for the offense under inquiry [8] and the commission of perjury by a witness before the grand jury is punishable, irrespective of the nature of the warning given him when he appears and regardless of the fact that he may already be a putative defendant when he is called.[9]

Of greater significance were two cases in which the Court held the Fourth Amendment to be inapplicable to grand jury subpoenas requiring named parties to give voice exemplars and handwriting samples to the grand jury for identification purposes.[10] According to the Court, the issue turned on a dual inquiry—"whether either the initial compulsion of the person to appear before the grand jury, or the subsequent directive to make a voice recording is an unreasonable 'seizure' within the meaning of the Fourth Amendment." [11] First, a subpoena to appear was held not to be a seizure, because it entailed significantly less social and personal affront than did an arrest or an investigative stop, and because every citizen has an obligation, which may be onerous at times, to appear and give whatever aid he may to a grand jury.[12] Second, the directive to make a voice recording or to produce handwriting samples did not bring the Fourth Amendment into play because no one has any expectation of privacy in the characteristics of either his voice or his handwriting.[13] Because the Fourth Amendment was inapplicable, there was no necessity for the government to make a preliminary showing of the reasonableness of the grand jury requests.

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[8] United States v. Washington, 431 U.S. 181 (1977). Because defendant when he appeared before the grand jury was warned of his rights to decline to answer questions on the basis of self-incrimination, the decision was framed in terms of those warnings, but the Court twice noted that it had not decided, and was not deciding, "whether any Fifth Amendment warnings whatever are constitutionally required for grand jury witnesses . . . ." Id. at 186.

[9] United States v. Mandujano, 425 U.S. 564 (1976); United States v. Wong, 431 U.S. 174 (1977). Mandujano had been told of his right to assert the privilege against self-incrimination, of the consequences of perjury, and of his right to counsel, but not to have counsel with him in the jury room. Chief Justice Burger and Justices White, Powell, and Rehnquist took the position that no *Miranda* warning was required because there was no police custodial interrogation and that in any event commission of perjury was not excusable on the basis of lack of any warning. Justices Brennan, Marshall, Stewart, and Blackmun agreed that whatever rights a grand jury witness had, perjury was punishable and not to be excused. Id. at 584, 609. Wong was assumed on appeal not to have understood the warnings given her and the opinion proceeds on the premise that absence of warnings altogether does not preclude a perjury prosecution.

[10] United States v. Dionisio, 410 U.S. 1 (1973); United States v. Mara, 410 U.S. 19 (1973).

[11] *Dionisio*, 410 U.S. at 9.

[12] 410 U.S. at 9–13.

[13] 410 U.S. at 13–15. The privacy rationale proceeds from Katz v. United States, 389 U.S. 347 (1967).