

# State Grand Jury Process: Investigation through Trial

## **STEP #1: INITIATE Official “Investigation” - SGJ Legal Team and Law Enforcement Officers (LEO)**

- (1) SGJ Legal team bring the Chief of State Law Enforcement Division and the Attorney General a proposed investigation
- (2) Chief of SLED and AG sign off on investigation initiation
- (3) SGJ Legal team consult with circuit solicitors in applicable circuits
- (4) SGJ Legal team provides notification to the SGJ judge that states an SGJ investigation is being initiated and the jurisdictional basis for the investigation

## **STEP #2: CONDUCT Investigation - SGJ Legal Team and LEO under oversight of SGJ Jurors**

### **Monthly State Grand Jury Meetings (3 days of meetings each month, which is called the SGJ Monthly Term of Court)**

#### Coordinated by SGJ Legal Team and SGJ Clerk of Court

- SGJ Legal team tells SGJ Clerk number of days they need the jurors (in total) (typically 1-3 consecutive days per month)
- SGJ Clerk informs the jurors of meeting dates BUT SGJ Clerk does not attend the meetings

#### Attended by SGJ Panel and SGJ Legal Team

- SGJ Jurors serves as representatives of people to oversee investigation conducted by SGJ attorneys and LEO
- Investigation plan decided by SGJ Jurors, with advice from SGJ Legal Team and Law Enforcement, during the meetings
  - *Investigative techniques include:* (1) Witness statements; (2) Search warrants; (3) Subpoena evidence [bank and financial records; business records; travel records; emails and digital evidence; utility records]; (4) Subpoena witness testimony [cooperators; as well as reluctant and difficult or noncooperative witnesses - Witness testimony to SGJ is under oath and it is illegal to lie to SGJ]; (5) State Authorized Wiretaps (must meet high standards and be approved by 5<sup>th</sup> circuit General Sessions administrative judge)
  - **Pre-indictment arrest warrants and bond hearing involve SGJ clerk, SGJ judge, SGJ legal team, and Law enforcement** - See “Pre-indictment warrants and hearing” document
  - Legal materials prepared by SGJ Legal Team may include: (1) Preparation of Subpoenas; (2) Questioning of Witnesses; (3) Legal Instruction

SGJ Secrecy Oath given to staff (not witnesses) by SGJ Clerk Throughout the year, as the SGJ Legal Team and SGJ Judge designate who is working with them, SGJ Clerk has them swear to the SGJ secrecy oath. Witnesses who testify before the grand jury are sworn in by the grand jury foreperson

#### Motions or Objections decided by SGJ Judge

- SGJ Judge decides any motions or objections that arise during the investigation (e.g., motions to quash subpoenas, other objections similar to those during discovery in civil cases)

## **STEP #3: VOTE to Indict – SGJ Jurors**

### **Indictment Drafting and Vote**

- SGJ Legal Team discusses options for different indictments and/or issue State Grand Jury Report with SGJ Panel
- SGJ Legal Team prepares and presents to SGJ Panel (typically numerous indictments presented at the same time).
- SGJ Jurors may discuss indictments more with SGJ Legal Team

Note: See “State v. County Grand Jury” document for difference in typical prosecution at county level versus state grand jury

- After all discussion, SGJ Legal Team leaves the room and SGJ Jurors vote to true bill (indict) or no bill (not indict). After vote, SGJ Juror foreperson provides SGJ clerk a signed envelope with jurors’ vote (Indictments have been “returned”)
  - SGJ Legal Team is unaware of how SGJ Jurors voted until the end of the SGJ Term of Court that month (i.e. end of three days)
  - Note: Statute authorizes SGJ to investigate issues that are less than crimes, but that they see as problems in the community or operation of government. Therefore, if SGJ jurors determines there is not sufficient information for an indictment, they can issue a State Grand Jury Report with findings.
- SGJ Clerk schedules a time for SGJ Judge to “take the returns” (i.e., judge announces the SGJ Jurors’ decision)

### **Indictment and Venue Announcement**

At the end of a three day SGJ monthly term of court, when SGJ Clerk schedules SGJ Judge to “take the returns,” SGJ Judge does the following:

- Opens envelopes with SGJ Jurors’ vote and announces which indictments are true bill (i.e., indicted) and no bill (i.e., not indicted).
- Assigns appropriate venue (i.e., county) for prosecuting indictments that are true billed. Note: Conspiracy can be venued in any county conspiracy touched

# State Grand Jury Process: Investigation through Trial (cont.)

## **STEP #4: WARRANT and BOND HEARING for Indictment – SGJ Legal Team and LEO; SGJ Clerk; SGJ Judge**

### ***Processing the Indictments***

- SGJ Clerk creates single folder for the indictment

### ***Indictment Warrants and Bond Hearing***

- SGJ Legal Team and LEO provide SGJ Clerk information for drafting indictment warrant (i.e., Defendant's information and charges for which defendant is being arrested)
- SGJ Clerk creates a warrant document
- Clerk provides provide the Fifth Judicial Circuit Chief Administrative Judge the warrant to review and sign
- SGJ Clerk provides signed indictment warrant to LEO to serve
- LEO serves warrant and makes arrest
  - If offender is already in custody, warrant is served on offender and offender remains in custody; If not, offender is brought into custody
- Indictment warrant bond hearing process is the same as a pre-indictment warrant bond hearings, see "Pre-indictment warrants and hearing" document
  - If it is a high profile case, the clerk coordinates with media (note, media typically only know about indictment warrants, because pre-indictment warrants are sealed)
- SGJ Clerk creates individual folders for each defendant

## **STEP #5: TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors**

### ***Assignment of Trial Judge***

- SGJ Clerk contacts Court Administration to request a trial judge be assigned to the case in the jurisdiction and county venue
- Court Administration emails SGJ Clerk an order assigning a judge. The assignment is based on the SGJ investigation number, because there may be numerous indictments all connected with the same investigation. The same trial judge will hear all matters related to the investigation.

### ***Discovery***

- Trial Judge issues protective order to allow Defendant's attorney (privately obtained or assigned) access to SGJ Legal Team evidence and transcripts from SGJ Investigation
  - Protective order states Defendant's attorney is only permitted to use/disclose the information as needed for defense at trial
  - All SGJ Monthly Meetings are recorded so Defendant's attorney has access to the information if an indictment and trial occur
- SGJ Legal Team provides all evidence collected during investigation to Defendant's attorney

### ***Civil Forfeiture***

- Where appropriate, SGJ utilizes the Attorney General's Civil Litigation division to assist in forfeiture proceedings (i.e. taking ill-gotten gains of criminal organizations)

### ***Motions and Hearing dates***

- SGJ Clerk receives any motions filed by either party and provides to assigned Trial Judge
- Trial Judge decides whether to have a hearing. If Trial Judge wants a hearing, Judge will tell the SGJ Clerk the date and time of the hearing
- SGJ Clerk informs parties and their attorneys of date/time and if attorneys are unavailable, SGJ Clerk goes back to Trial Judge for another date. This continues until available date for everyone is reached.

# State Grand Jury Process: Investigation through Trial (cont.)

## STEP #5 (cont.): TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors

### ***Plea***

- SGJ ranks defendants in tiers based on prior record, involvement in crime, etc. and sends plea offers to Defendants attorneys. Most cases end as pleas
  - Cooperation of Defendant as a result of a plea may expand information available about the criminal organization and lead to expanded SGJ investigation and new indictments as well as superseding indictments (i.e., new defendants added to a count on an existing indictment)
  - Defendant can choose to have the plea address any civil forfeiture as well
- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule plea.
- Trial Judge enters sentence based on plea agreement

### **Trial occurs (if no plea agreement reached)**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule trial
- Trial Jurors selected from county in which trial is venued, using same process as prosecution of non-state jury indictments (Note: This jury is different than the SGJ Jurors)
- Trial Judge presides and trial proceeds using same process as prosecution of non-state jury indictments
- Trial Jurors determine Defendant’s guilt or innocence

### **Sentencing**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule any post trial sentencing hearings
- Trial Judge enters sentence

### ***After Sentencing***

- SGJ Clerk emails scanned copies of documents to the following:
  - Detention centers: Sentencing Sheets
  - SGJ Legal Team (Prosecutors): Sentencing Sheets and Plea Agreements
  - Defendant’s Attorney: Sentencing Sheets and Plea Agreements
- For Defendant’s sentenced to probation, SGJ Clerk emails scanned copies of documents to the following:  
Department of Probation, Parole, and Pardon Services: Sentencing Sheets and Indictments
- SGJ Clerk manually reenters information from each individual sentencing sheet into an online form and uploads it to Court Administration through a County Stats Portal (SGJ is the 47<sup>th</sup> county)