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

Sureties of the Peace2

P.O. Box 59, Valhalla, NY 10595; Fax: (888) 891-8977.

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:

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Grand Jury, Sovereigns of the Court

##Be the People

- Against -

Governor A. Cuomo, et al (complete list attached to summons)

Defendants

Jurisdiction: Court of Record, under the rules of Common Law³

Case NO: 1:16-CV-1490 Magistrate: Daniel J. Stewart

MEMORANDUM OF LAW IN SUPPORT OF THE COMMON LAW

Before any court can have authority to hear a case, they must have both personam and subject matter jurisdiction. Any court not a court of record⁴ has no authority to proceed without the consent of the persons involved. American courts are vested by \mathfrak{B} e the

¹ **The UUSCLGJ** is comprised of fifty Grand Jurys 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

[&]quot;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 COURTS OF RECORD and COURTS NOT OF RECORD - The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded. 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

Deople, "the author and source of law"s, through constitutions written by the Deople and jury nullification. Therefore, a court must first have "constitutional authority" over an individual and in criminal cases a court must have an indictment by an untainted grand jury. Furthermore, "all" state laws and constitutions are ultimately governed by the "Supremacy Clause" of the Constitution for the United States of America as ordained by the the Deople in Article VI, clause 2, that defines the "Law of the Land" which renders "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding" [null and void]. Whereas the judge/magistrate retains his authority in Article III common law courts "only during good behavior" as defined in Article III, Section 1 and 2. And, "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence" and "that which the law requires to be done or forborne to a determinate person or the public at large, correlative to a vested and coextensive right in such person or the public, and the breach of which constitutes negligence."

THE LAW

The definition of Law is that which is laid down, ordained, or established. It is "a rule or method according to which phenomena or actions co-exist or follow each other and must be obeyed or be subject to sanctions or legal consequences." In our Republic, Common Law is the Law of the Land by which We the People chose to be judged when we "assumed among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle [us] them," We the People further declared that, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights Governments are instituted among Men, deriving their just powers from the consent of the governed," obedience to the Constitution, is the extent of that consent and no judge and no congress can alter that which We the People ordained, to alter is high treason.

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⁵ "Sovereignty itself is, of course, not subject to law, for it is the author and source of law;" -- Yick Wo v. Hopkins, 118 US 356, 370.

⁶ That which is laid down, ordained, or established. Koenig v. Flynn, 258 N.Y. 292, 179 N. E. 705.

⁷ Ableman v. Booth, 21 Howard 506 (1859).

⁸ Railroad Co. v. Ballentine, C.C.A.III., 84 F. 935, 28 C.C.A. 572; Toadvine v. Cincinnati, N. 0. & T. P. Ry. Co., D.C.Ky., 20 F.Supp. 226, 227.

⁹ Koenig v. Flynn, 258 N.Y. 292, 179 N. E. 705.

"With reference to its origin, "law" is derived either from (1) judicial precedents, from (2) legislation, or (3) from custom¹⁰." Black's Law Dictionary 4th Edition compiles and defines a complete collection of Terms and Phrases of American and English Jurisprudence, ancient and modern, listing Fifty-One different categories of law, they are categorized under the aforesaid three (3) derivatives as follows:

(1) LAW FROM JUDICIAL PRECEDENTS

Adjective Law - The collective of rules of procedure or practice

Case Law - The aggregate of reported cases as forming a body of jurisprudence

Equity Law - this term denotes the spirit and the habit of fairness, justness, and right dealing which would regulate the intercourse of men with men. Unwritten Law - All that portion of the law, observed and administered in the courts, which has not been enacted or promulgated.

(2a) LAW FROM LEGISLATION

Mercantile Law - An expression substantially equivalent to the law-merchant or commercial law;

Bankrupt Law - A law for benefit and relief of creditors and their debtors

<u>Civil Law</u> - A personal action which is instituted to compel payment, or the doing of some other thing which is purely civil

<u>Probate Law</u> - Originally, relating to proof; afterwards, relating to the proof of wills

(2b) LAW FROM LEGISLATION

Apply only to government agents ...

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Administrative Law - That branch of public law which deals with the various organs of the sovereign power considered as in motion (regulation of the military and naval forces, citizenship and naturalization)

<u>Admiralty Law</u> - An action directed against the particular person who is to be charged with the liability

<u>Arms, Law of</u> - That law which gives precepts and rules concerning war <u>Commercial Law</u> - the term has come to be used occasionally as synonymous with "maritime law;"

<u>Criminal Law</u> - the term may denote the laws which define and prohibit the various species of crimes and establish their punishments

<u>Flag</u>, <u>Law of</u> - In maritime law, the law of that nation or country whose flag is flown by a particular vessel.

International Law - The law which regulates the intercourse of nations; the law of nations.

Military Law - A system of regulations for the government of an army.

Municipal Law - Not the law of a city only but the law of the state.

Local Law - A law which is special as to place.

<u>Maritime Law</u> - That system of law which particularly relates to commerce and navigation, to business transacted at sea or relating to navigation, to ships and shipping, to seamen, to the transportation of persons and property by sea, and to marine affairs generally.

<u>Penal Laws</u> - Statutes which prohibit an act and impose a penalty for the commission of it.

 $\underline{\textbf{Prospective Law}}$ - One applicable only to cases which shall arise after its enactment.

<u>Public Law</u> - That branch or department of law which is concerned with the state in its political or sovereign capacity, including constitutional and administrative law, and with the definition, regulation, and enforcement of rights in cases where the state is regarded as the subject of the right or object of the duty

Revenue Law - Any law which provides for the assessment and collection of a tax to defray the expenses of the government.

<u>Statutory Law</u> - An act of the legislature declaring, commanding, or prohibiting something enacted and established by the will of the legislative department of government;

(2c) LAW FROM LEGISLATION

The following have no jurisdiction in the United States of America ...

Canon Law - A body of ecclesiastical jurisprudence

<u>Citations, Law of</u> - In Roman law. An act of Valentinian, passed A. D. 426 <u>Ecclesiastical Law</u> - The body of jurisprudence administered by the ecclesiastical courts of England; derived, in large measure, from the canon and civil law

Enabling Statute - The phrase is also applied to any statute enabling persons or corporations to do what before they could not. It is applied to statutes which confer new powers

Foreign Laws - The laws of a foreign country, or of a sister state.

Forest Law - The system or body of old law relating to the royal forests.

Marque, Law of - A sort of law of reprisal, which entitles him who has received any wrong from another and cannot get ordinary justice to take the shipping or goods of the wrong-doer, where he can find them within his own bounds or precincts, in satisfaction of the wrong.

<u>Parliamentary Law</u> - The general body of enacted rules and recognized usages which governs the procedure of legislative assemblies and other deliberative bodies.

<u>Personal Law</u> - As opposed to territorial law, is the law applicable to persons not subject to the law of the territory in which they reside.

Remedial Statute - One that intends to afford a private remedy to a person injured by the wrongful act.

Retrospective Law - Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability in respect to transactions or considerations already past.

 $\begin{array}{llll} \underline{Roman\ Law} & \text{- In a general sense, comprehends all the laws which} \\ prevailed among the Romans, without regard to the time of their origin, including the \\ \end{array}$

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¹⁰ Sweet

<u>Martial Law</u> - Exists when military authorities carry on government or exercise various degrees of control over civilians or civilian authorities in domestic territory.

<u>Oleron</u>, <u>Laws of</u> - A code of maritime laws published at the island of Oleron in the twelfth century by Eleanor of Guienne.

<u>Organic Law</u> - The fundamental law, or constitution, of a state or nation, written or unwritten; that law or system of laws or principles which defines and establishes the organization of its government.

collections of Justinian

<u>Special Law</u> - One operating upon a selected class, rather than upon the public generally.

<u>Substantive Law</u> - That part of law which creates, defines, and regulates rights, as opposed to "adjective or remedial law," which prescribes method of enforcing the rights or obtaining redress for their invasion.

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(3) LAW FROM CUSTOM

Absolute Law - The true and proper law of nature

<u>Common Law</u> - As distinguished from law created by the enactment of legislatures

<u>Constitutional Law</u> - the fundamental principles which are to regulate the relations of government

<u>Custom Law</u> - Customs are general, local or particular, general customs are such as prevail throughout a country and become the law of that country

<u>Moral Law</u> - The law of conscience; the aggregate of those rules and principles, of ethics which relate to right and wrong conduct and prescribe the standards to which the actions of men should conform in their dealings with each other.

<u>Positive Law</u> - Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society.

<u>Private Law</u> - the term means all that part of the law which is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals.

LAW OF THE LAND

Article III established Common Law, Equity Law, Admiralty Law and Maritime Law¹¹. Admiralty Law and Maritime Law are the law at sea whereas Common Law and Equity Law are the law of the land.

"Equity and Justice are substantially equivalent terms, if not synonymous." "Under constitutional provision guaranteeing right to obtain justice, the justice to be administered by courts is not an abstract justice as conceived of by the judge but justice according to law or, as it is phrased in the constitution, "conformably to the laws." "13

Equity law is the system of jurisprudence administered by the purely secular tribunals. In equity courts [contract courts], judges are to act under "American Jurisprudence" which is the philosophy of law, the knowledge of things divine and human, the science of what is right and what is wrong;¹⁴ the constant and perpetual disposition to render every man his due.¹⁵ It has no direct concern with questions of moral or political policy, for they fall

¹¹ Article III, Section 2: The judicial power shall extend to all cases, in <u>law</u> and <u>equity</u>, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of <u>admiralty</u> and <u>maritime</u> jurisdiction; — to controversies to which the United States shall be a party; - to controversies between two or more states; - between a state and citizens of another state; - between citizens of different states; - between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

¹² In re Lessig's Estate, 6 N.Y.S.2d 720, 721, 168 Misc. 889.

¹³ State ex rel. Department of Agriculture v. McCarthy, 238 Wis. 258, 299 N.W. 58, 64.

¹⁴ Dig. 1, 1, 10, 2; Inst. 1, 1, 1. This definition is adopted by Bracton, word for word. Bract. fol. 3.

¹⁵ Inst. 1, 1, pr.; 2 Inst. 56. See Borden v. State, 11 Ark. 528, 44 Am.Dec. 217; Collier v. Lindley, 203 Cal. 641, 266 P. 526, 530; The John E. Mulford, D.C. N.Y., 18 F. 455.

under the province of ethics and legislation.¹⁶ They are to meet out Justice which in the most extensive sense of the word differs little from virtue;¹⁷ for it includes within itself the whole circle of virtues. Justice, being in itself a part of virtue, is confined to things simply good or evil, and consists in a man's taking such a proportion of them as he ought."¹⁸

The law of nature [*Jus Naturale*] is Natural law [*Lex Naturale*]; it is absolute law, the true and proper law of nature ¹⁹ a/k/a "common law as distinguished from law created by the enactment of legislatures. Common Law is the use of legal principles to discover by the light of nature or abstract reasoning comprised of the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of ancient antiquity.²⁰

"The Supreme Court shall have appellate jurisdiction, both as to law and fact..."²¹ in all "cases in equity" thereby becoming the final arbitrator and maker of case law, governed by American Jurisprudence²² under the rules of Common Law; The Supreme Court has NO APPELLATE authority over cases "in Law" a/k/a Jury trials with the one exception of protecting an individual if an unalienable right of the same is violated. Federal District Court Judges, when hearing a "case in equity" are governed by American Jurisprudence and case law under the rules of Common Law. In cases "in Law" Judges or Magistrates take on an administrative role, with no summary judgement powers, whereas the Jury, a/k/a Tribunal of 12 People, is the final arbitrator deciding the facts, law and remedy with the power of nullification and mercy. This is called a "court of record" from which there is no appeal, as we read:

"The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or Supreme Court) can second guess the judgment of a court of record. "The judgment of a court of record, whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." -- Ex parte Watkins, 3 Pet., at 202-203 cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

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¹⁶ Sweet.

¹⁷ Luke 6:19 "And the whole multitude sought to touch him [Jesus]: for there went virtue out of him, and healed them all."

¹⁹ 1 Steph.Comm. 21 et seq.

 ²⁰ 1 Kent, Comm. 492. Western Union Tel. Co. v. Call Pub. Co., 21 S.Ct. 561, 181 U.S. 92, 45 L.Ed. 765; Barry v. Port Jervis, 72 N.Y.S. 104, 64 App. Div. 268; U. S. v. Miller, D.C.Wash., 236 F. 798, 800.

²¹ Article III Section 2, Clause 2.

²² JURISPRUDENCE: The science of the law. By science here, is understood that collection of truths which is founded on principles either evident in themselves, or capable of demonstration; a collection of truths of the same kind, arranged in methodical order. In a more confined sense, jurisprudence is the practical science of giving a wise interpretation to the laws, and making a just application of them to all cases as they arise. In this sense, it is the habit of judging the same questions in the same manner, and by this course of judgments forming precedents. 1 Ayl. Pand. 3 Toull. Dr. Civ. Fr. tit. prel. s. 1, n. 1, 12, 99; Merl. Rep. h. t.; 19 Amer. Jurist, 3.

THE AUTHOR OF LAW

God is the author of Common Law, which He wrote in the hearts of men, thereby giving men the people both the knowledge of right and wrong and the unalienable right of the people to judge each other through tribunals called Juries. We the People ordained Common Law in Amendment VII and Congress clearly followed suit and established it through 28 USC §132.

We the Sovereign People ordained and established the Constitution²³ which is the law of the land²⁴ to be obeyed by all elected, appointed and hired servants. We the People vested Congress with certain law making powers in Article I Section 8 among which we gave "NO LEGISLATED POWERS" to write ordinances, regulations, codes or statutes that would control the behavior of We the People or apply any set punishment upon We the People. That authority belongs to the People.²⁵

"The very meaning of 'sovereignty' is that the decree of the sovereign makes law." A consequence of this prerogative is the legal ubiquity of the king [Nature's God]. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice." "His judges [juries] are the mirror by which the king's image is reflected."

Unalienable rights come from Natures God and are not subject to alienation; the characteristic of those things which cannot be bought or sold or transferred from one person to another, such as certain personal rights; e. g., liberty. Inalienable; incapable of being aliened, that is, sold and transferred.²⁹ Rights are defined generally as "powers of free action, not subject to legal constraint of another, being unconstrained, having power to

²³ 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.

²⁴ Article VI, Clause 2: This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all

²⁴ Article VI, Clause 2: This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

²⁵ "Sovereignty itself is, of course, not subject to law, for it is the author and source of law;" -- Yick Wo v. Hopkins, 118 US 356, 370.

²⁶ American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.

²⁷ Fortesc.c.8. 2Inst.186.

²⁸ 1 Blackstone's Commentaries, 270, Chapter 7, Section 379.

²⁹ Black's 4th

follow the dictates of one's own will, not subject to the dominion of another and not compelled to involuntary servitude. Any statute that violates rights is null and void.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness." ³¹

STATUTES, CODES & REGULATIONS

Congress was empowered under <u>Article I Section 8</u>. Clause 18: To make all laws which shall be necessary and proper for carrying into execution the foregoing [17] powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

"Under our system of government upon the individuality and intelligence of the citizen, the state does not claim to control him/her, except as his/her conduct to others, leaving him/her the sole judge as to all that affects himself/herself." There, every man is independent of all laws, except those prescribed by nature. He is not bound by any institutions formed by his fellowman without his consent." Statutes that violate the plain and obvious principles of common right and common reason are null and void. The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice. The State may not impose a charge for the enjoyment of a right granted by the Federal Constitution. The State cannot diminish rights of the people. The Claim and exercise of a Constitutional Right cannot be converted into a crime. The state converts a liberty into a privilege the citizen can engage in the right with impunity. Laws are made for us; we are not made for the laws.

Statutes are legislated law but, "when a statute is passed in violation of law, that is, of the fundamental law or constitution of a state, it is the prerogative of courts to declare it void,

³⁰ Black's 4th

³¹ Declaration of Independence.

³² Mugler v. Kansas 123 U.S. 623, 659-60.

³³ Cruden v. Neale, 2 N.C. 338 (1796) 2 S.E.

³⁴ Bennett v. Boggs, 1 Baldw 60.

³⁵ Davis v. Wechsler, 263 US 22, at 24.

³⁶ Murdock v. Pennsylvania, 319 U.S. 105, at 113.

³⁷ Hertado v. California, 110 U.S. 516.

³⁸ Miller v. U.S., 230 F 2d 486. 489.

³⁹ Shuttlesworth v Birmingham, 373 USs 262.

⁴⁰ William Milonoff.

or, in other words, to declare it not to be law; therefore, "an unconstitutional statute is not a law." The phrase 'at Law' "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. All codes, rules, and regulations are for government authorities only, not human/Creators in accordance with God's laws. All codes, rules, and regulations are unconstitutional and lacking due process..." All laws, rules and practices which are repugnant to the Constitution are null and void." The common law is the real law, the Supreme Law of the land, the code, rules, regulations, policy and statutes are "not the law."

"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it."⁴⁷

"The act of regulating; a rule or order prescribed for management or government; a regulating principle; a precept." Rule of order prescribed by superior or competent authority relating to action of those under its control."

We the Sovereign People are not under the management or control of government agencies, to the contrary, "governments are instituted among Men, deriving their just powers from the consent of the governed." De the People vested Congress with the authority to write regulations for (1) commerce, (2) military and (3) government. All

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⁴¹ Durrill

⁴² John F. Jelke Co. v. Hill, 208 Wis. 650, 242 N.W. 576, 581; Flournoy v. First Nat. Bank of Shreveport, 197 La. 1067, 3 So.2d 244, 248.

⁴³ Blacks 4th

⁴⁴ Rodriques v. Ray Donavan (U.S. Department of Labor) 769 F. 2d 1344, 1348 (1985).

⁴⁵ Marbury v. Madison, 5th US (2 Cranch) 137, 180.

⁴⁶ Self v. Rhay, 61 Wn (2d) 261.

⁴⁷ Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886).

⁴⁸ Curless v. Watson, 180 Ind. 86, 102 N.E. 497, 499.

⁴⁹ State v. Miller, 33 N.M. 116, 263 P. 510, 513.

⁵⁰ Declaration of Independence.

federal agencies heads obviously have the authority to write regulations in order to manage and the President can alter these regulations by executive order. Regulations are just another word for policies and procedures.

CONCLUSION: We the Sovereign People have unalienable rights under the Laws of Natures God, a/k/a Common Law. We the People are not bound by statutes, codes or regulations. Congress has no authority to codify and license our rights and no court has the authority to enforce such repugnant statutes. Any judge restraining said rights is in bad behavior and will in due time suffer the wrath of the People through indictments and judgments in Courts of Justice.

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Dated April 17, 2017

Grand Jury Foreman