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**From:** Robert Rutkowski  
**Sent:** Thursday, September 17, 2026 5:11 PM  
**To:** RulesCommittee Secretary  
**Subject:** Request for a Uniform Federal Rule on Grand-Jury No Bills

The Honorable Michael W. Mosman  
Chair, Advisory Committee on Criminal Rules

**Subject: Request for a Uniform Federal Rule on Grand-Jury No Bills**

Dear Judge Mosman:

I am writing to respectfully support consideration by the Advisory Committee on Criminal Rules of a uniform federal standard governing what occurs when a grand jury declines to return an indictment.

Federal Rule of Criminal Procedure 6(f) already provides an important safeguard: when a complaint or information is pending against a defendant and fewer than 12 grand jurors concur in the indictment, the foreperson must promptly and in writing report the lack of concurrence to a magistrate judge. That provision creates an official record and serves important procedural purposes. It does not, however, establish a uniform notice or reporting framework for grand-jury no bills in all circumstances.

The need for a consistent approach is illustrated by developments in several federal districts during 2026. The District of Columbia has proposed a local rule requiring a sealed report when a grand jury fails to concur in an indictment in a grand-jury-original investigation, while protecting the identity of the person the government sought to indict. The Northern District of Illinois adopted a rule requiring a report to the duty magistrate judge and an unsealed redacted version in the docket of the underlying complaint or information. CREW has also identified a Massachusetts proposal addressing notice to a defendant in specified circumstances.

These differing approaches demonstrate that the question is not whether grand-jury secrecy has legitimate purposes. It plainly does. The question is how the federal rules can preserve those purposes while ensuring that a grand jury's failure to concur in an indictment is appropriately recorded and, where justified, communicated to the persons or institutions that have a legitimate need to know.

I therefore respectfully request that the Advisory Committee consider developing an amendment to Rule 6 that establishes a uniform framework for grand-jury no bills. In doing so, the Committee could examine four issues in particular: who should be responsible for making the report; the circumstances in which reporting should be required; whether notice should be provided to a defendant, a magistrate judge, the Clerk, or the public; and

what information should be withheld or redacted to protect legitimate privacy and grand-jury interests.

I further encourage the Committee to consider whether anonymized, aggregate reporting on grand-jury no bills would be appropriate. Such reporting could permit the Judicial Conference, the Department of Justice, Congress, researchers, and the public to understand patterns across districts without disclosing protected grand-jury information or unnecessarily identifying unindicted individuals.

The federal rulemaking process specifically provides for public suggestions concerning amendments to the Rules of Criminal Procedure, and the Advisory Committee is the first formal stage at which such a suggestion is considered. The Judiciary's August 2026 package now under public comment addresses several criminal-rule amendments, but does not include Rule 6. I therefore respectfully ask that this issue be separately placed before the Advisory Committee for study and consideration.

A uniform federal rule would not require abandoning grand-jury secrecy. Rather, it could establish clear procedures that distinguish between information that must remain confidential and information whose limited disclosure is necessary to protect procedural fairness, facilitate judicial oversight, and maintain a reliable record of grand-jury decisions.

Thank you for your consideration of this request and for your service on the Advisory Committee on Criminal Rules.

Respectfully,  
Robert E. Rutkowski

2527 SE Faxon Court  
Topeka, Kansas 66605-2086, USA  
E-mail: [r\\_e\\_rutkowski@att.net](mailto:r_e_rutkowski@att.net)