemeanor only, the judge will assess the punishment. (3) If, however, the judge determines that a felony may be involved, the judge will certify (send) the case to the Circuit Court for presentation to a Regular Grand Jury to determine whether there is probable cause to believe that a felony has been committed by the accused person. This procedure is used because a District Court has no authority to try a person for a felony.

The District judge will fix the terms on which the accused may be released on bail while waiting for action on the case in the Circuit Court.

(b) Bills of Indictment. After a case has been certified to the Circuit Court, the Commonwealth's Attorney will prepare a written document called a "bill of indictment," in which the accused is charged in a legal and formal manner with having committed a specified felony.

As will be described in greater detail later in this handbook, it is this "bill of indictment" that the Regular Grand Jury considers to determine if probable cause exists to require that the person accused stand trial at a later date in the Circuit Court.

(c) Misdemeanors. A Grand Jury usually does not deal with minor crimes (misdemeanors) or with traffic offenses. Prosecution of these offenses usually is begun by

the police or the Commonwealth's Attorney on a Warrant or a Summons. Indeed, were this not so, a Grand Jury would be so overloaded with the volume of such complaints that it could not perform its more important duties.

II. THE REGULAR GRAND JURY

7. Qualifications

A Grand Juror must have been a resident of Virginia for at least one year and a citizen of the city or county in which he or she is to serve for at least six months, and must be "eighteen years of age or older, of honesty, intelligence and good demeanor and suitable in all respects to serve" as a Grand Juror.

8. Selection; Summons; Size

Each year the judge of the Circuit Court of each city and county selects at least sixty and not more than one hundred and twenty citizens from the city or county to serve as Grand Jurors during that year.

Not more than twenty days before the beginning of the term of court, the Clerk of the Circuit Court summons from the Grand Jury list, not less than five nor more than nine persons to serve as Grand Jurors for that term of court. The judge may dismiss several jurors to assure a jury of not more than seven.

The Clerk directs the sheriff to summon the persons

selected to appear at the court on the first day of the term to serve as Grand Jurors for that term.

9. Exemptions and Excuses

Any person who has legal custody of a child 16 years of age or younger or of a person having a mental or physical impairment requiring continuous care during normal court hours, any mother who is breast-feeding a child, any person over 70 years of age, any person whose spouse is summoned to serve on the same jury panel, any person who is the only person performing essential services for business, commercial or agricultural enterprise without which the enterprise would close or cease to function, a mariner actually employed in maritime service, and several categories of legislative branch employees during specified times must be excused from jury service upon request.

If you are exempt from jury service for either of the foregoing reasons or, if you have some other good reason to be excused from Grand Jury service, you should contact the judge of the Circuit Court to which you have been summoned immediately and in person (or if the judge is not available, contact the Clerk of that Court). **DO NOT WAIT UNTIL THE DAY ON WHICH YOU HAVE BEEN SUMMONED**, because if you are excused, this may cause serious inconvenience to the court and a delay in the administration of justice while another Grand Juror is procured.

Your service as a Grand Juror ordinarily will require only part of one day. In view of the high privilege of service as a Grand Juror and of the importance of the public service rendered, you should not ask to be excused unless it is absolutely necessary.

10. First Appearance in Court

You will report for service at the courtroom of the Circuit Court to which you have been summoned on the date and at the hour stated in the summons.

The Clerk of the Circuit Court will call your name and you will take your place in the jury box (the name applied to the area at which jury chairs are located).

The judge will appoint one of you to be Foreman (your presiding officer). The Foreman will then be sworn in under an oath that states your important powers and responsibilities. The remaining members of the Grand Jury are then sworn to observe the conditions of the same oath.

11. Oath

The oath taken by each Grand Juror is as follows:

- You shall diligently inquire, and true presentment make, of all such matters as may be given you in charge, or come to your knowledge, touching the present service. You shall present no person through prejudice or ill will, nor leave any unrepresented through fear or favor, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth. So help you God.

To "diligently inquire" means to make an honest and earnest consideration of all the circumstances involved in the matter, and a common sense decision based upon the facts.

Your oath requires you to be impartial (fair to both sides)-the foundation of justice and equality.

The requirement for "truthfulness" is a pledge of honesty in the performance of your duties.

If you follow the conditions of your Oath of Office, you will have met your full requirement as a member of the Grand Jury, and you will have performed your responsibilities in accordance with the law.

12. Charge by the Court

After you have been sworn, the judge will address you formally, and in greater detail, as to how you are to perform your duties and responsibilities. This address is called "The Charge to the Grand Jury." This Charge, plus any other instructions given to you by the judge, together with your Oath are your controlling guides. After receiving the Charge to the Grand Jury, you will be escorted to the Grand Jury Room, where you will receive the bills of indictment you are to consider, and you will hear witnesses in the cases brought to your attention.

13. Procedure in the Jury Room

(a) Quorum .A Regular Grand Jury consists of not less than five members. At least four must concur (agree) in returning "A True Bill" on an indictment.

Should an emergency arise necessitating the absence of a Grand Juror, the Grand Jury should cease deliberations while this fact is reported to the judge.

Business of the Grand Jury should be conducted only when all members are present in the jury room. If it is necessary for a member to be temporarily absent, a recess should be declared by the Foreman until the member rejoins the group.

(b) Hearing Witnesses. The bills of indictment you are to consider will be delivered to you. It is your duty to determine if probable cause exists to require the person accused of a crime in a bill of indictment to stand trial. You will determine this from the testimony of witnesses.

The names of available witnesses in a given case will appear on the bill of indictment. These witnesses will have been sworn by the judge to tell the truth while they are in the jury room. You will notify the judge when you are ready to call a witness.

If any person who is not listed on the bill of indictment, or is listed but not called to testify by the Grand Jury, wants to testify he or she must obtain permission from the judge. Even then, the Grand Jury may refuse to hear this testimony unless the judge orders that it be heard.

Witnesses should be examined one at a time. There is no set manner in which a witness is examined. One appropriate way is for the Foreman to ask the witness to tell what he or she knows about the charge against the accused, after which questions may be asked of the witness by any member of the Grand Jury if additional testimony is desired.

All questioning should not show any viewpoint on the part of the questioner.

It is not necessary to call or hear every witness listed on the bill of indictment, to approve it ("A True Bill"). It is only necessary to hear as many (one or more) as it takes to satisfy four members of the Grand Jury that probable cause exists to require the party accused to stand trial.

On the other hand, a bill of indictment should not be disapproved ("Not a True Bill"), unless every witness listed on the bill of indictment who is available has been examined.

(c) *Witness Refusal to Testify* .If a witness refuses to answer a question, the Grand Jury should not press the question or attempt on its own to compel an answer. The reason for the refusal by the witness may involve the technical issue of whether the question asked violates this witness's constitutional privilege against self-incrimination. If the jury desires to press the matter further, the question should be written out on a sheet of paper, a recess declared, and the matter reported to the judge orally in open court, whereupon the judge will determine if the witness is compelled to answer.

(d) *Accused as a Witness*. The accused person named in the bill of indictment will not be listed as a witness, nor will any witnesses favorable to him probably be listed. This is because the Grand Jury does not determine the guilt or innocence of the accused, but only determines whether the testimony of the witnesses produced by the State establishes probable cause to require the accused to stand trial.

If an accused desires to testify, he or she must obtain permission from the judge, who will tell the accused of the privilege against self-incrimination. And even if the judge permits her or him to testify, the Grand Jury may refuse to hear the testimony unless it is ordered to do so by the judge.

14. Determination to Indict or Not

As has been repeatedly stated, the Grand Jury does not sit to determine the guilt or innocence of the accused. The function of the Grand Jury is to determine whether there is probable cause to require the accused to stand trial.

Only members of the Grand Jury are in the jury room while it is deliberating and voting.

When the Grand Jury has heard all necessary or available witnesses in a given case, the Foreman will ask the members to discuss and vote on the question of whether or not "A True Bill" should be found on the charge. Every Grand Juror may now comment on the sufficiency of the evidence and express an opinion on the matter.

After each member who desires to speak has been heard, the Foreman will call for a formal vote to find out if there is the required number of four affirmative (yes) votes.

15. Finding of Indictment

An indictment may be found "A True Bill," only upon the affirmative vote of four or more members of the Grand Jury.

If there are enough affirmative votes in favor of finding an indictment, the Foreman will endorse (write) the phrase "A True Bill" on the back of the bill of indictment and sign it.

If there are insufficient affirmative votes, the Foreman will endorse the phrase "Not a True Bill" and sign it.

16. Special Findings, If Any

After all the bills of indictment have been considered, the judge will ask if any member of the Grand Jury believes that a Special Grand Jury should be called to investigate any condition which tends to promote criminal activity in the community or by any governmental authority, agency or official.

This power should be used with extreme caution, because it can be a weapon of oppression. It should not be used upon gossip or rumor. On the other hand, if there is a rational basis to believe that any such condition exists the Regular Grand Jury should report its view to the judge.

17. Return of Indictment

After all of the bills of indictment have been considered and the Grand Jury has determined if it wants to report on any special matter, it will inform the judge that it has ended its deliberations. It will then present its findings in open court. This will be done by the Clerk of the court reading the names of the accused persons and, after each name, reading the words "A True Bill" or "Not a True Bill" as endorsed on the indictment by the Foreman of the Grand Jury.

18. The Commonwealth's Attorney

To keep the Grand Jury free from any pressure from the State, Virginia makes it illegal for any attorney representing the State to appear before the Grand Jury except as a witness.

If, however, members of the Grand Jury have questions about their duties, they may ask the Commonwealth's Attorney for advice.

Except for these two cases, if a Commonwealth's Attorney appears in the Grand Jury Room while the Grand Jury is there, any indictment returned "A True Bill" by the Grand Jury is invalid (no good). Therefore, while a Grand Jury may request the appearance of the Commonwealth's Attorney to testify as a witness or to explain some principle of law about the discharge of their duties, they cannot seek his advice as to whether they should return an indictment as "A True Bill. " If a Grand Jury finds that it is in need of advice as to its duties but doesn't know if it can invite the Commonwealth's Attorney into the Grand Jury Room to explain, it should notify the judge that it desires further instructions, and it will receive such instructions in open court.

19. Secrecy

The law provides that "every member of a regular or special grand jury must keep secret all proceedings which occurred during sessions of the grand jury."

The secrecy of Grand Jury proceedings is important because:

1. Secrecy protects Grand Jurors from being subjected to pressure by persons who may be interested in the outcome of Grand Jury action.
2. Secrecy may prevent the escape of persons against whom an indictment is under consideration.
3. Secrecy encourages witnesses to speak the truth freely before the Grand Jury.
4. Secrecy as to what witnesses testified to before the Grand Jury prevents the witnesses from being tampered with between that time and the time they testify at the trial of the accused.

20. Protection of Grand Jurors

The Grand Jury is an independent body answerable to no one except the judge. No inquiry may be made to learn what a Grand Juror said or how he or she voted. The secrecy surrounding Grand Jury proceedings is one of the major sources of this protection. The law gives Grand Jurors complete immunity for official acts within their authority as Grand Jurors, regardless of the result of an indictment found by the Grand Jury.

21. Practical Suggestions

Witnesses summoned to testify before the Grand Jury are present frequently at personal, business or official inconvenience.

They sometimes come from a distance. Police officers often are called on their "off hours. " It is important, therefore, that the business of the Grand Jury be carried on in an expeditious manner-not too slow but not too fast. Some cases may require only one witness and take only a few minutes; others will require much more attention.

The following suggestions are offered to assist you in carrying out your duties in a fair and expeditious manner.

Pay close attention to the testimony of the witnesses. The reputation or freedom of someone depends on what is being told.

Be courteous to the witnesses and do not cut off their testimony unless it becomes needlessly repetitious.

Listen to the opinions of your fellow jurors, but do not be a rubber stamp. On the other hand, do not try to monopolize the hearing or the deliberations. Be independent, but not stubborn.

Express your opinion, but don't be dictatorial. You may try to persuade other jurors, but do not try to force them to change their minds. After all, they may be right and you may be wrong.

Each juror is entitled to be satisfied with the evidence before being called upon to vote. Although your mind may be made up, if others wish to pursue the matter further, do not try to shut off additional testimony or deliberation.

Do not keep silent when the case is under discussion, and then begin to talk about it after the vote is taken.

Do not discuss cases with your fellow Grand Jurors outside the jury room.

Maintain dignity in the proceedings at all times. Moderation and reason, rather than emotion and passion, lead to justice.

22. Compensation

The State does not compensate (pay) Grand Jurors in proportion to the valuable service they render. There are several reasons for this. One thing to be avoided is the so-called "professional juror"-a person, usually unemployed, who welcomes (and sometimes even

solicits) jury duty solely for the compensation and with little or no regard for civic responsibility. Another reason is the cost to the taxpayer. When one recalls that Grand Juries meet in every city and county in the State from four to twelve times a year, it is readily seen that a large expense could result.

While the State hopes that Grand Jurors will serve as a matter of public pride and civic duty, it does not want Grand Jury duty to be a financial cost to the Grand Juror. The law provides for the compensation of Grand Jurors for each day of attendance. The amount of this compensation is changed from time to time by action of the General Assembly. Each Grand Juror should report attendance and mileage to the Clerk of Court.

III. THE SPECIAL GRAND JURY

23. Function of a Special Grand Jury

As has been set out in Section 3, a Special Grand Jury is composed of from seven to eleven citizens of a city or county, selected by the Circuit Court and summoned to investigate any condition which tends to promote criminal activity in the community or by any governmental authority, agency or official.

The Special Grand Jury, composed entirely of private citizens, is the one non-political body with legal authority to make such investigations.

24. Characteristics

While the function and powers of the Special Grand Jury and those of the Regular Grand Jury differ, many of the observations made earlier concerning the Regular Grand Jury are applicable to the Special Grand Jury. Some of these are its Importance (see Section 4); Origin (see Section 5); Qualifications (see Section 7); Oath (see Section I 1); Secrecy (see Section 19); Protection (see Section 20); and Practical Suggestions (see Section 21).

Other similarities will be noted later.

25. Scope of Investigation

The responsibility of a Special Grand Jury ordinarily will be to investigate a narrow special condition believed to exist in the community. On the one hand, its duty is to make a full and complete investigation and report on that condition; on the other hand, it is not convened to go on a fishing expedition with respect to other possible illegal conditions which may exist. If during the course of its authorized investigation, some other illegal condition comes to light which the Special Grand Jurors feel needs investigation, the Special Grand Jury should call attention to it in its report.

The investigation is to ascertain whether alleged criminal or corrupt conditions exist under present law. The investigation is not to determine if the law is good or bad, or if it needs to be changed. It is possible, indeed, that as a result of the investigation, the law may need to be changed, but that is a legislative matter and a conclusion for the General Assembly of Virginia to make.

There are no time limitations on an investigation by a Special Grand Jury. The complexity of the condition being investigated will dictate the length of time needed.

26. Convening

A Circuit Court may, on its own motion, convene a Special Grand Jury. Frequently, the Commonwealth's Attorney will make the request. Also, as noted in Sections 3 and 18, the request may come from a Regular Grand Jury.

If the judge of the Circuit Court decides that a Special Grand Jury should be convened, he or she will select the names of those to serve, and they will be summoned to appear at a specified time. What was said in Section 9 regarding Exemptions and Excuses from Grand Jury duty is the same for Special Grand Jury service.

On the day appointed, the Judge will swear in the Special Grand Jury and will then charge it with the subject it is to investigate. The Judge will appoint one of those selected to serve as Foreman.

The Special Grand Jury is now ready to begin its work.

27. The Commonwealth's Attorney

If the Special Grand Jury was convened at the request of the Attorney for the Commonwealth, he may be present at all times during the investigatory stage of the proceedings. If the Special Grand Jury was convened at the request of someone else, the Attorney for the Commonwealth may be present only if requested by the Special Grand Jury.

In either event, if the Attorney for the Commonwealth is present, he or she may question witnesses only if the Special Grand Jury requests or consents to such questioning.

The Attorney for the Commonwealth shall not be present, however, at any time while the Special Grand Jury is discussing or evaluating the testimony of a witness among themselves or while the Special Grand Jury is deliberating in order to reach a decision or prepare its report. However, he or she may be present during this period if legal advice is requested by the Special Grand Jury. The Grand Jurors should not permit the

Commonwealth's Attorney, while he or she is giving legal advice, to join in any determination by them of the weight to be given to the testimony of a witness.

The foregoing limitations are in the law to insure the complete independence of the Special Grand Jury and to protect it against any undue influence from an official of the Commonwealth.

28. Special Counsel

At the request of the Special Grand Jury, the judge may appoint special counsel to assist it in its work.

29. Special Investigative Personnel

The Special Grand Jury may call upon any state or local agency or officer to assist it in its investigation. The type of condition being investigated will dictate the type of investigative personnel needed. If required, the Special Grand Jury may request the judge to provide other specialized personnel to assist it in the investigation.

30. Court Reporter

A court reporter will record and transcribe all oral testimony given by witnesses before the Special Grand Jury. The transcript is for the sole use of the Special Grand Jury and its contents must not be revealed by anyone.

In a lengthy investigation it would be difficult to remember exactly what earlier witnesses said, so it is appropriate for the Special Grand Jury to have a transcript (written record) of all testimony available to which it may refer during later stages of its work.

31. Subpoena Power

The Special Grand Jury may have a summons issued ordering a person to appear before it to testify and to produce specified records, papers and documents for examination by the Special Grand Jury. Any desired papers or records must be described with reasonable accuracy in the summons. The Special Grand Jury is not engaged in a witch hunt or a fishing expedition hoping that a document may turn up; it must have a reasonable belief that a particular record, paper or document does, in fact, exist.

When a summons is desired, the Special Grand Jury may notify the Clerk of the Circuit Court, giving the Clerk the name (and address if known) of the person to be summoned, the date and hour set for his appearance, and if papers are desired, a description of them.

32. Warnings Given to a Witness

Before witnesses testify, they must be advised by the Special Grand Jury Foreman that:

- the witnesses do not have to answer any questions nor produce any evidence that would tend to incriminate them; and
- the witnesses may hire their own counsel and have them present while they testify; and
- the witnesses may be called upon later to testify in any case that may result from the investigation and report of the Special Grand Jury.

33. Counsel for the Witness

Witnesses appearing before a Special Grand Jury have the right to have counsel of their own present when testifying. Such counsel shall have the right to consult with and advise the witness during the examination, but the counsel does not have the right to conduct an examination of his or her own witness, unless, the Special Grand Jury requests or permits it.

34. Oath of Witness

After the witness has been given the warnings set forth in Section 32, the Foreman will administer the following oath to the witness (an affirmative answer is required):

Do you solemnly swear (or affirm) that the evidence you are about to give before the Grand Jury is the truth, the whole truth, and nothing but the truth, so help you God?

35. Examination of Witness

If the Special Grand Jury was convened at the request of the Commonwealth's Attorney, he or she will have a list of the witnesses to present. It would be appropriate, therefore, for the Special Grand Jury to invite the Commonwealth's Attorney to examine these witnesses. After this examination, members of the Special Grand Jury should then ask any further questions of the witness that are appropriate.

If the Special Grand Jury was convened at the request of someone other than the Commonwealth's Attorney, the Special Grand Jury may still ask the Commonwealth's Attorney to be present and conduct the examination, or the Special Grand Jury may request the judge to designate special counsel to assist it and to conduct the examination, or the Special Grand Jury may conduct the examination itself without aid of counsel.

If examination of a witness leads the Special Grand Jury to believe that the testimony of other witnesses may be desirable, a request for a summons for such other witnesses should be made to the Clerk of the Circuit Court as specified in Section 31 of this Handbook.

The questioning of a witness should not indicate any viewpoint on the part of the questioner.

36. Witness Refusal to Testify

If a witness refuses to answer a question, the Special Grand Jury should follow the procedures specified in Section 13 (c) of this handbook.

37. Deliberation

After all witnesses have been heard, the Special Grand Jury is now ready to deliberate and make its findings on the matter submitted to it by the court. Only the members of the Special Grand Jury are to be present during this stage of the proceeding, unless at intervals the Special Grand Jury desires the temporary presence of the Commonwealth's Attorney or Special Counsel to advise it on some legal matter.

Again it should be emphasized that the Special Grand Jury has been convened to investigate and report its findings on some specific isolated condition believed to exist in the community. Its findings and recommendations, if any, should relate specifically to the subject committed to it. It is not involved in a general moral crusade.

At the conclusion of its investigation and deliberation, a Special Grand Jury impaneled by the court or on recommendation of a Regular Grand Jury shall file a Report of its findings with the court, including any recommendations that the Special Grand Jury deems appropriate, including any finding that a person has committed a criminal offense, with or without a recommendation that such a person be prosecuted. It is then the duty of the Commonwealth's Attorney, after the Report of the Special Grand Jury, to determine whether a prosecution should begin, and if so, to present a bill of indictment to a Regular Grand Jury. A Special Grand Jury convened at the request of the Commonwealth's Attorney may return a "true bill" of indictment upon the testimony of or evidence produced by any witness who was called by the grand jury, if a majority of not fewer than five of the members of the Special Grand Jury agree.

38. Findings

Findings should be findings of facts which the Special Grand Jury reasonably believes to exist. It is entirely possible that several or many of such facts are to be considered by the Special Grand Jury and that a vote needs to be taken on each such fact. A majority vote in the affirmative on each such fact is necessary to include it in the Report the Special Grand Jury will make to the court.

While no particular procedure need be followed, one way to proceed would be for individual members to submit to the Foreman such findings as he or she may think appropriate, and then the Foreman (or some member designated by him) could prepare a list of the proposed findings, following which a vote should be taken on each such proposed finding.

39. Report

At the end of its deliberation the Special Grand Jury must prepare a written Report of its findings, including any recommendations it may deem appropriate. This Report will be the finding of the majority of the Special Grand Jury.

The Court Reporter may be used to prepare the Report.

Members who do not agree with the findings of the majority may file a minority report on any finding with which they disagree.

When the Special Grand Jury is ready to file its Report, the Report should be dated and signed by the Foreman.

40. Transcript, Notes, etc.

After the Special Grand Jury has completed its use of the transcripts prepared for it by the Court Reporter, the Foreman must direct the Court Reporter to turn over to him or her all of the notes, tapes or records from which the transcripts were made. The Foreman shall then place the transcripts, notes, tapes, and records in a container and seal it. The date on which the Report is filed should then be placed on the sealed container.

41. Filing of Report

When the Special Grand Jury is ready to make its Report, it should notify the judge, and in open court hand in its Report and the sealed container.

42. Secrecy

It is highly important that the members of the Special Grand Jury should not reveal any of their proceedings nor any contents of their Report. Publication of the Report itself is a matter for the court.

43. Compensation

See section 22 of this handbook.

IV THE MULTI-JURISDICTION GRAND JURY

44. Function of a Multi-Jurisdiction Grand Jury

Multi-Jurisdiction Grand Juries, sometimes called Multi-District Juries, are summoned to investigate drug law violations, consider bills of indictment prepared by special counsel and determine whether probable cause exists to justify returning the indictment as a "true bill" against the accused. The Multi-Jurisdiction Grand Jury reports its findings to state and federal prosecutors.

45. Selection and Size

Like Special Grand Juries, Multi-Jurisdiction Grand Juries are composed of not less than seven not more than eleven members. Multi-Jurisdiction Grand Jury's inquires typically focus on drug law violations which may have occurred in many different Virginia localities and court jurisdictions. Accordingly, to the extent partially possible, the presiding judge will try to draw a Grand Jury from each jurisdiction in which the alleged violation occurred. However, the maximum number of jurors will always be eleven. Juror's qualifications are similar to those described in section 7 of this handbook.

46. Proceedings

To convene a Multi-Jurisdiction Grand Jury, two or more Commonwealth's Attorneys from different jurisdictions, after receiving approval from the Attorney General of Virginia, may apply to the Supreme Court of Virginia. The term of the Multi-Jurisdiction Grand Jury shall be twelve months but may be extended up to an additional six months. However, the presiding judge may discharge the jurors at any point the presiding judge believes the Multi-Jurisdiction Grand Jury is no longer needed. The presiding judge determines the time, date and place the Multi-Jurisdiction Grand Jury will be convened. Jurors are compensated according to statute. The secrecy provisions also apply to Multi-Jurisdiction Grand Juries. This type of Grand Jury has statewide subpoena power. Although witnesses appearing before the Multi-Jurisdiction Grand Jury are entitled to the presence of their attorney during the proceedings, the attorney may not participate in the proceedings. A

majority of the Multi-Jurisdiction Grand Jurors must agree to return a "true bill" of indictment and in no instance can the majority be less than five jurors. The "True Bill" must state each and every jurisdiction in which the offenses occurred.

CONCLUSION

Membership on a Grand Jury, Regular or Special, is a high honor. Your service is of great value to your fellow citizens and your time is devoted to one of the worthiest of causes: justice.

It is hoped that this Handbook will make your work easier, more understandable, and more pleasant.

VIRGINIA'S JUDICIAL SYSTEM

Notice Regarding the Americans with Disabilities Act and Requests for Accommodations by Persons with Disabilities

The Americans with Disabilities Act (ADA) of 1990 was enacted to ensure that all qualified individuals with disabilities enjoy the same opportunities that are available to persons without disabilities. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. The ADA directly affects state courts as providers of public programs and services. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the Supreme Court of Virginia and the courts of the Commonwealth of Virginia (collectively referred to as "Virginia's Judicial System") will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Virginia's Judicial System does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Effective Communication: Virginia's Judicial System will generally, upon request, provide appropriate aids and services for qualified persons with disabilities so they can participate equally in Virginia's Judicial System programs, services, and activities, including qualified interpreters, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: Virginia's Judicial System will make all reasonable modification to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Virginia's courts, even where pets are generally prohibited.

Requests for Accommodation: A request for accommodation should be made to the relevant clerk if the request relates to a pending case or activity of a particular court. Otherwise, the request should be made to the ADA Coordinator at the address below. Procedures for making a request, as well as a form for doing so, are available through the ADA Coordinator and on Virginia's Judicial System website, www.vacourts.gov.

No requirement to alter programs and services: The ADA does not require Virginia's Judicial System to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Complaints regarding accessibility: Complaints concerning a program, service, or activity of a circuit court clerk's office should be directed to that clerk. Other complaints will be handled pursuant to grievance procedures adopted by the Office of the Executive Secretary. The procedures are available through the ADA Coordinator, and on Virginia's Judicial System website, www.vacourts.gov.

No surcharge: Virginia's Judicial System will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Questions about this Notice – Please submit your questions to: ADA Coordinator
Renée Fleming Mills, Ph.D.
Office of the Executive Secretary
Supreme Court of Virginia
100 N. 9th Street
Richmond, Virginia 23219
Fax: 804-786-0109
E-mail: ADACoordinator@vacourts.gov