

Legal SCENE

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Grand juries make decisions on indictments

There has been a lot of talk in the last few years about grand juries. This discussion has mostly been fueled by their use (or non-use) in officer-involved shootings. In most cases, prosecutors simply decide whether there is enough evidence to charge a case, and if there is, charge the case by issuing a Complaint. But when the case involves a police officer as a possible defendant, some people believe that using a grand jury to determine whether the officer should be charged with a crime avoids any conflict of interest that may exist because of the working relationship between prosecutors and law enforcement.

While this may be true, there are other important considerations too. Grand jury proceedings are secret, so the evidence used to decide whether to bring charges remains secret. This is why Hennepin County and Ramsey County recently decided not to use a grand jury in recent high-profile decisions to charge (Ramsey County) or not to charge (Hennepin County) police officers.

I have found there is a lot of confusion about what a grand jury *is* and what a grand jury *does*. The type of jury people normally see on television and in movies is called a *petit jury*. Petit juries decide questions of fact, and -- in a criminal case -- decide whether someone is guilty or not guilty. A petit jury has either six or 12 members, and its verdict must be unanimous.

A grand jury consists of citizens who are advised by the County Attorney. Its primary function is to hear evidence on the most serious felonies and determine whether there is probable cause to indict (charge) a suspect. A grand jury proceeding is not a trial on the merits -- it does not determine guilt or innocence. Prosecutors may present evidence to a grand jury on any criminal case. If an indictment is brought by the grand jury, the case will then proceed the same as any other case charged by a prosecutor. But, unlike the federal system which uses a grand jury in every criminal case, grand juries are rarely used by prosecutors in state court. State prosecutors can charge most cases by Complaint, and decide what the charges will be. However, certain criminal charges can only be brought by a grand jury, including First Degree Murder, where the punishment may be life imprisonment.

Grand juries are drawn annually and convene whenever requested by the County Attorney. A grand jury must have at least 16, but not more than 23, members. The grand jury is an independent body and controls its own proceedings. These proceedings are secret. It is a misdemeanor for anyone to disclose, without authorization, matters occurring before the grand jury. Secrecy is very important as the decision to charge someone with a crime should not be conducted in public -- it could jeopardize an ongoing criminal investigation, or damage the reputation of someone who is not charged.

Additionally, the individuals who make up the grand jury should be allowed to make these decisions without fear of being publicly and personally criticized if their decision is an unpopular one. One way to protect this secrecy is that no one is allowed in the grand jury room other than the grand jurors, prosecutors, the court reporter, and the witness being examined. By court order, others may be present (such as a deputy) to guard the person being examined if that person is in custody.

The County Attorney is the legal advisor to the grand jury and guides it, but must not undermine the independence of the grand jury. Any potential target of the investigation is invited to the grand jury, but cannot be compelled to participate. There is no defense attorney in a grand jury. As the grand jury is an independent body, it can request additional evidence be presented, or witnesses be made available.

Only those grand jurors that have heard all the evidence may vote on whether to indict or not. Grand jurors may not disclose what jurors say during deliberations, and how they have voted. When the grand jury is deliberating and voting, no one may be present other than grand jurors, and it is not on the record. And unlike petit juries where the decision must be unanimous, a grand jury only needs to have 12 people agree to indict someone.

The grand jury process is an important procedure, and its power to investigate and decide whether to bring charges is an important part of our judicial system. But this secrecy has drawbacks, too, which is why Hennepin County and Ramsey County have decided not to use this process in several recent cases. Other than crimes which require a grand jury -- such as First Degree Murder -- I will make the decision on whether to request a grand jury on a case by case basis after balancing all the relevant factors, including the often conflicting needs for secrecy and transparency.



Scott SWCD Supervisors sworn in

In a recent board meeting, all the Scott Soil and Water Conservation District (SWCD) supervisors were officially sworn in following their re-election in November 2016. Pictured (l. to r.) are: District 2 Supervisor Doug Schoenecker, District 3 Supervisor Linda Brown, District 5 Supervisor Robert Casey, District 1 Supervisor Gary Hartmann, and District 4 Supervisor Jim Fitzsimmons. SWCD supervisors are responsible for setting policies and overall direction for implementation of the SWCD's programs and services.

Law Library News

Going to Conciliation Court made easier

Going to Conciliation (also known as "Small Claims") Court just became easier. The forms have been available online for quite some time, but in the past there were no instructions offered. The Minnesota Courts Self-Help Center has added instructions. They have added *excellent*, easy-to-follow instructions. The instructions are detailed, include informative information about the whole process, and even have screen shots breaking down how to fill out the forms. You can find the instructions and forms at <http://www.mncourts.gov/GetForms.aspx?c=10&p=41>.

Divorce forms: A new document assembly tool is currently being tested and expected to go live very soon. It is even better than the I-Can program that was previously offered. County Library staff has been working on the beta testing, and are very impressed with the ease and completeness of the new interview and document assembly process. The new program allows you to work on the paperwork, save it, and return to it as many times as is needed. Once it is up and running, the Law Library will be able to resume the Free Saturday Morning Divorce Clinics that we have offered in the past. At the Saturday Morning Clinic, participants use the document assembly tool offered by the Minnesota Judicial Self-Help Center. Law students from local law schools assist participants with navigating the program and a volunteer attorney answers legal questions. Please call the Law Library at (952) 496-8713 to check the status of the clinic.

Crime victim assistance: Southern Minnesota Regional Legal Services (SMRLS) has received a grant from the Department of Justice specifically for Scott County residents to offer legal services for issues related to victimization. These issues would include crime victim's rights, restitution and reparations, restraining orders and orders for protection, divorce, custody and parenting time, housing, government benefits, identity theft, and financial crime. As

part of this grant, an attorney will be at the Scott County Court House every Monday morning 9 a.m. – 11 a.m. for walk-in consultations regarding orders for protection and harassment restraining orders. For more information, please call SMRLS at (651) 222-4731 and mention that you are a Scott County resident interested in crime victim assistance.

Family Law Clinics: If you have a family law question, the Monday Family Law clinic might be able to help. The Law Library offers a *free* volunteer attorney consultation on the second Monday of the month. If you have questions regarding divorce, custody, child support, or parenting time, this clinic may answer those questions. *If you are currently represented by an attorney, the volunteer attorney cannot see you.* For more information, dates, times, and to make an appointment, please call the Scott County Law Library at (952) 496-8713.

Legal forms library: Are you looking for a legal form? The Library just renewed our subscription to the Minnesota Gale Legal Forms database. This database offers legal forms for every stage of life. Types of forms include official, state-specific, federal, business, personal, real estate, and general forms covering hundreds of legal subjects and issues. There are simple contracts, power of attorney forms, wills, leases, and even templates for legal letters. Gale offers instructions, a fillable form, and usually a sample of a completed form. You can access this database at both the Scott County Library website and the Scott County Law Library website using your library card or you can use the database at any of the Scott County Libraries.

The Scott County Law Library is a public library open Monday through Friday, 8 a.m. - 4:30 p.m. You can contact the Law Library at (952) 496-8713 or by emailing us at lawlib@scottlib.org.

Funds available for Conservation Reserve Enhancement Program

Landowners looking to restore and preserve their land now have the opportunity to do so with the Conservation Reserve Enhancement Program (CREP). This program focuses on environmentally sensitive lands -- such as areas next to waterbodies and marginal farm land -- and pays landowners to permanently conserve these areas.

Through CREP, landowners receive financial incentives from both the Conservation Reserve Program (CRP) and Reinvest in Minnesota (RIM) to voluntarily enroll land in a perpetual conservation easement. CREP is available in 54 counties in Minnesota, including Scott County.

Many landowners are working on

coming into compliance with the new buffer law, and enrolling in CREP puts them in compliance. There is funding available to enroll 60,000 acres statewide into the program, providing multiple benefits to the state including flood mitigation, additional habitat for wildlife and pollinators, and reduced nitrogen in drinking water. Landowners who enroll in CREP are not only preserving their land, they are also contributing to larger conservation efforts throughout Minnesota.

More information on CREP can be found at bwsr.state.mn.us/crep or by contacting the Scott Soil and Water Conservation District staff at (952) 492-5425.



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