
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

• 445 Broadway; Albany, NY. 12207-2936 •

Unified United States Common Law Grand Jury;¹
P.O. Box 59, Valhalla, NY 10595; Fax: (888) 891-8977.

Sureties of the Peace²

AL. AK. AZ. AR. CA. CO. CT. DE. FL. GA. HI. ID. IL. IN. IA. KS. KY. LA. ME. MD. MA. MI. MN. MS. MO. MT. NE. NV. NH. NJ. NM. NY. NC. ND. OH. OK. OR. PA. RI. SC. SD. TN. TX. UT. VT. VA. WA. WV. WI. WY:

Grand Jury, Sovereigns of the Court
We the People

- Against -

U.S. Congress; U.S. President, Elect;
State Governors (50); U.S. Supreme Court
Defendants

Jurisdiction: Court of Record, under
the rules of Common Law³
Action at law:⁴

Case NO: 1:16-CV-1490

Magistrate: Lawrence E. Kahn

**MEMORANDUM OF LAW IN SUPPORT
OF AUTHORITY OF THE GRAND JURY**

AUTHOR & SOURCE OF LAW

“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts, And the law is the definition and limitation of power...”⁵ “'Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences

¹ **The UUSCLGJ** is comprised of fifty Grand Juries each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverts both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

² **SURETIES OF THE PEACE:** If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government, we will immediately grant full justice therein. Magna Carta Paragraph 52.

³ **"A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

⁴ **AT LAW:** Bouvier's - This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

⁵ Yick Wo v. Hopkins, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit.

persuading sovereign to make the decree.”⁶ “The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative.”⁷ And “the state cannot diminish the rights of the people.”⁸ “Supreme sovereignty is in the people and no authority can, on any pretense whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.”⁹

We the People ordained and established the Constitution for the United States of America¹⁰. We the People vested Congress with statute making powers¹¹. We the People defined and limited that power of statute making¹². We the People limited law making powers to ourselves alone¹³. We the People did not vest the Judiciary with law making powers. We the People are the “judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law.”¹⁴

“The constitutions of most of our states assert that all power is inherent in the people; that they may exercise it by themselves, in all cases to which they think themselves competent, as in electing their functionaries executive and legislative, and deciding by a jury of themselves, both fact and law, in all judiciary cases in which any fact is involved ...”¹⁵

⁶ Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.;

⁷ Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav. Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

⁸ Hurtado v. People of the State of California, 110 U.S. 516.

⁹ NEW YORK CODE - N.Y. CVR. LAW § 2: NY Code - Section 2.

¹⁰ We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. Preamble.

¹¹ **Article I Section 1:** ALL LEGISLATIVE POWERS herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

¹² **Article I Section 8;** To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

¹³ “Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts And the law is the definition and limitation of power...” [Yick Wo v. Hopkins, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit]

¹⁴ Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

¹⁵ Thomas Jefferson, letter to John Cartwright; June 5, 1824.

HAND BOOK FOR FEDERAL GRAND JURORS SUBVERTS THE AUTHOR & SOURCE OF LAW

The Federal Grand Jury Handbook, which was written by BAR judges, makes the following (eleven) foundational false claims thereby creating a statutory grand jury under government control and not the control of the People thus rendering use of these indictments a nullity. (1) The jury derives its authority from the Constitution, legislated statutes and the courts rules. (2) The first grand jury consisted of 12 men who were summoned. (3) Grand jurors originally functioned as accusers or witnesses, rather than as judges. (4) The Grand Jury hears only that evidence presented by United States Attorney. (5) A grand jury is not necessary for prison sentencing less than one year. (6) A person may waive grand jury proceedings and agree to be prosecuted. (7) The grand jury is not free to compel a trial of anyone it chooses. (8) The government attorney must sign the indictment before a party may be prosecuted. (9) The grand jury is to consult the government before undertaking a formal investigation. (10) The grand jury cannot investigate without government approval. (11) The grand jury is composed of 23 government qualified persons.

REBUTTAL TO THE FALSE CLAIMS OF THE HAND BOOK FOR FEDERAL GRAND JURORS AND PROOF POSITIVE OF ITS DECEPTIVENESS

- (1) “The federal grand jury derives its authority from the rules of the federal courts.”
See, page 1 Handbook for Federal Grand Jurors

REBUTTAL - The Jury is an unalienable right derived from God and the process by which we have government by consent of the People. Quoting US v Williams¹⁶ “*Because the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it clear that, as a general matter at least, no such "supervisory" judicial authority exists, and that the disclosure rule applied here exceeded the Tenth Circuit's authority. "[R]ooted in long centuries of Anglo-American history," Hannah v. Larche, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result), the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It " 'is a constitutional fixture in its own right.' "* United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977). In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between

¹⁶ US v Williams 112 S. Ct. 1735 504 U.S. 36 118 L.Ed.2d 352

the Government and the people. Stirone v. United States, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); Hale v. Henkel, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); G. Edwards, The Grand Jury 28-32 (1906)."

- (2) "The first English grand jury consisted of 12 men selected from the knights or other freemen, who were summoned to inquire into crimes alleged to have been committed in their local community." (see, page 1 HFGJ)

REBUTTAL - Magna Carta Paragraph 52 says that the first known grand jury organized themselves and acted under the authority of the Sovereign People and is made up of "*five and twenty jurors of whom mention is made below in the clause for securing the peace.*"

- (3) "Grand jurors originally functioned as accusers or witnesses, rather than as judges." (see, page 2 HFGJ)

REBUTTAL - Magna Carta, being the equivalent to our Declaration of Independence in the People being the consentors and the putting down of tyrants, Paragraph 52 says that the grand jury is the Sureties of the Peace whereas we read: "*If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government we will immediately grant full justice therein."*

- (4) "The grand jury normally hears only that evidence presented by a United States Attorney" (see, page 3 HFGJ)

REBUTTAL - Again, the aforesaid would deny government by consent and place ~~We~~ the People in subjection to our servant prosecutor. Quoting US v Williams¹⁷ "*The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. "Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.' "* United States v. R. Enterprises, 498 U.S. ----, ----, 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting

¹⁷ US v Williams 112 S. Ct. 1735 504 U.S. 36 118 L.Ed.2d 352

United States v. Morton Salt Co., 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950)). It need not identify the offender it suspects, or even "the precise nature of the offense" it is investigating. *Blair v. United States*, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919).”

- (5) Handbook claims that “an infamous crime is one which may be punished by imprisonment for more than one year.” This infers that an indictment is not necessary for legislated sentencing of crimes calling for less than a year imprisonment. (see, page 3 HFGJ)

REBUTTAL - The unalienable right of a grand jury is a part of due process of law and cannot be denied if the unalienable right of liberty hangs in the balance. Amendment V: *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury... nor be deprived of life, liberty, or property, without due process of law.*

- (6) “The person being investigated by the government may, however, waive grand jury proceedings and agree to be prosecuted by a written charge of crime called an information”. (see, page 4 HFGJ)

REBUTTAL - The 5th Amendment denied the aforesaid conclusion when ~~We~~ the ~~People~~ said “*No person shall be held to answer*”¹⁸ therefore an information from a prosecutor in place of a grand jury indictment is repugnant and void for it too easily opens the door of abuse under color of law for extortion and vindictive prosecution.

- (7) “The grand jury is not completely free to compel a trial of anyone it chooses.”

- (8) “The government attorney must sign the indictment before a party may be prosecuted. Thus, the government and the grand jury act as checks on each other. This assures that neither may arbitrarily wield the awesome power to indict a person of a crime.” (see, page 4 HFGJ)

Rebuttal for 7 & 8: The aforesaid would deny government by consent and place ~~We~~ the ~~People~~ in subjection to our servant prosecutor. Quoting US v Williams¹⁹ “*The grand jury requires no authorization from its constituting court to initiate an investigation, see Hale,*

¹⁸ **Amendment V:** *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury...*

¹⁹ US v Williams 112 S. Ct. 1735 504 U.S. 36 118 L.Ed.2d 352

supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375, nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day-to-day functioning, the grand jury generally operates without the interference of a presiding judge. See *Calandra*, *supra*, 414 U.S., at 343, 94 S.Ct., at 617. It swears in its own witnesses, Fed.Rule Crim.Proc. 6(c), and deliberates in total secrecy, see *United States v. Sells Engineering, Inc.*, 463 U.S., at 424-425, 103 S.Ct., at 3138. ... The grand jury remains "free to pursue its investigations unhindered by external influence or supervision so long as it does not trench upon the legitimate rights of any witness called before it." *United States v. Dionisio*, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973)."

There is yet another respect in which respondent's proposal not only fails to comport with, but positively contradicts, the "common law" of the Fifth Amendment grand jury. Motions to quash indictments based upon the sufficiency of the evidence relied upon by the grand jury were unheard of at common law in England, see, e.g., *People v. Restenblatt*, 1 *Abb.Prac.* 268, 269 (Ct.Gen.Sess.N.Y.1855). And the traditional American practice was described by Justice Nelson, riding circuit in 1852, as follows:

"No case has been cited, nor have we been able to find any, furnishing an authority for looking into and revising the judgment of the grand jury upon the evidence, for the purpose of determining whether or not the finding was founded upon sufficient proof, or whether there was a deficiency in respect to any part of the complaint. . . ." *United States v. Reed*, 27 *Fed.Cas.* 727, 738 (No. 16,134) (CCNDNY 1852).

We accepted Justice Nelson's description *Costello v. United States*, 350 U.S. 359, 76 S.Ct. 406, 100 L.Ed. 397 (1956), where we held that "it would run counter to the whole history of the grand jury institution" to permit an indictment to be challenged "on the ground that there was incompetent or inadequate evidence before the grand jury." *Id.*, at 363-364, 76 S.Ct., at 409. And we reaffirmed this principle recently in *Bank of Nova Scotia*, where we held that "the mere fact that evidence itself is unreliable is not sufficient to require a dismissal of the indictment," and that "a challenge to the reliability or competence of the evidence presented to the grand jury" will not be heard. 487 U.S., at 261, 108 S.Ct., at 2377. It would make little sense, we think, to abstain from reviewing the evidentiary support for the grand jury's judgment while scrutinizing the sufficiency of the prosecutor's presentation. A complaint about the quality or adequacy of the evidence can always be recast as a complaint that the prosecutor's presentation was "incomplete" or "misleading." Our words in *Costello* bear repeating: Review of facially valid indictments on such grounds "would run counter to the whole history of the grand jury institution[,] [and]

[n]either justice nor the concept of a fair trial requires [it]." 350 U.S., at 364, 76 S.Ct., at 409.

- (9) *"The grand jury may consider additional matters otherwise brought to its attention, but should consult with the government attorney or the court before undertaking a formal investigation of such matters. This is necessary because the grand jury has no investigative staff, and legal assistance will be necessary in the event an indictment is voted."* (see, page 5 HFGJ)

REBUTTAL - Again, the aforesaid would deny government by consent and place We the People in subjection to our servant prosecutor. Quoting US v Williams²⁰ Recognizing this tradition of independence, we have said that the Fifth Amendment's "constitutional guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge' . . ." *Id.*, at 16, 93 S.Ct., at 773 (quoting *Stirone, supra*, 361 U.S., at 218, 80 S.Ct., at 273).

- (10) *"A federal grand jury is not authorized to investigate situations involving the conduct of individuals, public officials, agencies, or institutions."* (see, page 5 HFGJ)

REBUTTAL - The aforesaid would place the government above reproach whereby they could prevent indictments against their own and again, would deny government by consent and place We the People in subjection to our servant prosecutor. Quoting US v Williams²¹ *"Given the grand jury's operational separateness from its constituting court, it should come as no surprise that we have been reluctant to invoke the judicial supervisory power as a basis for prescribing modes of grand jury procedure. Over the years, we have received many requests to exercise supervision over the grand jury's evidence-taking process, but we have refused them all, including some more appealing than the one presented today. In Calandra v. United States, supra, a grand jury witness faced questions that were allegedly based upon physical evidence the Government had obtained through a violation of the Fourth Amendment; we rejected the proposal that the exclusionary rule be extended to grand jury proceedings, because of "the potential injury to the historic role and functions of the grand jury."* 414 U.S., at 349, 94 S.Ct., at 620. *Costello v. United States*, 350 U.S. 359, 76 S.Ct. 406, 100 L.Ed. 397 (1956), we declined to enforce the hearsay rule in grand jury proceedings, since that "would run counter to the whole history

²⁰ US v Williams 112 S. Ct. 1735 504 U.S. 36 118 L.Ed.2d 352

²¹ US v Williams 112 S. Ct. 1735 504 U.S. 36 118 L.Ed.2d 352

of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules." Id., at 364, 76 S.Ct., at 409."

(11) *"The judge will then direct the selection of 23 qualified persons to become the members of the grand jury."* (see, page 6 HFGJ)

REBUTTAL - Magna Carta Paragraph 52 makes it clear that a grand jury is made up of 25 People not 23. *...if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace.*

RIGHT OF GRAND & PETIT JURY

LYSANDER SPOONER (An Essay on the Trial by Jury, 1852): *"...there can be no legal right to resist the oppressions of the government, unless there be some legal tribunal, other than the government, and wholly independent of, and above, the government, to judge between the government and those who resist its oppressions...."*

LYSANDER SPOONER (An Essay on the Trial by Jury, 1852): *"The authority to judge what are the powers of the government, and what are the liberties of the people, must necessarily be vested in one or the other of the parties themselves--the government, or the people; because there is no third party to whom it can be entrusted. If the authority be vested in the government, the government is absolute, and the people have no liberties except such as the government sees fit to indulge them with."*

Marston's, Inc. v. Strand, 560 P.2d 778, 114 Ariz. 260): *"Grand jury is [an] investigative body acting independently of either prosecutor or judge whose mission is to bring to trial those who may be guilty and clear the innocent."*

"Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has traditionally been, so to speak, at arm's length." United States v. Calandra, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); Fed.Rule Crim.Proc. 6(a).

CONCLUSION: We the People have the unalienable right to consent, or not to consent, as to the government's accusations against the People.

All officers of the court (judge, prosecutor, appointed counsel, attorneys, Sheriffs/Marshalls and clerk), law enforcement agencies, US Marshalls and Legislators' of
Memorandum Grand Jury

statutes are employed by the government and/or are members of the BAR which teaches their members to be anti-constitutional and anti-common law, and thereby subversive. They are trained to place the letter of the law above the essence of common law, that being justice and mercy.

To allow our servants to control the jury would breed “absolute” government corruption and control which this paper with the Memorandum of Jury Nullification and present judiciary conditions conclusively proves. Therefore it is the unalienable right of *We* the *People* to provide for the administration of the grand and petit juries. The first recorded grand jury was established by the People through the Magna Carta, whereas the grand jury assembled itself and brought into subjection the tyrant king back under the will of the People; and today, now, so do *We* the *People*.



Dated: January 9, 2016



Grand Jury Foreman