

# Citizens Grand Jury Authorized

by Kevin M. Oeffner  
Circuit Court Administrator



On April 26, by affirmative action of the bench, the Circuit Court granted a petition in which the impaneling of a citizens grand jury was sought. The petition was filed by the Oakland County Prosecuting Attorney acting on behalf of the People of the State of Michigan.

The impaneling of a grand jury doesn't happen too often in Oakland County. A review of records going back

25 years indicates that grand juries were impaneled in 1989, 1995 and most recently in 1998. Because it is a rare occurrence, I thought it might be of interest to readers to provide information about the grand jury – its purpose, powers and other interesting facts.

Before forging on I would like to publicly thank Corporation Counsel Judy Cunningham, my former boss when she was Court Administrator, who made my job in writing this article easy. Ms. Cunningham is a meticulous record keeper. When informed that the bench would consider the most recent petition for a grand jury, I pulled the files to learn how the court handled these matters in the past.

Everything I ever wanted to know about the grand jury was in the file. Included was an article about the grand jury that Ms. Cunningham wrote for *LACHES* in August 1989. The law hasn't changed much so it was apparent that our articles would be similar in content. Given that she wrote her article first, I called Ms. Cunningham and she graciously encouraged me to write about the grand jury. What follows are my own words, but my thanks go to Ms. Cunningham for developing the script some 22 years ago.

A grand jury may be impaneled if the court finds there is probable cause to suspect that certain crimes and offenses have been committed and that witnesses may be able to provide material evidence regarding those crimes and offenses. It is an investigative tool used by law enforcement to obtain information that may be useful in solving crimes. Grand juries may investigate alleged crimes but cannot try or convict a person.

A grand jury has the power to call witnesses to appear and testify. A prosecutor may issue subpoenas to compel witnesses to appear and testify, and shall examine witnesses in the presence of a grand jury and may advise the grand jury on legal matters.

A prosecutor may apply to the supervising judge for an order granting immunity to any person giving testimony before the grand jury. A witness who neglects or refuses to appear or testify in response to a summons of the grand jury shall be guilty of contempt. Any witness called before the grand jury is entitled to legal counsel who may be present when an inquiry is held.

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Typically a prosecutor will present evidence to a grand jury to persuade it that probable cause exists that a person committed a crime. The prosecutor will prepare an indictment (proposed charges) for presentation to the grand jury. The grand jury decides if probable cause exists and then votes to return an indictment. During grand jury deliberations no person other than the grand jurors may be present. No indictment may be returned without the concurrence of at least nine grand jurors. A criminal case may be initiated against a defendant upon return of an indictment.

The court's involvement in the grand jury process is to authorize the petition to impanel a grand jury and to select the persons (jurors) who will comprise the grand jury. A supervising judge is selected, usually by the chief judge or consensus of the bench, who will qualify and select jurors for service. The supervising judge will remain active during the term of the grand jury to address any legal matters that may arise.

Potential grand jurors are selected in the same manner and from the same source list as petit jurors and must possess the same qualifications as stated in MCL 600.1307a. The term of service of grand jurors shall be six months and may be extended by the supervising judge for another six months.

A grand jury shall be comprised of no less than 13 jurors and no more than 17 jurors. Those selected for service must swear an oath as stated in MCL 767.9. All business conducted by the grand jury must be done in secret. The law provides that no person, including a grand juror, may disclose to any other person the testimony or exhibits used in a grand jury proceeding. All proceedings, records, testimony and exhibits are exempt from disclosure under the Freedom of Information Act.

The supervising judge must appoint one member of the grand jury as foreperson. No challenge to the array of grand jurors shall be allowed except that a person held to answer to a criminal charge may object to a grand juror on the ground that a juror is the prosecutor or complainant upon any charge against the person.

Grand jurors may be called to testify in criminal actions arising from indictments or be required to disclose the testimony given during grand jury proceedings, but they may not testify to or describe in what manner any grand juror voted on a question before them.

I trust this brief glimpse into the grand jury has been of interest to you.

Until next time ...

## OCBA Board of Directors Election Results

Thanks to all of this year's candidates for participating in this election. Their willingness to run is a wonderful testament to their affiliation with the OCBA and their interest in serving its members, our community, and in making a difference. Here are the results of the election for the OCBA's Board of Directors:

Elected to a three-year term ending June 30, 2014; five to be elected:

*Michael K. Lee, Lee & Correll*

*Thomas H. Howlett, The Googasian Firm, P.C.*

*Gerald J. Gleeson II, Miller, Canfield, Paddock & Stone, P.L.C.*

*Victoria A. Valentine, Valentine & Associates*

*Daniel D. Quick, Dickinson Wright PLLC*

Elected to a one-year term ending June 30, 2012; one to be elected:

*Keefe A. Brooks, Brooks Wilkins Sharkey & Turco, PLLC*

Other candidates were:

*Kaveh Kashef, Clark Hill PLC*

*Sarah E. Kuchon, Hohaus Law Firm*

*Robert M. Sosin, Alspector, Sosin & Noveck, P.L.L.C.*

*Melinda N. Deel, Melinda N. Deel, PLLC*

*J. Adam Behrendt, Bodman PLC*

*Jonathan L. Engman; Fabrizio & Brook, P.C.*

**This year, a total of  
833 ballots were cast.  
Of 2,666 eligible  
voters, 31.25 percent  
cast a ballot.**

In 2010 a total of 993 valid ballots were counted. The total number of eligible voters was 2,535 with 39.17 percent participation in the election.