

**ORANGE COUNTY COURT
GRAND JURY
TERM 6**

Report # 2025-001

January 27, 2025

In re: A Particular 2023 VILLAGE ELECTION

**GRAND JURY REPORT
CPL § 190.85(1)(c)**

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ORANGE COUNTY COURT GRAND JURY

January 27, 2025

GRAND JURY REPORT, CPL § 190.85(1)(c)

PRELIMINARY STATEMENT

The Orange County Grand Jury, Term 6, was empaneled on November 4, 2024, by order of the Honorable Richard Guertin, County Court Judge.¹ From November 25, 2024, through January 17, 2025, the Grand Jury heard testimony from twelve (12) witnesses and considered twenty (20) exhibits. Pursuant to the Criminal Procedure Law, all those who testified before the Grand Jury received immunity.

According to an Orange County District Attorney's Office investigator who testified before the Grand Jury (hereinafter, "DA Investigator"), the District Attorney's Office received a complaint from an attorney (hereinafter, "Lawyer A")² retained by a private citizen who alleged that improprieties had occurred in the June 2023 village election (hereinafter, "the Village Election"). Lawyer A's client was a former official of this village in Orange County (hereinafter, "the Village"). Lawyer A testified that, on behalf of his client, the attorney had brought an action in the Supreme Court of Orange County against the Village, and various village officials, alleging improprieties in the way that the Village Election was administered, particularly with respect to the handling of absentee ballots. Lawyer A alleged in the lawsuit that fourteen (14) individuals who were not registered to vote had improperly requested, received, and cast absentee ballots in the Village Election; and that another sixteen (16) individuals who were not registered to vote had improperly

¹ The Grand Jury thanks the Honorable Richard Guertin. The Grand Jury also thanks Orange County District Attorney David M. Hoovler as well as Chief Assistant District Attorney Christopher P. Borek.

² For privacy reasons, the names of some witnesses have been omitted, and instead they will simply be referred to as "Witness [A,B,C, etc.], whose identity is known to the Grand Jury," or by a one-word description such as "Candidate A," "Clerk A" or "Lawyer A."

applied for and received absentee ballots, but that they subsequently registered prior to the canvassing of ballots in the Village Election.

The investigator testified that the Orange County District Attorney's Office had also received a complaint from Candidate A, one of the officials who was named as a defendant in the lawsuit, who alleged that a supporter of his opponent in the election had solicited an absentee ballot from a person who was not registered to vote, and that this ballot has been improperly cast in the election. The DA Investigator stated that the matter was initially investigated by the Orange County White Collar Crimes Task Force, which is comprised of investigators from the District Attorney's Office, the Orange County Sheriff, and other law enforcement agencies, although this particular investigation was handled primarily by the District Attorney's Office.

The Orange County District Attorney's Office began presenting evidence to the Grand Jury on November 25, 2024, so that the Grand Jury could make specific recommendations as how the Village, and similarly situated villages in Orange County and elsewhere, can better safeguard the integrity of village elections, have the Absentee Ballot Application forms more closely adhere to the requirements of the New York State Election Law, and increase confidence in the electoral process while optimizing governmental efficiency and transparency.

This report is being submitted to the Court by the Grand Jury pursuant to New York State Criminal Procedure Law §190.85(1)(c). This report summarizes some of the issues which allowed: (1) absentee ballots to be given to those who were not eligible to vote; (2) unwary aspiring voters who had not carefully read instructions on the absentee ballots to face potential felony criminal exposure for falsely attesting to their qualifications to vote; (3) avoidable litigation concerning absentee ballots; and (4) unnecessary loss of confidence by residents in the integrity of elections.

Although after the 2023 election, the Village took steps to avoid a repetition of some of the issues that occurred in the Village Election by adopting a resolution to have future elections

conducted by the Orange County Board of Elections, instead of by the Village Clerk, other steps can be taken at the village, county and state level to avoid similar issues in the future, both for the Village, and in similarly situated villages and school districts,³ which conduct their own elections.

The Grand Jury intends that this report be delivered in as neutral a tone as possible so that the facts can speak for themselves. To that end, the Grand Jury believes it is imperative that the facts of this report, and the attendant recommendations, be made public. This report offers practical recommendations that, if adopted, would cause elections within various municipalities in Orange County, and elsewhere, to be conducted more efficiently, in greater conformance with the letter and spirit of the New York State Election Law, with more transparency, and in a manner which would raise the general public's confidence in the integrity of the electoral process.

The Distribution of Absentee Ballots to Those Not Registered to Vote

Clerk A was the Village Clerk Treasurer of the Village during the 2023 election. Clerk A testified that she was, "hired by the [village] board at the time which included [Candidate A] and the other board members,"⁴ and further testified that "I used to basically take care of everything up until election day which meant that I would hire people, poll-workers to work on election day and I would post notices in the paper publicizing the upcoming election, and I would order ballots for the election and if anybody requested an absentee ballot I would give that to them and keep a record of the, who requested the absentee ballot."⁵ The conduct of village elections is governed by Article 15 of the New York State Election Law, and imposes requirements on village clerks to perform the types of tasks that Clerk A referenced in her testimony.

³ The Grand Jury learned that in addition to villages, school districts may also conduct their own elections.

⁴ Testimony of Clerk A, 11/25/2024, at page 25.

⁵ *Id.* at pages 25-26.

Clerk A testified that, "anybody who requested an absentee ballot was given one. And the reason I did that was because I had taken a class on elections, a class that was held by NYCOM... which stands for New York Conference of Mayors..." Clerk A further stated that, "there was one section of the class about absentee ballots and it said that the clerk must give an absentee ballot to anybody who requested it."⁶ As is more fully described below, multiple people improperly obtained absentee ballots in the Village Election because Clerk A did not properly check the list of eligible voters when absentee ballots were requested, as is required by New York State Election Law.

New York State Election Law §15-120(5) provides that when an application for an absentee ballot is received for a village election, "[t]he village clerk shall examine each application and shall determine from the information contained therein whether the applicant is qualified under this section to receive an absentee ballot." As Orange County Board of Elections Commissioner Courtney Canfield Greene testified, to be qualified to vote, "[y]ou have to be a registered voter in Orange County and in that jurisdiction thirty days prior to the election."⁷ This requirement would be satisfied by the Village Clerk checking absentee ballot requests against the list of eligible voters, which the Orange County Board of Elections provides to village clerks upon request. Since this was not done in the Village Election, at least fourteen (14) unregistered/ineligible voters received and cast absentee ballots.⁸ When Commissioner Canfield Greene was asked if a village clerk should check a list of eligible voters she responded, "Yes. Any election you should absolutely check your list of registered voters."⁹

Orange County Board of Elections Commissioner Courtney Canfield Greene testified that the Orange County Board of Elections conducts elections held in Orange County at the Federal,

⁶ *Id.* at page 27.

⁷ Testimony of Commissioner Canfield Greene, 12/20/24, at page 13.

⁸ *See*, Exhibit 8 and testimony of Clerk A and Lawyer A.

⁹ Testimony of Commissioner Canfield Greene, 12/20/24, at page 13.

State and County level, as well as for cities and towns within Orange County, but not necessarily for village or school district elections.¹⁰ Both Orange County Board of Election Commissioners Louise Vandermark and Courtney Canfield Greene testified that the Orange County Board of Elections holds training sessions in February for the benefit of village officials and school district officials as to how to conduct elections properly under New York State Election Law. According to Commissioner Canfield Greene, to her knowledge, Clerk A did not attend the training session in 2023.¹¹ (As stated above, Clerk A only referenced attending training by NYCOM.)

The Absentee Ballot Forms

Copies of fourteen (14) Absentee Ballot Applications filed in the Village Election were received into evidence during the Grand Jury proceedings. Multiple witnesses testified that when they requested and signed Absentee Ballot Applications, they were unaware of the requirement that they be registered to vote in the Village at the time that they signed the application and were similarly unaware that they could potentially face criminal charges for certifying that they were registered when they were in fact not registered. All of the forms were provided by New York State. A copy of a New York State Absentee Ballot Application, which was received into evidence as Grand Jury Exhibit 19, is attached to this report.

Election Law § 15-120(3) provides that, "an application for an absentee ballot must be signed by the applicant. Such an application may require that the applicant submit a certificate in lieu of any affidavit which shall state that the information contained in the application is true. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and shall have the following language printed in bold face type above the signature line: "I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN

¹⁰ Testimony of Commissioner Canfield Greene, 12/20/24, at page 10.

¹¹ Testimony of Commissioner Canfield Greene, 12/20/24, at page 11.

AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN.” [All capital letters in the original statute.]

Section 8 of Grand Jury Exhibit 19, and of all of the Absentee Ballot Applications received into evidence in the Grand Jury proceeding, contains the following language: “I certify that I am a qualified and a registered voter (and for primary, enrolled) voter; and that information in this application is true and correct and that this application will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if it had been duly sworn.” This language is then followed by a line for the applicant to sign and date the application.

Contrary to the plain language of Election Law Section § 15-120(3), the language on the Absentee Ballot Applications just above the signature lines is neither in bold-type print, nor in all capital letters. Numerous witnesses stated that they overlooked this language on their Absentee Ballot Applications.

Witness A testified that he was not registered to vote at the time that he signed an Absentee Ballot Application contained in Grand Jury Exhibit 5 and did not know exactly what he was signing noting that “the print is small print”.¹² Witness B similarly admitted that she was not registered to vote when she signed an Absentee Ballot Application contained in Grand Jury Exhibit 5. When Witness B was asked if she had read the jurat certifying that she was registered to vote she replied, “I did read that today and I don’t think I read that last time.”¹³

Seven Absentee Ballot Applications were received into evidence as Grand Jury Exhibit 3. Section 7 of each of those Absentee Ballot Applications stated, “I authorize (give name) [Witness C] to pick up my ballot at the village office.”¹⁴ Witness C testified to filling out that section on

¹² Testimony of Witness A, 12/04/24, at pages 7 and 10. Witness A also testified that he thought he was voting in a “club election” as opposed to one for a village office.

¹³ Testimony of Witness B, 12/4/24, at page 17.

¹⁴ Grand Jury Exhibit 3 and Witness C, Testimony 12/4/24, at page 22.

each application which allowed Witness C to pick up the absentee ballots, that Witness C knew each of the individuals requesting the ballots, and that Witness C collected the ballots and brought them to the Village office.¹⁵ When Witness C's attention was drawn to the jurat in Section 8 where the applicant certifies that they are registered to vote, Witness C testified to not being familiar with that language before the day Witness C testified in the grand jury.¹⁶ Witness C also testified to not being sure of the registration status of any of the people for whom Witness C was delivering ballots, notwithstanding that the witness understood that, "[m]ost of these are college kids" and "were probably voting for the first time."¹⁷

The requirement of Election Law § 15-120(3) that the language in Section 8 be in bold face print, and in all capital letters, was obviously mandated by the New York State Legislature to ensure that those signing the forms understand that they are doing so under the penalties of perjury, and to direct their attention to the seriousness of making false statements on the form. The forms received in evidence in the Grand Jury did not comply with those requirements. As a result, a number of witnesses, and likely many others who have filed these applications, did not understand and appreciate what they were signing. This needlessly exposes otherwise law-abiding individuals to potential criminal sanctions. Perjury in the Third Degree, Penal Law §210.05, states that "[a] person is guilty of Perjury in the Third Degree when he (or she) swears falsely." That crime is a Class A misdemeanor with a potential penalty of up to 364 days in jail. The crime of Illegal Voting, Election Law § 17-132(1), which is a felony, is committed when "[a]ny person ... [k]nowingly votes or offers or attempts to vote at any election when not qualified." That crime carries a maximum penalty of up to one and one-third (1 1/3) to four (4) years in prison.

¹⁵ Testimony of Witness C, 12/4/24, at pages 22-23.

¹⁶ *Id.* at 28.

¹⁷ *Id.* at 27.

Orange County Board of Elections Operations

The Grand Jury heard testimony from Orange County Board of Election Commissioners Louise Vandermark and Courtney Canfield Greene. Each Commissioner is chosen from one of the two major political parties in Orange County. Louise Vandermark is the Democrat Party Commissioner and Courtney Canfield Greene is the Republican Party Commissioner. Each Commissioner testified that they are appointed to four-year terms and are answerable to no one including the County Executive, or any other elected or appointed official. Each Commissioner also testified that they made a practice of dealing with any issues, including taking telephone calls or attending meetings, jointly. Republican Commissioner Canfield Greene testified that "Louise and I do everything together. Mostly we take our phone calls together, we do our e-mails together. We do work in a team fashion. Everything is done bipartisanly all the time... It is a system of checks and balances. That is why you have a Democrat and Republican at the Board of Elections to oversee, make sure each one is doing what they have to do to have a fair election."¹⁸ Democratic Commissioner Vandermark testified similarly when asked about the practice she followed at the Board of Elections with Commissioner Canfield Greene. Commissioner Vandermark stated, "[w]e handle things together [because] [y]ou have to have checks and balances when you deal with election. There has to be transparency and oversight by the other party. Everything we do in our office from absentee ballots to a registration to a FOIL [Freedom of Information Law] is all reviewed by both parties so everything is double checked."¹⁹ In the Grand Jury's opinion, this method of conducting business ensures transparency and serves to assure the public that the Orange County Board of Elections conducts its duties in a fair and non-partisan manner.

¹⁸Testimony of Commissioner Canfield Greene, 12/20/24, at page 6.

¹⁹ Testimony of Commissioner Vandermark, 12/20/24, at page 41.

The Grand Jury learned that the Orange County Board of Elections has a permanent staff of twenty-two (22) full-time employees, including the two (2) Commissioners, four (4) part-time staff members, as well as many per-diem employees based on the various election tasks the Board of Elections is required to perform.²⁰ Each of the Orange County Board of Elections Commissioners has extensive experience in the electoral process. Commissioner Louise Vandermark has served over fourteen (14) years as an Election Commissioner, in addition to serving ten (10) years as a Deputy Commissioner, and sixty (60) years of experience being involved in elections.²¹ Commissioner Courtney Canfield Greene worked for the Orange County Board of Elections for twenty (20) years prior to becoming a Commissioner, and has been Commissioner for four (4) years, and has close to thirty (30) years' experience in county and local politics.²²

In contrast to the extensive experience of the County Board of Elections Commissioners, Clerk A testified that she had been the Village Clerk Treasurer for less than four (4) years.²³ Clerk A's duties as the Village Clerk Treasurer encompass far more than handling elections and as such, village clerks cannot be expected to have the expertise and experience of the Orange County Board of Elections Commissioners.

Election Law § 15-104(1)(c) provides that, "[t]he board of trustees of a village may adopt a resolution, subject to a permissive referendum as provided in article nine of the village law, providing that village elections shall be conducted by the [county] board of elections." Such a resolution was adopted by the Village on December 8, 2023, and received into evidence as Grand Jury Exhibit 15. The resolution included language stating that, "WHEREAS, the Village board of Trustees has determined that it would be more efficient for the Village to transfer the conduct of

²⁰Testimony of Commissioner Canfield Greene, 12/20/24, at page 6.

²¹ Testimony of Commissioner Vandermark, 12/20/24, at pages 36-37.

²² Testimony of Commissioner Canfield Greene, 12/20/24, at page 7.

²³ Testimony of Clerk A, 11/25/24, at page 24.

Village elections to the Orange County Board of Elections (the "County Board"), given the County Board's resources and their experience in conducting municipal elections..."

Independence of the County Board of Elections Compared to Village Clerks

Aside from the relative lack of experience in conducting elections that village clerks have when compared to the County Board of Elections, such clerks are answerable to local village officials, whereas, once appointed, County Board of Elections officials do not answer to any elected or appointed official. Clerk A testified that she was appointed by the Village Board and that the Board "runs the village."²⁴ The village clerk thus is answerable to the Village Board of Trustees. Candidate A testified that Clerk A "reported to me. I had as the executive the ability to hire and fire her, but I didn't supervise her on a daily basis."²⁵ As stated above, Candidate A also testified that Clerk A was an "at-will employee" and that he could unilaterally hire or fire her without seeking the permission of the Village Board.²⁶

Both Orange County Board of Elections Commissioners testified that Clerk A had called them on behalf of Candidate A, who was on the Board of Trustees and hence had oversight over Clerk A, at the time that Candidate A was a candidate for office. To their credit, both County Commissioners informed Clerk A to have Candidate A call on the candidate's own behalf when Clerk A would make such calls. Commissioner Vandermark testified that when Clerk A would call on behalf of Candidate A to request something, the Village Clerk would be told, "[h]ave [Candidate A] call us and that [Clerk A] was in charge of the election, that [Candidate A] had no control over the election, that the village clerk administered the village election."²⁷ Commissioner Vandermark noted that the Commissioners gave Clerk A "a lot of guidance. [Clerk A] really didn't know what

²⁴ *Id.* at page 25.

²⁵ Testimony of Candidate A, 1/10/25, at page 22.

²⁶ *Id.* at pages 22-23.

²⁷ Testimony of Commissioner Vandermark, 12/20/24, at page 38.

[Clerk A] was doing and we really tried to help [Clerk A] out the best we can but it seemed like the majority of the time [Candidate A] was a huge influence on [Clerk A, who] would call to say, Oh, [Candidate A] wants to do this, [Candidate A] wants that."²⁸

The perceived allegiance of village clerks to members of the Board of Trustees of a village can give rise to the perception of wrongdoing even if none exists. For instance, Clerk A testified that Clerk A would create a spreadsheet, which was received into evidence as Grand Jury Exhibit 13, that listed the names of everyone who had returned an absentee ballot and who turned such ballot in.²⁹ Some of those who returned absentee ballots for multiple voters may have real or perceived connections with particular candidates. Thus, even though Clerk A testified that the absentee ballots were received in sealed envelopes, which were placed in a safe and not delivered or opened until after the polls closed, someone who is privy to the spreadsheet has an indication as to who a particular voter has voted for.

Clerk A testified that on June 19, 2023 at 4:00 PM, Clerk A provided a copy of the spreadsheet to Candidate A.³⁰ On June 19, 2023 at 4:23 PM, Candidate A's adult son sent a text message, a copy of which was received into evidence as Grand Jury Exhibit 12, to a voter, [hereinafter "Witness D"], who he knew and whose name was listed on the spreadsheet stating, "Did you vote for my Das [*s/c*] opponent [office Candidate A was running for]? My dad just shot me a text."³¹ Candidate A's son testified that based on the fact Candidate A's knowledge of the person who handed in Witness D's absentee ballot, and the son's knowledge that the person who handed in the ballot and Candidate A "don't get along too well" both Candidate A and that candidate's son concluded that Witness D had voted for Candidate A's opponent.³² The Grand

²⁸ *Id.*

²⁹ Testimony of Clerk A, 11/25/24, at pages 40-42.

³⁰ *Id.* at page 45.

³¹ Grand Jury Exhibit 12 and Testimony of Witness D, 11/25/24, at page 22.

³² Testimony of Candidate A's son, 1/10/25, at page 31.

Jury finds that although this might raise concerns about the secrecy of Witness D's ballot, the Grand Jury credits the testimony of Clerk A that upon receiving an absentee ballot, Clerk A would make a note, not open the sealed envelope that the ballot was received in, place the still sealed ballot in a safe and deliver the sealed ballot to poll workers on election day.³³

FINDINGS AND RECOMMENDATIONS

The following findings summarize the evidence and testimony presented in the Grand Jury and the following recommendations are made by the Grand Jury in order to address, remedy and prevent identified issues from recurring in the future.

*Villages Should Consider Handing Election Functions over to
the County Board of Elections*

FINDINGS:

The Grand Jury finds that Clerk A needed repeated guidance from the Orange County Board of Elections and was not nearly as experienced or knowledgeable as to how to properly conduct elections as the Orange County Commissioners of the Board of Elections. The Grand Jury finds that much of the litigation that resulted from the Village Election might have been avoided if Clerk A had obtained the list of registered voters from the Orange County Board of Elections and checked that list against the list of those seeking to obtain absentee ballots. The Grand Jury also finds that during the election Clerk A made repeated requests of the Orange County Board of Elections on behalf of Candidate A, who had the unilateral power to fire Clerk A. The Grand Jury finds that Clerk A acted in good faith but was inexperienced in handling elections and that many of Clerk A's duties do not deal with elections. The Grand Jury also finds that the power that Candidate A had over Clerk A, who was tasked with administering a fair and neutral

³³ Testimony of Clerk A, 11/25/24, at pages 40-41.

election process, created a situation which could result in voters doubting that the election was being conducted in a neutral manner, even though there was no misconduct by any public official. The Grand Jury finds that the Orange County Board of Elections has the expertise and resources to handle village elections and that the Board of Elections has instituted a set of checks and balances between the Commissioners of each of the major parties to ensure transparency and trust in the elections that they administer. Moreover, the Grand Jury finds that since the Orange County Board of Election Commissioners are not answerable to any other public official, such as the County Executive, they are more independent than village clerks who are at-will employees and who are answerable to officials and candidates in the elections that they are administering who can unilaterally fire them.

RECOMMENDATION:

The Grand Jury therefore recommends that all villages in Orange County and elsewhere consider transferring the administering of village elections to the County Board of Elections.

Village Elections Should be Held in November

FINDINGS:

The Grand Jury finds that by operation of law many village elections default to occurring in June, although the Election Law allows not only for the village boards to move the administration of elections from the village clerk to the Orange County Board of Elections, but also allows village boards to move the date of the election to November. The Grand Jury credits the testimony of Democratic Commissioner Louise Vandermark that moving village elections to November would result in greater voter participation, since based on her experience many people know when Primary Day and Election Day are, but fewer people know when village elections are conducted. The Grand Jury also credits the testimony of Republican Commissioner Canfield

Greene that “[t]he village elections in June, they don’t have that many voters,”³⁴ and that moving village elections to Election Day in November would likely result in greater voter participation. The Grand Jury also finds, based upon the testimony of Democratic Board of Elections Commissioner Vandemark and Republican Board of Elections Commissioner Canfield Greene, that the Orange County Board of Elections could more easily handle the logistics involved in administering village elections if those elections coincide with elections that the Board of Elections are already administering on Election Day in November.

RECOMMENDATION:

The Grand Jury therefore recommends that village boards move village elections to Election Day in November to enhance greater voter participation and not impede the efficiency of the Orange County Board of Elections.

*Village Clerks Administering Elections Should
be Mandated to Attend Training Offered by the
Orange County Board of Elections*

FINDINGS:

The Grand Jury finds that Clerk A needed repeated guidance from the Orange County Board of Elections and was not nearly as experienced or knowledgeable as to how to properly conduct elections as the Orange County Commissioners of the Board of Elections and finds that Clerk A misapprehended the responsibility of a village clerk to check the eligibility of those requesting absentee ballots before issuing such ballots . The Grand Jury also finds that the Orange County Board of Elections, as well as other entities, provide annual training on these issues to village clerks, and that the Orange County Board of Elections is run by experienced and knowledgeable commissioners.

³⁴ Testimony of Commissioner Canfield Greene, 12/20/24, at page 27.

RECOMMENDATION:

The Grand Jury recommends that village clerks who continue to administer village elections be mandated by the officials that oversee their duties to attend training offered by the Orange County Board of Elections.

Village Clerks Should Only Supply Records Pertaining to Who Has Submitted Absentee Ballots, and by Whom those Ballots were Delivered to the Village Clerk Pursuant to Lawful Freedom of Information Law Requests

FINDINGS:

The Grand Jury finds that Clerk A created a spreadsheet setting forth who submitted absentee ballots in the 2023 Village Election, and who was authorized and delivered those ballots to the Village Clerk's Office. The Grand Jury also finds that based on who delivered those absentee ballots, those examining the spreadsheet can infer who particular voters likely voted for, without having to open sealed ballots. The Grand Jury finds that Clerk A delivered a copy of the spreadsheet to Candidate A, and that after Candidate A inferred that a particular voter had voted against him, Candidate A had Candidate A's son contact that voter. The Grand Jury credits the testimony of the two Orange County Board of Election Commissioners that their office only handles the request for such spreadsheets pursuant to the Freedom of Information Law, and that they work to ensure that anything given to one candidate is also made available to that candidate's opponent.

RECOMMENDATION:

It is the Grand Jury's recommendation that information concerning absentee ballots only be disseminated by village clerks pursuant to requests made under the Freedom of Information Law, and that village clerks who continue administering elections ensure that anything given to one candidate is also made available to that candidate's opponent.

The New York State Absentee Ballot Application Should be Amended to Have the Voter Certification in Bold Face and Capital Letters in Conformance with the Election Law

FINDINGS:

The Grand Jury finds that the multiple witnesses who testified before the Grand Jury who had requested and signed Absentee Ballot Applications, were unaware of the requirement that they be registered to vote in the Village at the time that they signed the application and were similarly unaware that they could potentially face criminal charges for certifying that they were registered to vote, when they were in fact not registered. The Grand Jury finds that the majority of these voters did not have criminal intent when they signed those forms. The Grand Jury notes that Election Law § 15-120(3) provides that, “[a]n application for an absentee ballot must be signed by the applicant. Such an application may require that the applicant submit a certificate in lieu of any affidavit which shall state that the information contained in the application is true. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and shall have the following language printed in bold face type above the signature line: **“I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN.”** The Grand Jury finds that New York State Absentee Ballot Forms distributed by the New York State Board of Elections do not have that language in bold face or all capital letters as mandated by the statute. The Grand Jury finds that the failure to place that information in all capital letters and in bold increases confusion among voters.

RECOMMENDATION:

The Grand Jury recommends that Section 8 of the New York State Absentee Ballot Application be printed in all capital letters and bold face type in accordance with Election Law § 15-120(3) so that it reads, **"I CERTIFY THAT I AM A QUALIFIED AND A REGISTERED (AND FOR PRIMARY ENROLLED) VOTER; AND THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND THAT THIS APPLICATION WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN."**

CONCLUSION

The Grand Jury believes that following the recommendations in this report would result in greater voter participation, more transparent and better run elections, and an increase in public confidence in the integrity of village elections. Although the situation studied by the Grand Jury involved a village election, the Grand Jury's recommendations can also be considered by School Districts which administer their own elections. For those reasons the Grand Jury believes that this report should be made public.

New York State Absentee Ballot Application

BOARD USE ONLY:

Town/City/Ward/Dist: _____

Registration No: _____

Party: _____

voted in office

Please print clearly. See detailed instructions.

This application must either be personally delivered to your county board of elections not later than the day before the election, or postmarked by a governmental postal service not later than 7th day before election day. The ballot itself must either be personally delivered to the board of elections no later than the close of polls on election day, or postmarked by a governmental postal service not later than the day before the election and received no later than the 7th day after the election.

1. I am requesting, in good faith, an absentee ballot due to (check one reason):

<input type="checkbox"/> absence from county or New York City on election day	<input type="checkbox"/> resident or patient of a Veterans Health Administration Hospital
<input type="checkbox"/> temporary illness or physical disability	<input type="checkbox"/> detention in jail/prison, awaiting trial, awaiting action by a grand jury, or in prison for a conviction of a crime or offense which was not a felony
<input type="checkbox"/> permanent illness or physical disability	
<input type="checkbox"/> duties related to primary care of one or more individuals who are ill or physically disabled	

2. absentee ballot(s) requested for the following election(s) :

Primary Election only General Election only Special Election only

Any election held between these dates: absence begins: ____/____/____ MM/DD/YYYY absence ends: ____/____/____ MM/DD/YYYY

3. last name or surname _____ first name _____ middle initial _____ suffix _____

4. date of birth MM/DD/YYYY ____/____/____ county where you live _____ phone number (optional) _____ email (optional) _____

5. address where you live (residence) street _____ apt _____ city _____ state **NY** zip code _____

6. Delivery of Primary Election Ballot (check one) Deliver to me in person at the board of elections

I authorize (give name): _____ to pick up my ballot at the board of elections.

Mail ballot to me at: (mailing address)

____ BU Box # _____ PO Box 6020 _____ Binghamton _____ NY _____ 13902

street no. street name apt. city state zip code

7. Delivery of General (or Special) Election Ballot (check one) Deliver to me in person at the board of elections

I authorize (give name): _____ to pick up my ballot at the board of elections.

Mail ballot to me at: (mailing address)

____ BU Box # _____ PO Box 6020 _____ Binghamton _____ NY _____ 13902

street no. street name apt. city state zip code

Applicant Must Sign Below

8. I certify that I am a qualified and a registered (and for primary, enrolled) voter; and that the information in this application is true and correct and that this application will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Sign Here: X _____ Date ____/____/____ MM/DD/YYYY

If applicant is unable to sign because of illness, physical disability or inability to read, the following statement must be executed: By my mark, duly witnessed hereunder, I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability or because I am unable to read. I have made, or have the assistance in making, my mark in lieu of my signature. (No power of attorney or preprinted name stamps allowed. See detailed instructions.)

Date ____/____/____ MM/DD/YYYY Name of Voter: _____ Mark: _____

I, the undersigned, hereby certify that the above named voter affixed his or her mark to this application in my presence and I know him or her to be the person who affixed his or her mark to said application and understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

 (address of witness to mark) _____
 (signature of witness to mark)