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October 14, 2020

The Honorable Stuart Rabner, Chief Justice
SUPREME COURT OF NEW JERSEY
Richard J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625

Dear Chief Justice Rabner:

Members of our Association have had the opportunity to review the Court's 9th Omnibus Order of October 8, 2020. Unfortunately, the Court's latest Order does not make clear whether the use of virtual grand juries is compulsory or discretionary. As we indicated in our letter to the Court last month, we respectfully seek clarification on whether the Court is ordering the use of virtual grand juries as many in our membership do not wish to voluntarily participate if the choice exists.

The threshold question – must we use virtual grand juries – is not answered in the 9th Omnibus Order by the Court. Contributing to this confusion is the internally inconsistent language in the Order, the Notice to the Bar, and what has recently been shared during Zoom teleconferences with members of the AOC. For example, Page 4, Section (2)(a) of the Order states:

"...on or before December 1, 2020, and the requirement that all counties have at least one virtual grand jury panel and that counties may have one or more in-person grand jury panels..."

Page 3, Sections (1)(a) says that in-person grand juries are suspended until further notice. Then subsection (d) states that we must be "ready to convene in a virtual format (with all participants using remote technology)." Then subsection (e) says "*in addition to new virtual grand jury panels*," Assignment Judges and County Prosecutors are authorized to convene in-person grand jury panels in court facilities consistent with social distancing and other health precautions (including the wearing of facemasks).

Further complicating the interpretation is the language in the Notice to the Bar, which emphasizes the “prioritization of remote proceedings” and the establishing the “capacity” for virtual grand juries by December 1, 2020. Additionally, during a Zoom teleconference with AOC staff on October 2, we were advised that Prosecutor’s Offices must first present a charged case via virtual grand jury as a conditional requirement before assignment judges would consider the use of socially distanced, in-person grand juries. However, the next week we received an e-mail indicating that we did not have to present an actual case via virtual grand jury, but just demonstrate “capacity” to conduct such proceedings. Finally, the possibility of employing social distanced, in-person grand juries “may” occur only upon approval by assignment judges.

In all candor with the Court, we cannot determine whether the use of virtual grand jury is a condition to use of in-person grand juries, or whether it is an “either-or” scenario. We respectfully request clear explanation on what the Court seeks with respect to this issue. As stated earlier, we have every intention of following the mandates of the Court. We believe a clear answer on this issue is necessary for us to proceed accordingly.

Thank you for your kind attention to this request. As always, we remain ready and willing to further discuss this critical matter.

Very truly yours,



ANGELO J. ONOFRI
Mercer County Prosecutor
President, CPANJ

Cc: The Honorable Glenn A. Grant, J.A.D.
Attorney General Gurbir Grewal
All vicinage assignment judges