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**November 29, 2016**

**PRESS RELEASE:**

**DISTRICT ATTORNEY WILL USE INVESTIGATIVE GRAND JURY TO COMBAT HEROIN TRAFFICKING AND FATAL OVERDOSES**

The Franklin County District Attorney's Office will begin using a new investigative technique in support of its ongoing efforts to stem the flow of deadly heroin into Franklin County. Beginning in January 2017, Franklin County District Attorney Matthew Fogal will convene an investigative grand jury that will be tasked with investigating individuals and organizations involved with the distribution of controlled substances within Franklin County, with an emphasis on those individuals and organizations involved with heroin distribution and drug deliveries resulting in death. The Franklin County District Attorney's Office has previously utilized the services of grand juries to investigate major cases in the county, including homicides, organized crime, rapes and other cases where traditional investigative techniques proved to be unsuccessful or were unlikely to accomplish investigative objectives.

The use of a grand jury affords the District Attorney's Office several advantages over traditional investigative techniques. Chief among them is its secret nature. During grand jury proceedings, witnesses testify in confidential hearings that are not open to the public or media, and the testimony provided is sealed and can only lawfully be released under very specific situations. When a witness testifies in a grand jury, only the prosecutor, a court reporter, the witness and the grand jury are present. Grand jurors are all sworn to secrecy and may not discuss the facts of, or even the existence of, any cases heard. Grand juries allow witnesses to testify freely without the fear of reprisal that they may face if they were forced to testify in a preliminary hearing that would be open to the public. Absent a guarantee of total secrecy, witnesses would either testify, but not be completely forthcoming, or attempt to avoid

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providing any testimony at all. The comfort and insulation afforded by the secret nature of grand jury proceedings to frightened or reluctant witnesses is one of the greatest strengths of the grand jury.

Grand jury secrecy also protects the integrity of ongoing criminal investigations. In some cases, there may be concerns that the targets of the investigation might respond to any investigative inquiries by destroying evidence, witness tampering, fleeing the county, or otherwise obstructing justice. When the targets of the investigation are not even aware of its existence, such dangers are greatly minimized. Typically, suspects do not become aware of the existence of the investigation conducted by grand juries until after arrests have been made.

Grand juries also make it much more difficult for witnesses to collude to “get their stories straight” and provide a consistent false version of events. Since the transcripts of grand jury proceedings are maintained under seal, they are not readily available, like preliminary hearing transcripts.

A grand jury also has the power to compel reluctant witnesses to appear before them and testify. Those who refuse to appear or testify can be jailed for contempt, as can any witness who withholds details about an investigation. Witnesses who appear but fail to testify truthfully can also be charged with perjury. These powers allow grand juries to obtain information that police oftentimes cannot, especially if there is a so-called “stop snitching” mentality. Ordinary law enforcement investigative techniques do not give the police power to force people to talk to them about a particular investigation; however grand juries can do exactly that. Friends, relatives, and co-conspirators of those under investigation can all be compelled to testify truthfully regarding their knowledge of a particular case, or be held in contempt and/or face criminal charges themselves for failing to do so.

In addition to having the power to compel witness testimony, grand juries also have the power to compel the production of certain records, such as business documents, medical records, financial records, and records of phone calls and text message conversations from cellular telephone companies or 3<sup>rd</sup> party messaging service providers. Typically, obtaining these records would require police to first obtain a search warrant, based upon probable cause. Grand juries can issue subpoenas to obtain these records in a much more expedient manner and without having to disclose the existence of an investigation in an affidavit of probable cause to obtain a search warrant.

The ability to compel witness testimony and the production of records in confidential proceedings reduces the need for investigators to invest substantial amounts of time, money, and other investigative resources in the actual purchases of controlled substances. Typically, the investigation of drug distribution conspiracies takes months to complete, and requires a substantial investment of manpower and financial resources to conduct multiple purchases of controlled substances using undercover officers and confidential informants from multiple members of the drug trafficking organization. However, by using the power of the grand jury, investigators can collect much of the evidence required through the use of eyewitness testimony, documents, physical and electronic surveillance, and the testimony of investigating officers, which could be augmented by smaller, more narrowly focused purchases of

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controlled substances, thereby allowing drug trafficking organizations to be dismantled in a more expedient manner.

The grand jury will consist of 23 primary jurors and 7-15 alternates and will initially be convened for 18 months. State law allows grand juries to be convened for no more than two years. Grand jurors will typically meet once every other week, for eight hours, and are paid a stipend for their service. After hearing evidence presented in a case, the grand jury can issue a presentment, which is a formal recommendation to the district attorney that criminal charges be filed against a particular person. In cases of witness intimidation, grand juries can also indict directly, rather than issuing a presentment.

The scourge of heroin is a daily and constant focus of the Franklin County Drug Task Force, in an effort to punish the guilty and protect the lives of users and would be users, and their suffering families. Our efforts are constant and relentless, and heroin dealers have already been warned that there is absolutely no safe place to hide in Franklin County. They will be caught, captured, and held to account for the destruction they have wrought. Defeating this scourge remains the cause of a generation of law enforcement officers, and we will prevail. Failure is not an option.