

Section 7.04: Grand jury selection and instructions

find probable cause to believe are guilty of a criminal offense under federal law.

The cases that come before you will arise in various ways. Frequently, suspects are arrested on the scene, so to speak, during or shortly after an alleged crime is committed. They are taken before a judicial officer, known as a magistrate judge, before you become involved in the case. The United States magistrate judge holds a preliminary hearing to determine whether there is probable cause to believe that a crime was committed and that the accused committed it. If the magistrate judge finds such probable cause, the accused will be held for the action of the grand jury, so that *you* can consider whether probable cause exists and an indictment should be issued.

Other cases will come to you *before* an arrest but after an investigation has been conducted by a governmental agency, such as the Federal Bureau of Investigation, the Treasury Department, postal authorities, or other federal law enforcement officials. These cases are then brought to your attention by the U.S. attorney or an assistant U.S. attorney, or attorneys employed by the Department of Justice.

Sixteen of the twenty-three members of the grand jury constitute a *quorum* for transacting business. If fewer than sixteen members are present, even for a moment, the proceedings of the grand jury must stop. This shows how important it is that each of you conscientiously attend the meetings. If an emergency prevents your personal attendance at a meeting, you must promptly advise the grand jury foreperson, who has the authority to excuse you from attendance. If your absence will prevent the grand jury from acting, you should, if humanly possible, attend the meeting. You have the right to regulate your sessions to accommodate, within reason, the convenience of yourselves and the government attorneys, but you have the overall obligation to be available for duty at all times during the term for which you have been selected.

The U.S. attorney and Department of Justice attorneys represent the government in the prosecution of parties charged with committing offenses or crimes against the laws of the United States. These government attorneys will present the accusations that the government desires to have you consider. They will point out to you the laws that the govern-