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December 14, 2020

Hon. Gerald W. Connolly
Supreme Court Justice
Albany County Courthouse
16 Eagle Street
Albany, New York 12207

Re: Grand Jury

Dear Judge Connolly:

I know there has been much correspondence on these issues, but in anticipation of future litigation, it's important that I understand the Court's orders and make the position of the Albany County DA clear.

It is our position that asking Albany County residents to continue to meet as a grand jury is in direct contravention of New York State's recommendations that people avoid meeting in groups. While the Commissioner of Jurors and his staff have done an outstanding job of keeping grand jurors as safe as possible, with the recent spike in infections seen in our county, there is no way for the grand jury to continue to meet in a manner that doesn't risk exposure. At a time when the state is limiting gatherings statewide to no more than 10 people, it is simply reckless to still require 23 complete strangers to sit together for hours hearing cases. This point was expressed quite eloquently last week by the foreperson of the Friday grand jury who said, "The state recommends not spending time with people outside of your home, yet we are expected to sit in a room for 8 hours with 25 people and an additional 20 plus people when factoring in witnesses. I sat all day less than 6 feet from the ADAs. When I raised my concerns, I was told I could go outside for fresh air on breaks. And yet, it was deemed that the judges need not be exposed for a few minutes for the hand up at the end of the day. I truly hope that the State will take the safety of jurors into their consideration moving forward."

All of that being said, there is little to no doubt that our office will be inundated with motions for defendants to be released pursuant to CPL 190.80 and for cases to be dismissed pursuant to CPL 30.30 for our failure to present those cases to a grand jury. While it is our intention to oppose those motions for "good cause" based upon the severe time limitations that have been placed on our grand juries by Administrative Order, there is little doubt that our grand jury decisions will be highly scrutinized by the defense bar and the courts. By your most recent

correspondence, you indicated that the grand jury will be meeting for 4 hours per week “absent special request and authorization”. This puts us in the difficult position of having to make such a request for more grand jury time or else be accused by the defense of not having taken advantage of an offer made by the Court.

Therefore, as long as the state is going to require grand juries to continue to convene to hear cases, it is our request that the Court advise us of any available time so that we are able to take advantage of it and protect all cases from future dismissal. If that time is limited to 4 hours per week, so be it. If that time can be expanded, please so advise.

Thank you for your consideration under these most difficult circumstances.

Very truly yours,

A handwritten signature in black ink, appearing to read "P. David Soares", written over a horizontal line.

P. DAVID SOARES
DISTRICT ATTORNEY