



OCT 16 2023

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

TRICK WARREN
COURT CLERK
27 _____

IN RE: OKLAHOMA COUNTY GRAND JURY,) District Court Case
) No. GJ-2023-2

CHARGE TO OKLAHOMA COUNTY GRAND JURY

No. 1

Introductory Instruction

Good Morning—My name is Anthony Bonner and I want to welcome you as prospective grand jurors in the Grand Jury convened in the District Court of the Seventh Judicial District of Oklahoma. On the 31st day of August, 2023, the Honorable Don Andrews, District Judge, Presiding Administrative Judge for this Judicial District, upon consideration of the matters shown in the letter to him by the Honorable Vicki Zemp Behenna, District Attorney, for the convening of a County Grand Jury, *Ordered* and directed the convening of a County Grand Jury having jurisdiction in all of Oklahoma County, Oklahoma, before the undersigned Judge of the District Court on this 16th day of October 2023, for the purpose of investigating all character and grades of crimes committed in Oklahoma County, Oklahoma. Thereafter, your names were drawn in accordance with the procedure set forth the in the State statutes and you were summoned for selection as potential grand jurors all by chance. This is done so no individual or group can control or predict who is going to be on any jury. If selected, you will be an arm of this Court to act upon such matters as may be properly laid before you and such matters as may lie within your own knowledge.

Those of us regularly connected with the Courts realize the burden imposed upon busy people in requiring jury service, but citizenship in a democracy imposes responsibilities with the

privileges that it grants. It entitles one to the benefits of a just and stable government, but also requires and demands that a citizen discharge certain duties and obligations to their government, so that fairness and stability may be retained.

Under our Constitution, we have three (3) separate but equal branches of government: the legislative, executive, and judicial. Citizens are called upon to serve in each of these branches of government. Good citizens respond to their legislative duty to inform themselves and vote intelligently. In times of local or national emergency, citizens volunteer or are conscripted to defend our nation and liberties under the direction of the executive branch of government. Citizens are called to sit in judgment of their fellow citizens to aid the judicial branch of government. If selected today, you will serve in the honorable capacity as grand juror.

Grand jurors constitute a primary bulwark in the protection of rights and liberties of the individual citizens. However, liberty is a relative term, and the rights and liberties of one or of a group must not be permitted to interfere with the inalienable rights and liberties of all. For this reason, civil and criminal rules or laws exist. The enforcement of these rules and laws necessitates "grand" and "petit" jury service from citizens.

The "grand jury" is of ancient origin in England, from where, in a large part, this country inherited its legal system. Originally, the grand jury not only accused, but also tried, public offenders. But by the time of the settling of this country, it was an informing and accusing tribunal only, without whose previous action, no person charged with a felony could be put on trial. In times of struggle between the King and the rights of his subjects, it often stood as a barrier against persecution in his name, until, in due time, it came to be regarded as an institution, by which subjects were rendered secure against unfounded prosecutions by government.

The grand jury has continued in the United States, although there have seldom been contests between government and citizen which required the existence of the grand jury as a protection against oppressive government action. Both the grand and petit jury systems were in use in this country at the time of the Declaration of Independence in 1776, and at the time of the adoption of the Constitution of the United States in 1787. Both systems were incorporated into our Oklahoma Constitution in 1907.

One of the chief objectives of our state and federal Constitutions is to "establish justice." The departments of our government, as established by these instruments, are the legislative, executive, and judicial. Empaneled as grand jurors, you will become part of the judicial department of our government and occupy a most important position. All the articles set forth in the Preambles of the federal and state Constitutions have been chiefly maintained and preserved by justice secured through the establishment of the judiciary, and the security of trial by jury, by which our property, liberty and lives are protected.

Clearly, our American democracy government "of the people, by the people and for the people," as described by Abraham Lincoln in the Gettysburg Address, requires the active participation of every citizen in at least two important civic duties: first, to exercise intelligently the voting privilege; and second, to serve on juries. As Harland Fiske Stone, a former 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."

NO. 2.

Introductions of Personnel

Having introduced myself to you as the duly-appointed Presiding Judge for this Oklahoma County Grand Jury, I will now introduce other personnel that will be assisting this Grand Jury. If you are present, please stand.

The Legal Advisors for the Grand Jury are:

- The Honorable Vicki Zemp Behenna, District Attorney
- Ms Mykel Fry, First Assistant District Attorney
- Mr. Charles S. Rogers, Assistant District Attorney
- Ms. Anna Brannon, Assistant District Attorney

It is possible that other attorneys from the Office of District Attorney for Oklahoma County and/or attorneys from the Office of Attorney General of Oklahoma may also appear before you during the term of the Oklahoma County Grand Jury.

Bailiff: The Bailiff for the grand jury is Christopher Baldwin, [who otherwise also serves as my Courtroom's Bailiff].

Court Reporter: The Grand Jury's Court Reporter is Sherrol Ledbetter, Certified Court Reporter.

Court Clerk: The Grand Jury's Clerk will be the Honorable Rick Warren, Court Clerk for Oklahoma County, or those of his Deputy Court Clerks who are designated by him.

Indigent witness representation: Any witness found to be an indigent person after requesting appointment of legal representation will be represented by Mr. Robert Ravitz, Esq., Oklahoma County Public Defender, or by an attorney assigned by him from his office.

NO. 3

Administration of the Voir Dire Oath

As prospective jurors you will take an oath to answer completely and truthfully all questions asked you by the Assistant District Attorney. Now, will everyone who has been summoned here for grand juror selection please rise, raise you right hand, and respond to the following *Voir Dire Oath*:

Do you, and each of you, solemnly **swear/affirm** to well and truly answer questions asked of you concerning your qualifications to sit as jurors in the case now on trial, **(so help you God?)/(this you do affirm under the penalties of perjury)?**

Is there anyone now standing who did not affirmatively respond to this *Voir Dire Oath*?

I hereby **FIND** that all prospective Grand Jurors have affirmatively responded "I do" to the *Voir Dire Oath*.

[OUJI-CR 1-2, modified]

No. 4

Drawing of Jurors & Voir Dire by District Attorney

(To the Court Clerk having possession of the Jury Selection Box):

Ms. Retha Chamberlain - Have you placed all of the names of those person who were summoned to serve as Grand Jurors, who have not previously been excused upon giving Legal reason to this Court, into the Jury Selection box? Ladies and Gentlemen: Your names have now been placed into the Jury Selection box for random selection of those persons who will serve as Oklahoma County Grand Jurors. The Court Clerk shall now thoroughly shake the Jury Selection box then

draw and read the name of the first prospective Grand Juror. After your name is read, please come forward and my Bailiff will indicate where you are to be seated.

(To the Court Clerk having possession of the Jury Selection Box):

Ms. Retha Chamberlain please shake the jury box and draw and read the next name until 12 persons are selected and seated.

(To the remaining as-yet unselected prospective jurors)

Ladies and Gentlemen: please remain seated until you are excused by this Court. The attorneys will now question these 12 persons upon their qualifications to serve as Grand Jurors. Should one or more of them be excused by this Court, a name to replace the excused juror will then be called and replacements seated until 12 qualified Grand Jurors are found by this Court. Following this, 3 alternate Grand Jurors must be selected to serve along with the regular Grand Jurors, who may later be appointed Grand Jurors should one or more of the 12 Grand Jurors be thereafter excused.

Please proceed with your questioning, Mr. Rogers.

(Upon the Regular Grand Jurors being passed for cause)

I hereby **FIND** that these 12 persons are legally qualified and shall serve as the Grand Jury of Oklahoma County until they are excused by this Court from service. The Court Clerk shall thoroughly shake the Jury Selection box then draw and read the name of the first prospective Alternate Grand Juror until 3 Alternate Grand Jurors are seated.

Mr. Rogers, please resume with your questioning.

(Upon the Alternate Grand Jurors being passed for cause)

Ladies and Gentlemen: I hereby **FIND** these 3 Alternate Grand Jurors are legally qualified to serve as Alternate Grand Jurors. The Court will now take a 5-minute recess to consider who

shall be appointed Foreperson for the Grand Jury. Either remain seated or please return to your same seat in 5 minutes.

[BRIEF RECESS AFTER VOIR DIRE IS CONCLUDED TO CONSIDER WHO SHOULD BE APPOINTED GRAND JURY FOREPERSON]

No. 5

Appointment of Grand Jury Foreperson & Foreperson's Oath

The law requires that I, as the Grand Jury's Presiding Judge, appoint one of your number as foreperson of the Grand Jury. Accordingly, I hereby appoint _____

to serve as your Foreperson who will now, please rise and raise your right hand to take the

Foreperson's Oath:

You, as foreperson of this grand jury, shall diligently inquire into, and true presentment make, of all public offenses against this state, committed or triable within this county, of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the state, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unrepresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. Do you so swear, so help you God?

(upon an Affirmative response)

Please be seated.

[OUJI-CR 12-10, (in part) & 22 O.S. § 324]

No. 6

Administration of the Grand Juror's Oath

Now will all of the remaining selected Grand Jurors and the three Alternate Grand Jurors please raise your right hand to take the Grand Juror's Oath:

The same oath which your foreman has now taken before you on his part, you and each of you shall well and truly observe on your part. Do you also so swear, so help you God?

(Upon Affirmative responses)

Please be seated.

[22 O.S. § 325]

(Excuse the remaining, *unselected* prospective Grand Jurors but welcome them to stay if they desire to do so)

No. 7

Nature of the Duties of a Grand Juror

You who have now been selected are now instructed that the Law requires the Court to advise you as to the nature of your duties in order that you may be better able to discharge them properly. In so doing, it is proper to explain to you the various methods prescribed by law for the prosecution and punishment of persons accused of violating the rules of society as enacted by the Legislature into laws for this State.

In Oklahoma, there are three kinds of juries: a petit jury, a county grand jury, and a multicounty grand jury. A petit jury consists of either twelve (12) or six (6) jurors who are judges and triers of the facts in either a single civil or criminal case, where both sides are present and heard in court. In all civil cases, three-fourths (3/4) of their number may return a guilty verdict, but in any felony case, a jury's verdict must be unanimous. Their verdict must also be unanimous in misdemeanor cases where the possibility of punishment includes confinement. As soon as a jury's service is completed in that trial, the jury is discharged or dissolved.

A county grand jury also consists of twelve (12) jurors but is quite different otherwise. Numerous matters may be heard by the same twelve (12) jurors. The proceedings are private and secret. Only the evidence of the prosecution need be heard, unless any formally charged defendant requests he or she be heard. A county grand jury, which is convened upon order of a district judge, is empaneled from the jury list of a single county and has authority to inquire into matters alleged to have been committed within that county.

A multicounty grand jury is like a county grand jury in that it can hear numerous matters, its proceedings are private and secret, and usually only the evidence of the prosecution is heard; however, in most other respects, it is very different. A multicounty grand jury is convened by the

Oklahoma Supreme Court upon verified application of the Attorney General of the State of Oklahoma, and it has jurisdiction to inquire into crimes in all of the counties designated by order of the Supreme Court. Its members are empaneled from the jury lists of the several counties designated by the Court on a pro rata basis by county; however, not more than one-half of the members shall be residents of any one county. Pursuant to the provisions of Article II, 18 of the Oklahoma Constitution, the multicounty grand jury also has the authority to inquire into and return indictments for all character and grades of crimes.

No. 8

Grand Jury Sessions

This Grand Jury consists of twelve (12) persons, and a first, second, and third alternate Grand Juror. All of the Grand Jurors shall attend all functions of this Grand Jury while it is session, provided, however, that no Alternate Grand Juror shall participate in any deliberations of the Grand Jury until appointed to fill a vacancy if one occurs. No evidence should be received by you, except when all are present. Your Foreperson will administer an Oath to each witness appearing before you, and each juror may ask any witness any competent, proper question that they might desire. But in order to avoid committing errors to which the Court has herein call attention, it is the best practice for the jury to request your Legal Advisors to question the witness first, and then ask questions if answers given to in the previous questioning does not answer your questions.

No. 9

The Witness Oath to Be Administered by the Foreperson

The Foreperson will administer this Oath to all witnesses before taking their testimony:

Do you solemnly swear that the testimony you are about to give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth, so help you God?

Should you encounter a witness who does not “swear,” the Foreperson shall require the witness to make the following declaration:

Do you solemnly affirm that the testimony you are about to give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth, under the pains and penalties of perjury?

No. 10

Jurisdiction of the Grand Jury

Pursuant to the provisions of Article II, § 18 of the Oklahoma Constitution, this Grand Jury has the authority to inquire into and return *Indictments* for all character and grade of crime committed in Oklahoma County, Oklahoma. The Statutes of Oklahoma, pursuant to Title 22 of the Oklahoma Statutes §§ 1181 and following, further empower this Grand Jury to inquire into and return *Accusations for Removal of Public Officers* by a public officer who is not subject to Impeachment for certain unlawful act or acts committed in whole or part in Oklahoma County, Oklahoma.

Further, your investigations into these crimes should include: first, such evidence supporting an Indictment of Accusation for Removal of a Public Officer as may be presented by the Grand Jury’s Legal Advisors; second, such evidence as may come to your knowledge and attention in the course of your investigations and from you own observations during investigations;

and third, such evidence as may come to you knowledge and attention from disclosures of your associates, the members of the Grand Jury.

In connection with the third direction above, should any Grand Juror find that they have evidence to offer to the others, they should so state, then be sworn before testifying. If by reason of a Grand Juror's knowledge, information or feelings, the Grand Juror is prejudiced, or disqualified in any manner, the Grand Juror should respect that fact by not participating further in that phase of the investigation, or in the discussion or vote, and remain silent until the investigation has moved on to the next matter or subject.

No. 11

PUBLIC OFFENSES

Certain acts of commission, as well as certain acts of omission, are by the laws of this State, declared to be punishable as public offenses. Under the law, a person may be charged with such an offense by formal complaint in writing by the District Attorney, which is called an *Information*, or by the *Indictment* or *Accusation for Removal from Public Office* presented by a grand jury.

An *Accusation for Removal from Public Office* is a written charge issued by a grand jury, based on legal evidence introduced before it, under oath. An *Accusation for Removal* accuses a public official with misconduct in office and the punishment for which may be removal from office.

An *Indictment* is a written complaint, presented by a grand jury, to a Court of competent jurisdiction, charging a person with a public offense. A crime (or public offense) is an act or omission forbidden by law.

No. 12

General Powers and Duties

You have the power to inquire into all public offenses committed against the State that are triable in Oklahoma County, and to present them to the Court by *Indictment* or *Accusation for Removal of a Public Officer* in writing. However, neither convening nor the continuation of a Grand Jury dispenses with the right of the attorney(s) for the State to file *Complaints* and *Informations*, conduct Preliminary Hearings or other routine matters, unless otherwise specifically ordered by the Court convening the Grand Jury.

You may, if you so desire, inspect any or all of the public institutions in Oklahoma County and make inquiry into their operation. You are entitled to examine, without charge, any of the public records in the County.

You are required to make a personal inspection of the conditions of the County Jail, as to the sufficiency of the same for the safekeeping of prisoners, their convenient accommodation and health, and to inspect the rules and regulations of said Jail, and to make any recommendations that seem proper in your final report.

You are also required to make inquiry into the condition and management of the public prisons in the County, either by personal inspection or other means.

In addition, you are required to make inquiry into the case of every person imprisoned in the public jails within the County on a criminal charge who has not been indicted nor charged by *Complaint* or *Information*.

[OUJI-CR 12-3]

No. 13

Inquiry into Actions of Public Officers

As a Grand Jury you have a duty to inquire into the willful and corrupt misconduct in office of public officers of every description in Oklahoma County or any of its subdivisions.

Any public officer, not subject to *Impeachment*, whether elected or appointed to any governmental office under the laws of Oklahoma may be removed from office for any of the following causes:

FIRST: Habitual or willful neglect of duty.

SECOND: Gross partiality in office.

THIRD: Oppression in office.

FOURTH: Corruption in office.

FIFTH: Extortion or willful overcharge of fees in office.

SIXTH: Willful maladministration.

SEVENTH: Habitual drunkenness.

EIGHTH: Failure to produce and account for all public funds and property in his hands at any settlement or inspection authorized or required by law.

Any public officer may be removed or ousted from office for any act of commission or omission or neglect which may be committed, done or omitted during his present, or any previous or preceding term in such office.

An Accusation in writing, charging an officer with any of the causes for removal as stated above may be presented to the Court. In the case of a State officer, an Accusation may be presented when such officer resides or has his office for the usual transaction of business Oklahoma County.

[OUJI-CR 12-6]

No. 14

The Role of the Grand Jury's Legal Advisors

The District Attorney and Assistant District Attorneys represent the State of Oklahoma and also serve as your Legal Advisors. The presentation of evidence to a County Grand Jury usually shall be made by the District Attorney for Oklahoma County or his Assistant District Attorneys, but under some circumstances the presentation may be by the Attorney General or one or more of his designees including a Special Counsel for some matter. The District Attorney and Assistant District Attorneys will gather facts and will appear before you and present evidence which they wish you to consider, together with the witnesses who have been subpoenaed for examination by you. It is also their duty, upon request by you, to subpoena any other witnesses you may desire to examine.

The District Attorney and Assistant District Attorneys appearing before you will act as your Legal Advisors. They will make available to you the evidence gathered from matters they bring to you for consideration. They will point out to you the laws which they believe may have been violated. However, in no event shall the Grand Jury be advised by the District Attorney, nor Assistant District Attorneys, nor the Attorney General of Oklahoma or his designees including any Special Counsel, as to the sufficiency or insufficiency of the evidence to return a True Bill in a matter under investigation before you. They are there to present evidence and to assist and advise you, the Grand Jury, but not to direct your actions.

[OUJI-CR 12-6, modified]

No. 15

Duty of the Grand Jury to Protect the Innocent and to Accuse the Guilty

This Court reminds you that it is the duty of a Grand Jury to protect the innocent as well as to accuse the guilty. You should shield citizens from false accusations or private malice.

Mere gossip, rumors, loose talk, charges, and threats can serve no useful purpose in your investigations other than to direct your attention to certain matters. Such information does not rise to the dignity and requirements of evidence and cannot be considered by you. You must not be impassioned, prejudiced, or intimidated thereby.

No. 16

Evidence

While investigating a charge for the purpose of presenting an *Indictment* or *Accusation for Removal of a Public Officer*, the Grand Jury may receive the written testimony of the witnesses taken in a Preliminary Examination of the same charge, and also the sworn testimony prepared by the District Attorney or her Assistant District Attorneys without bringing those witnesses before it.

The Grand Jury may also hear evidence live from witnesses testifying before it and receive written evidence.

It is your duty to weigh all of the evidence submitted to you and when you have reason to believe that there is other evidence, you may order it produced, and the attorneys for the State shall subpoena witnesses for your investigation.

[OUJI-CR 12-4, modified]

No. 17

Receive Only Voluntary Confessions and Other Statements As Evidence

Any confessions or statements that you receive into evidence must have been freely and voluntarily made and not induced by coercion, duress or promises.

No. 18

Conduct of Witnesses

You may hear the testimony of witnesses produced and sworn before you. The witnesses must appear and demean themselves properly before you, as an arm of this Court. You may also compel the production of documents, records, and other evidence through issuance of a subpoena. If any witness fails to appear or demean themselves properly, or if they fail to produce the subpoenaed documents, you may obtain the initiation of civil and criminal contempt proceedings by immediately bringing them before the Court for proper disciplinary action.

No. 19

WITNESSES CLAIMING PRIVILEGE TO NOT TESTIFY

Some of the witnesses who come before you may claim a lawful privilege not to testify, such as the privilege against self-incrimination. The fact that a witness has claimed such a privilege is not evidence of guilt, or of anything else. You must not consider a witness's assertion of a privilege for any purpose. Instead, you should disregard it entirely. This Court will determine whether a witness' claim of privilege not to testify is proper. In the event a witness claims his/her privilege not to answer a question or questions posed to him/her, the witness should be brought by you, the grand jury, as a body before me for an *in camera* hearing on the witness' claim of

privilege, and I will determine whether the claim is proper according to the procedure approved by the Oklahoma Court of Criminal Appeals.

However, no person shall be compelled to testify before you as to any matter which would tend to incriminate them in the commission of a public offense, unless it is desired or intended by you that such a witness should, because of their giving such testimony, be granted immunity from prosecution, or unless such witness should waive such immunity guaranteed to them under the law. They must be brought before the Court to be granted immunity.

[Layman v. Webb, 1960 OK CR 19, 350 P.2d 323, 331-334. *Okla. Const.* art. II, § 27]

No. 20

Hearing Evidence From a Formally Accused Defendant

It is unlikely that you will hear from a formally accused defendant or any of his or her witnesses. This is because the grand jury does not "try a case," as such, on its merits, but only determines whether there is sufficient evidence to justify the filing of the *Indictment* or *Accusation for Removal of a Public Officer* and subjecting the accused to defend himself or herself thereon. However you, the Grand Jury, must hear the testimony of any indicted or accused person requesting to be heard and is further obliged to listen to a reasonable amount of evidence in their defense, if offered. How much you desire to hear is for you to determine.

[State v. Powers, 1997 OK CR 75, 952 P.2d 997]

PERSONS VOLUNTEERING TO TESTIFY

If a person under investigation appears and volunteers to testify, you may, if you choose, hear their testimony. Even if a person under investigation volunteers to testify, a possibility exists whereby that person might still validly assert a privilege and refuse to answer your questions. Constitutional rights are extremely complicated and important, and you should rely on the advice of your Legal Advisors or seek guidance in court from the Court if questions arise.

From the above, it is clear that the matter of forcing a witness to testify, or of inviting the defendant to testify, raises complicated legal questions. The advice of your Legal Advisors and the rulings of the Court should be sought if any such questions arise.

Further legal questions may arise as to whether certain evidence is proper. The law of evidence is technical, and you should rely on the guidance of your Legal Advisors or of the Court if questions arise.

You may at all times ask the advice of the Court or your Legal Advisors. If you wish to communicate with the Court, you, the Grand Jury, must come out of the Grand Jury room as a body and appear before me in Court. I am not permitted to enter the Grand Jury room at any time. No one can advise you, though, whether the evidence in a matter under investigation is sufficient or insufficient to return a True Bill; this is a matter for your determination alone.

[State v. Powers, supra., In re Proceedings of Multicounty Grand Jury, 1993 OK CR 12, 847 P.2d 812]

No. 22

Attorneys for Witnesses

A witness appearing before you is entitled by law to have one attorney present during your interrogation of that witness. Such attorney shall be allowed to advise the witness but shall make no objections or arguments or otherwise address the grand jury or your Legal Advisors. If it appears that an attorney is improperly engaging in argument or addressing the Grand Jury, he or she may be immediately brought before the Court to be cited for contempt. Permit no witness, not even attorneys, to "argue" with, or to, you. Your findings must not be formed by argument but based solely on the law and the evidence. You may allow the witnesses to make a statement, if you like, then answer your questions and leave.

No. 23

Credibility of Witnesses

In determining the credibility of a witness, you may consider: the interest, if any, which the witness may have in the outcome of the investigation; their relationship to the situation being investigated; their relationship to any of the parties and interest in the outcome; the bias or prejudice, if any has been apparent; their means of knowledge and opportunity to know the matters about which they have testified; the reasonableness of their statements; the probability of the story which they relate; and their manner and demeanor in testifying before you. You should use your common sense in weighing and evaluating the testimony of each witness appearing before you.

No. 24

Direct Evidence and Circumstantial Evidence

"Direct evidence" is the testimony of a person who asserts actual, personal knowledge of a fact, such as the testimony of an eyewitness. "Direct evidence" may also be an exhibit, such as a photograph which demonstrated the existence of a fact. It is proof which points immediately to a question at issue and which proves the existence of a fact without inference or presumption.

"Circumstantial evidence" is the proof of facts or circumstances which give rise to a reasonable inference of other connected facts that tend to show the guilt or innocence of an accused. It is proof of a chain of facts and circumstances that indicate either guilt or innocence.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. Circumstantial evidence should be considered by you, together with all other evidence in your investigation.

No. 25

When to Bring an Indictment or Accusation for Removal of a Public Officer

If you believe the evidence presented to you for an *Indictment* or *Accusation for Removal Of a Public Officer* would warrant a conviction if submitted to a trial jury unexplained and uncontradicted and for its careful examination and consideration, you should not hesitate to return an *Indictment* or *Accusation for Removal of a Public Officer*, as the case may be.

However, if weighed by this rule, the evidence would not warrant a conviction by a trial jury, then you should not indict or accuse.

In other words, you should not indict or accuse a person of a public offense unless the evidence warrants such action, nor hesitate to return an *Indictment* or *Accusation for Removal of*

a Public Officer against one who has willfully violated the law, or proven unworthy of the Public Trust confided in them.

You should consider only the evidence introduced while you are in session. You are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified when considered with the aid of the knowledge which you possess in common with other persons. You may make deductions and reach conclusions which reason and common sense lead you to draw from the fact which you find to have been established by the testimony and evidence investigated and gathered by you.

No. 26

Who May Be Present In the Grand Jury Room

You must permit no person to be present during your sessions, except your own members, your Legal Advisors, the Court Reporter, and the witness actually under examination with their own attorney. You must allow no person other than the twelve members of the Grand Jury to be present during your deliberations, or for the giving of your votes upon any matter before you; not the Alternate Grand Jurors, not your Legal Advisors, nor the Court Reporter. This part of your proceedings is absolutely secret and private.

Throughout the sessions, you should remain alert and attentive. Do not discuss the matters you investigate with anyone outside the Grand Jury room, including family and friends. This includes discussing it either in person or by electronic, telephonic or any other means.

You are not allowed to have your cell phones or any other electronic devices in the Grand Jury room during your deliberations. You are also not allowed to access those cellular or electronic devices during the presentation of evidence.

You must vote on each *Indictment* or *Accusation for Removal of a Public Officer* individually and not vote upon any in groups, and your minutes should so reflect.

No. 27

Number of Grand Jurors Required for a True Bill

An *Indictment* or *Accusation for Removal from Public Office* may be returned by the affirmative vote of nine (9) or more of the Grand Jurors. Should such number of Grand Jurors agree to return a True Bill, you will so advise your Legal Advisors, who will prepare the same in accordance with your directions, entering thereon the names of the witnesses examined before you in connection therewith, the endorsement of a "True Bill", and it will be signed by your foreperson irrespective of how they may have voted individually. The endorsed True Bill, itself, will be presented to the Court by your foreperson in the presence of all of you.

No. 28

When the Grand Jury Does Not Find a True Bill Against a Person Held to Answer But Is Not Yet Charged By An Information

If the grand jury considers a case but does not find an *Indictment* by nine (9) or more votes against a defendant who has been held to answer a criminal charge, but the defendant has not yet been informed against in the District Court, then you must return a "No Bill." A "No Bill" is a charging complaint upon which a defendant is held to the proper Court with an endorsement thereon signed by the foreperson to the effect that the charge is dismissed.

In other words, in the instance of your investigation of persons already being held to answer felony charges, but against whom charges have not yet been filed, you must act one way or the other; you must return either a True Bill or a No Bill.

As to any person who may be investigated by the grand jury, but not indicted or accused, and who has not been held to answer charges, nothing should be released by the grand jury indicating that such individual was so investigated.

No. 29

Appointment by the Grand Jury of a Clerk

The Court has, as required by law, appointed your foreperson. However, upon retiring to the grand jury room, you will select and appoint one of your 12 members, other than the Foreperson, as Clerk, whose duty it will be to preserve minutes of your proceedings. The minutes should show only the total vote for and against each *Indictment* or *Accusation for Removal of a Public Officer*, and may reflect the name, address, and general nature of the testimony of each witness examined. At the conclusion of your proceedings, those minutes should be maintained and remain confidential to be used in preparing its *Final Report*.

No. 30

Disclosures of Grand Jury Evidence and Proceedings

You will note from the oath that you and your Foreperson took that you must maintain inviolate the secrets of the grand jury room. You must not disclose, except when required to do so in a regular judicial proceeding, the testimony of any witness examined, evidence introduced,

how any member voted, or what was said on any matter before you. Such disclosures will subject you to criminal prosecution, and upon conviction, you might be fined, or imprisoned, or both.

You are advised, however, that disclosure of matters occurring before the Oklahoma County Grand Jury other than its deliberations and the vote of any juror may be used by the District Attorney in the performance of his duties after you have brought an *Indictment* or *Accusation for Removal of a Public Officer*. Otherwise, a grand juror, attorney, interpreter, stenographer, operator of any recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the county grand jury only when so directed by the Court. All such persons shall be sworn to secrecy and shall be subject to potential criminal prosecution and contempt of court if they reveal any information which they are sworn to keep secret.

NO. 31

Grand Jury Reports

You may, from time to time and upon the conclusion of your investigations and examinations, in your discretion submit interim reports and/or a *Final Report* to the Court. You may include the total number of witnesses examined, the general subjects of inquiry and the general conclusions reached. However, again, the Court cautions you not to disclose the actual testimony received, evidence introduced, the individual votes cast by the members, or the individual opinions expressed by any member. You may comment regarding the condition and operation of any public office or public institution you investigated. You may make recommendations concerning any matter investigated, but the report may not charge any public officer, or other person with willful misconduct or malfeasance, nor reflect on the management of any public office as being willful and corrupt misconduct. It being the intent of the Law allowing

such reports to preserve to every person the right to meet their accusers in a Court of competent jurisdiction and be heard in Open Court in their defense. Such matters may only be brought before the Court by *Indictment* or *Accusations for Removal of a Public Officer*. The Report or Reports should reflect your collective conclusions as to the results of the investigations and examinations conducted by you.

Further questions may arise as to whether certain material is proper in a Report. You must be guided by your Legal Counsel or by the Court.

[OUJI-CR 12-8, modified, 22 O.S. 2021, § 346]

No. 32

General Admonishment and Advice

Ladies and gentlemen, you are further instructed that in the duties you are about to enter upon, you may be beset with all manner and nature of complaints, some of which may have merit, others of which may not. As grand jurors, you must perform a dual function, that is, to protect the innocent on the one hand, and on the other to see that the law is enforced honestly, wisely, fearlessly and without favor.

Be ever alert for attempts of persons to smear or prosecute individuals for purely personal or political reasons. Do not allow any person with political purpose their aim, or personal gain their goal, to make use of you in your functions as grand jurors to further such aims unjustly. However, you must not mistake a just complaint or charge, for effort on the part of the complaining party to advance some questionable personal desire. In the performance of the duties placed upon you, scrutinize and act upon the matters investigated by you in the same manner you

feel the person under investigation would scrutinize and act if you were the person under investigation, and such person was in your place as a grand juror. Be aware at all times of your responsibility to protect an innocent person from unjust charges and carry out your duty to see that the Law is enforced honestly, fearlessly, and without favor.

The Court admonishes you that it is your sworn duty to be fair and impartial in all of your investigations, and you must present no person through malice, hatred or ill will, nor leave any unpresented through fear or affection, or for any reward or the promise or hope thereof, but in all presentments or Indictments it is your duty to present the Truth, the whole Truth and nothing but the Truth according to the best of your understanding.

When you have done this, you will have served well as Grand Jurors for this County and State.

After you have retired to the Grand Jury room, you will perform your duties as a separate and independent body, subject only to the natural supervisory powers of this Court. And the Instructions now given you, or which may be given you in Open Court later. You may hold your deliberations during whatever reasonable hours that seem proper and may recess from time to time as may be most suitable to the early completion of your duties; bearing in mind at all times the secrecy of the proceedings of the Grand Jury. I recommend to you that you keep the hours that closely accord with the usual hours of Court at the Oklahoma County Courthouse, which are between the hours of 8:30 a.m. and 5:00 p.m. You are to keep the Court advised of your recess each day and the time you shall next convene.

No. 33

Independence of Your Actions

As a body, you are independent in your actions. You cannot be controlled or coerced. You are under the direction of the Court and will demean yourselves as good jurors, performing all your duties honestly and conscientiously. In performing these duties, you are independent in your actions, within the scope of these instructions, a copy of which will be furnished to each of you, having attached thereto your *Oath* and a sheet of *Practical Suggestions*. You are the judges of your own hours, your time of convening and adjournment. You should keep the Court advised of your schedule, for it is necessary that the Judge of the Court be available at all times possible while you are in session. If you wish to communicate with the Court, you must be returned as a body into open court, and all communications with the Court by the grand jury must be in Open Court and not in the Grand Jury room.

No. 34

The Discharge of Your Duties

You are told that there is considerable expense incident to conducting a Grand Jury, and this fact should not in any manner limit you in the discharge of your duty as a Grand Jury so long as you find substantial matters of public interest to be looked into, as set out previously in these *Instructions*. However, conclude your investigation and deliberations at the earliest date possible, consistent with your duties as Grand Jurors in the public interest.

No. 35

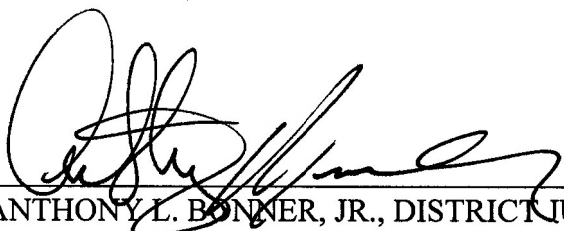
Read these instructions carefully before commencing your deliberations. A copy will be provided to each of you. You are now Grand Jurors and an arm of this Court, with the same weighty responsibility. The same diligence, industry and integrity are required of you as you have a right to expect from this Court. However, it will be your duty to determine the facts, and the Court must declare the Law.

If you go outside the rules announced in these *Instructions*, you will violate the law and your *Oath*. Allow no one, on or off the Grand Jury, to suggest it. If anyone does suggest it, report them to the Court. It also would be highly improper for anyone to approach one juror outside of the presence of the others for any purpose other than making arrangements to appear before the Grand Jury. Should such happen, report it to the other jurors and to the Court.

When you have completed your investigations, have acted fairly, firmly, justly, impartially and fearlessly, you will have the consciousness of a duty well done, and you will be entitled to receive the commendation of the law-abiding people of this County and State.

You will now go to your jury room and proceed as expeditiously as you can, consistent with a careful examination of the matters before you, and the securing of Justice in connection with each one.

Dated and given to the Oklahoma County Grand Jury in Oklahoma City, Oklahoma, this 16th day of October 2023.



ANTHONY L. BONNER, JR., DISTRICT JUDGE
PRESIDING JUDGE,
OKLAHOMA COUNTY GRAND JURY