

100.05 OUTLINE FOR GRAND JURY SELECTION.

*CAUTIONARY INSTRUCTION: BEFORE YOU BEGIN, FIRST CHECK WITH THE CLERK TO SEE WHETHER YOU ARE MISSING ANY JURORS. PROCEED TO FOLLOW THE STANDARD PRACTICE IN YOUR JURISDICTION.*

I. Composition of Grand Jury

a. Selecting Grand Jurors

- i. A master jury list of potential jurors to be used for grand and trial (petit) juries from lists of registered voters and licensed drivers has been constructed
- ii. The clerk of superior court or the assistant or deputy clerk has prepared a list of names from the master jury list of those to be summoned by the sheriff for jury duty.
- iii. The clerk has randomly selected the names of eighteen people to serve as grand jurors. Once a grand jury is composed, nine grand jurors are replaced – using the same process – at the first session of criminal superior court for the county after each January 1 and July 1.

II. Appointment of Grand Jury Foreperson

a. When Selected

- i. The presiding judge must first appoint a foreperson. Then the judge will instruct the clerk to administer the oath of office to the grand jury foreperson. Thereafter, the clerk will administer the oath to the grand jurors.

b. Assistant Foreperson

- i. The presiding judge may appoint another person to act as foreperson during any absence or disability of the foreperson.

c. Manner of Selection

i. Method

1. Selection method is within the discretion of the presiding judge. The judge may question the grand jurors orally or by way of written questionnaire. It could also be by other methods, such as selecting names out of a hat and allowing them to accept or deny.

ii. Must be Racially Neutral and Gender Neutral

1. Selection of the foreperson (and the assistant) must be done in a racially and gender neutral manner.
2. The selection process is not racially neutral unless all members of the grand jury are considered.
3. Courts have held that the foreperson was selected in a racially neutral manner when the trial judge followed a recommendation by the grand jury, provided that recommendation was made in a racially neutral way.
4. The judge should enter a written order with respect

to the appointment of the foreperson. The order should outline the procedure employed and the factors considered in the appointment. If a written grand jury questionnaire was used, the judge's order should include a directive that the clerk preserve the completed questionnaires as part of the minutes under seal and that they not be opened without a court order.

### III. Oaths of Grand Jury Foreperson, Grand Jurors, and Grand Jury Officer

*THESE OATHS PROVIDED BELOW PRESUME THE ENTIRE JURY POOL HAS PREVIOUSLY BEEN GIVEN BOTH OATHS AS REQUIRED BY N.C. Gen. Stat. § 15A-623.*

#### a. Oath of Grand Jury Foreperson: Must Be Appointed and Sworn in Prior to Swearing in Grand Jurors

i. The grand jury foreperson must be sworn using the following oath: You, as foreman of this grand inquest for the body of this county, shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge; the State's counsel, your fellows' and your own you shall keep secret; you shall present no one for envy, hatred or malice; neither shall you leave anyone unrepresented for fear, favor or affection, reward or the hope of reward; but you shall present all things truly, as they come to your knowledge, according to the best of your understanding; so help you, God.

#### b. Oath of Grand Jurors

i. The grand jurors must be sworn using the following oath: The same oath which your foreman hath taken on his part, you and each of you shall well and truly observe and keep on

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your part; so help you, God.

c. Oath of Grand Jury Officer

i. The grand juror officer must be sworn using the following oath: You swear (or affirm) that you will faithfully carry all papers sent from the court to the grand jury, or from the grand jury to the court, without alteration or erasement, and without disclosing the contents thereof, so help you, God.