

MEMORANDUM OF LAW

AUTHORITIES

THE PURPOSE of this memorandum is to clarify the authority by which we the People act upon. the process we executed and the process we intend to proceed upon.

The United States Supreme Court case Boyd v. United States in 1922 proclaims the remedy of today's problems, when they said;

"It is the duty of the courts to be watchful for encroachments against Constitutional rights"; in Olmstead v. United States¹ the court stated further: "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrup-u-lous-ly. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that, in the administration of the criminal law, the end justifies the means, to declare that the Government may commit crimes would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."

The present jury system has been seized by our servants that created a deceptive façade used to empower themselves and not the People. Bar schools teach judges and attorneys that statutes of men, far removed from the People, overrule the law of the land. While both prosecutor(s) and judge(s) impose their will upon judicially ignorant people as they require juries to interpret statutes as law without opportunity to nullify. Whereas common law requires that the jury should judge both law and facts. Bar attorneys are true believers that the People are incompetent in law when in fact they are more so.

Jefferson said:

"I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power." He also said: "An enlightened citizenry is indispensable for the proper functioning of a republic. Self-government is not possible unless the citizens are educated sufficiently to enable them to exercise oversight. It is therefore imperative that the nation see to it that a suitable education be provided for all its citizens."

¹ Olmstead v. United States, 277 U.S. 438, 1928

But our servants in government have deceitfully removed the education of “Self-government”, who’s motive can only be more power. Therefore we the People across the nation are Self-educating in order to perform our duty and save our nation. We reject any servant who arrogantly claims the People incompetent and that only they know what’s best for us. We need to remind you we have government by the consent of the People and not by the consent of our servants and/or your BAR.

The People through the US Constitution gave no legislative authority to codify the administration of the jury. Common law requires that juries be chosen from an unfiltered pool from among the People by the People. The people when debating the body of the constitution, after discussions concerning the jury in the [anti]/federalist papers, deliberately left said authority out of the body, and then by design included unfettered authority by the People in the Bill of Rights as expressed in the 5th, 6th, and 7th Amendments, making clear the right of the people to administer to the jury for the trying of people and not government servants.

Bar lawyers will then say that, “*the bill of rights is for the federal courts only*”, but this is where bar schools, for treasonous reasons I can only conclude, failed again by not teaching the law of the land, a/k/a supremacy clause, which is as follows:

“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.” -- US Constitution Article VI

Therefore common law is expressed in the supreme law of the land, whereas statutes that control the behavior and powers of the People are expressed in repugnant statutes that are “*null and void*”. Marbury v. Madison, 5th US (2 Cranch) 137, 180:

It is the actions of our servants that are without lawful support, and that which you claim is legal, is unlawful. The assumptions that anyone, but our servants forming grand juries would lead to chaos and anarchy is both unfounded, self serving and treasonous. The idea that the legislature has established the method and process for forming grand juries and that the remedy of the People is the corrupt ballot box is also absurd and fraudulent.

Lysander Spooner, author of Trial by Jury, clearly a favorite read by past and present United States Supreme court Justices, in Chapter 5 said;

“The powers of juries are not granted to them, by the people themselves, on the supposition that they know the law better than the justices; but on the ground that the justices are untrustworthy, that they are exposed to bribes, are themselves fond of power and authority, and are also the dependent and subservient creatures of the legislature; and that to allow them to dictate the law, would not only expose the rights of parties to be sold for money, but would be equivalent to surrendering all the property, liberty, and rights of the people, unreservedly into the hands of arbitrary power, (the legislature,) to be disposed of at its pleasure.”

In Chapter 6 Lysander Spooner said;

“The term jury is a technical one, derived from the common law; and when the American constitutions provide for the trial by jury, they provide for the common law trial by jury; and not merely for any trial by jury that the government itself may chance to invent, and call by that name. It is the thing, and not merely the name, that is guaranteed. Any legislation, therefore, that infringes any essential principle of the common law, in the selection of jurors, is unconstitutional; and the juries selected in accordance with such legislation are, of course, illegal, and their judgments void, therefore the juries of the present day illegal”

“The powers of juries, therefore, not only place a curb upon the powers of legislators and judges, but imply also an imputation upon their integrity and trustworthiness; and these are the reasons why legislators and judges have formerly entertained the intense hatred of juries, and, so fast as they could do it without alarming the people for their liberties, have, by indirection, denied, undermined, and practically destroyed their power. And it is only since all the real power of juries has been destroyed, and they have become mere tools in the hands of legislators and judges, that they have become favorites with them. A Common Law jury, therefore, insures to us what no other court does --- that first and indispensable requisite in a judicial tribunal, integrity”.

And in Chapter 7 Lysander Spooner said;

“The principle of chapter 28 of Magna Carta, as applicable to the governments of the United States of America, forbids that any officer appointed either by the executive or legislative power, or dependent upon them for their salaries, or responsible to them by impeachment, should preside over a jury in criminal trials. To have the trial a legal (that is by common law) and true trial by jury, the presiding officers must be chosen by the people, and be entirely free from all dependence upon, and all accountability to, the executive and legislative branches of the government. Therefore the foreman of the jury is properly the "Presiding Officer," so far as there is such an officer at all”.

Our intention is to bring justice back into the Peoples' out of control courts that is destructive to the America envisioned by our founding fathers. Therefore the authority by which we act is in fact our inalienable right, is in fact founded, in that ~~We~~ the People are the posterity of our founding fathers, the inheritors of the documents that created the government that you serve in, and we resent the attitude that the People are not capable of self-government.

Whereas we read, Declaration of Independence:

“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, -- That whenever any Form of Government becomes destructive of these ends, it is the Right

of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness ...”

Therein it is the Peoples’ right, and it is our duty to alter that which is destructive to our Safety and Happiness by returning to common law juries and common law courts as it is written in the Constitution for the fifty united States of America.

This is further realized in the preamble of our constitution that it is “**The People that ordained and established the law**” where we read:

“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.”

And with these absolutes we further submit the following authorities by which the judges in every state “**shall**” be bound:

The authority of the People to form and administer to grand and petit juries is an unalienable right protected and secured by the 5th 6th and 7th Amendments. Whereas we read:

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them” . Miranda v. Arizona². “The state cannot diminish rights of the people.” Hurtado v. The People of the State of California³. "All laws, rules and practices which are repugnant to the Constitution are null and void" Marbury v. Madison, 1803⁴.

In most State Constitutions an impartial jury is guaranteed, obviously when the government administers to the jury it can no longer be considered impartial, but tainted. How can it be when the government seeking a conviction by government paid lawmakers, government paid judges, government paid prosecutors, and government controlled juries that they call the jury impartial?

In the case UNITED STATES v. WILLIAMS, 1992⁵; Justice Antonin Scalia, writing for the majority said:

"This Court's cases relying upon that power deal strictly with the courts' control over their own procedures, whereas the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, rooted in long centuries of Anglo-American history, citing Hannah v. Larche⁶”. Justice Antonin Scalia continued, “courts neither preserve nor enhance the traditional functioning of the grand jury that the

² Miranda v. Arizona, 384 US 436, 491

³ Hurtado v. People of the State of California, 110 U.S. 516.

⁴ Marbury v. Madison, 5th US (2 Cranch) 137, 174, 176,(1803)

⁵ UNITED STATES v. WILLIAMS; 112 S.Ct. 1735 504 U.S. 36 118 L.Ed.2d 352 (1992)

⁶ Hannah v. Larche, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960)

"common law" of the Fifth Amendment demands. 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, citing United States v. Chanen, 1977 quoting Nixon v. Sirica, 1973⁷. 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 the Government and the people, citing Stirone v. United States, 1960; Hale v. Henkel, 1906; G. Edwards, The Grand Jury pgs 28-32 1906⁸".

Justice Antonin Scalia continued

*"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. 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 court, 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, citing United States v. R. Enterprises, 1991 quoting United States v. Morton Salt Co., 1950⁹. The Grand Jury need not identify the offender it suspects, or even the precise nature of the offense it is investigating, citing Blair v. United States, 1919¹⁰. The grand jury requires no authorization from its constituting court to initiate an investigation nor does the prosecutor require leave of court to seek a grand jury indictment, see Hale, *supra*¹¹. The grand jury in its day-to-day functioning generally operates without the interference of a presiding judge, see Calandra, *supra*¹². The grand jury swears in its own witnesses and deliberates in total secrecy, see United States v. Sells Engineering, Inc.,¹³. We have insisted that the grand jury remain 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, citing United States v. Dionisio, 1973¹⁴. 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, citing Stirone, *supra*¹⁵. We have said that certain constitutional protections afforded defendants in criminal proceedings*

⁷ 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)

⁸ 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)

⁹ United States v. R. Enterprises, 498 U.S. ----, ----, 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting United States v. Morton Salt Co., 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950))

¹⁰ Blair v. United States, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919)

¹¹ Hale, *supra*, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375

¹² Calandra, *supra*, 414 U.S., at 343, 94 S.Ct., at 617.

¹³ United States v. Sells Engineering, Inc., 463 U.S., at 424-425, 103 S.Ct., at 3138

¹⁴ United States v. Dionisio, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973).

¹⁵ . . . " *Id.*, at 16, 93 S.Ct., at 773 quoting Stirone, *supra*, 361 U.S., at 218, 80 S.Ct., at 273

have no application before the Grand Jury, citing Ex parte United States, 1932; United States v. Thompson, 1920¹⁶". We have twice suggested, though not held, that the Sixth Amendment right to counsel does not attach when an individual is summoned to appear before a grand jury, even if he is the subject of the investigation". United States v. Mandujano, 1976; In re Groban, 1957; Fed.Rule Crim.Proc. 6(d).¹⁷

In conclusion Justice Antonin Scalia said:

"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, we declined to enforce the hearsay rule in grand jury proceedings, since that "would run counter to the whole history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules"¹⁸.

Hume calls the Trial by Jury

"An institution admirable in itself, and the best calculated for the preservation of liberty and the administration of justice, that ever was devised by the wit of man."

Therefore "We the People", affirm and proclaim the unalienable right to consent or deny the actions of our elected servants through the Common Law Jury as our founding fathers provided for in the 5th, 6th, and 7th Amendments. As Justice Antonin Scalia put it;

"The Grand Jury is in effect a fourth branch of government "governed" and administered to directly by and on behalf of the American people, and its authority emanates from the Bill of Rights it is a constitutional fixture in its own right¹⁹, 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 the Government and the people". We the People demand that tyrant servants step aside.

In August 2014 We the People completed the re-constituting of the Common Law Juries in all Fifty United States thereby unifying and establishing a presents in every state as we continue to organize every county in America, because we know that only the People can save America from the destruction intended by a small minority that have subverted our government at every level. We therefore filed the following document with the state courts which reads:

¹⁶ See *Ex parte United States*, 287 U.S. 241, 250-251, 53 S.Ct. 129, 132, 77 L.Ed. 283 (1932); *United States v. Thompson*, 251 U.S. 407, 413-415, 40 S.Ct. 289, 292, 64 L.Ed. 333 (1920).

¹⁷ *United States v. Mandujano*, 425 U.S. 564, 581, 96 S.Ct. 1768, 1778, 48 L.Ed.2d 212 (1976) (plurality opinion); *In re Groban*, 352 U.S. 330, 333, 77 S.Ct. 510, 513, 1 L.Ed.2d 376 (1957); see also *Fed.Rule Crim.Proc. 6(d)*.

¹⁸ *Id.*, at 364, 76 S.Ct., at 409.

¹⁹ *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)

Declaration

We the people of [each American] County by the mercy and Grace of God having blessed us with the unalienable right of the people as Grand Jurors, secured by the V Amendment of the Bill of Rights for the United States of America, in order to establish justice, insure domestic tranquility, secure the blessings of liberty to ourselves and our posterity by the securing of Natural Law do ordain and establish this Grand Jury principled upon Justice, Honor and Grace for a perpetual administration of trust on behalf of the people.

On [date] the people of [each American] County of [each State] Constituted a Grand Jury by electing to reestablish the Peoples Jury to be filed with the county clerk and the court clerk.

This declaration by the consent of the people shall be sufficient for the establishment of this Grand Jury presented to the people and to be recorded with the County Clerk and the Supreme Court Clerk on this _____ day of _____ in the year of our Lord Two Thousand and Fourteen and in the two hundred and thirty eight year of our independence of the united States of America. In witness hereof by three:

S Witness #1 _____
E
A Witness #2 _____
L
 Witness #3 _____

CONSTITUTION OF A COMMON LAW GRAND JURY - Inasmuch as for the sake of God, for the bettering of our sovereignty, and for the more ready healing of the discord which has arisen between us and our civil servants, wishing to establish justice, insure domestic tranquility, and secure the blessings of liberty to enjoy forever in its entirety. The people may select at their pleasure twenty five people from the sovereignty, who ought, with all their strength, to observe, maintain; and cause to be observed, the peace and unalienable rights. If any of our civil servants shall have transgressed against any of the people in any respect and they shall ask us to cause that error to be amended without delay, or shall have broken some one of the articles of peace or security, and their transgression shall have been shown to four Jurors of the aforesaid twenty five and if those four Jurors are unable to settle the transgression they shall come to the twenty-five, showing to the Grand Jury the error which shall be enforced by the law of the land. [**MAGNA CARTA, JUNE 15, A.D. 1215, 61.**]

DUTY OF THE GRAND JURY - If anyone's unalienable rights have been violated, or removed, without a legal sentence of their peers, from their lands, home, liberties or lawful right, we [the twenty-five] shall straightway restore them. And if a dispute shall arise concerning this matter it shall be settled according to the judgment of the twenty-five Grand Jurors, the sureties of the peace. [**MAGNA CARTA, JUNE 15, A.D. 1215, 52.**]

AUTHORITY OF A COMMON LAW GRAND JURY - 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 shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [**BILL OF RIGHTS AMENDMENT V**]

This right of Declaration of self rule was rejected by our arrogant servants who think they are the Masters. This is the Peoples peaceful Revolution to take back our Republic. America stands at the precipice, and if our hired servants who have taken hold of our house of justice continues to resist, thereby preventing the only institution capable of solving her problems. The People will not give up their Liberty and are willing to give their lives for Justice and their posterity. The People come with an olive branch, and to the alternative will meet force with equal force²⁰.

President Kennedy said;

“A revolution is coming – a revolution which will be peaceful if we are wise enough; compassionate if we care enough; successful if we are fortunate enough – but a revolution which is coming whether we will it or not. We can affect its character; we cannot alter its inevitability”. This great fallen hero and martyr before giving his life went on to say; *“Those who make peaceful revolution impossible will make violent revolution inevitable”*. It is at this precipice we stand today, it is for this purpose we are here today and we resolutely set our face, and by the grace of our God we will succeed today:

It has taken the people fifty years to realize and react to President Kennedy’s warning of the Revolution that unfolds before us, as we stand at that precipice, that will decide the fate of America. This court action is our peaceful and compassionate response in an endeavor to positively affect its character.

²⁰ Plummer v. State, 136 Ind. 306.; John Bad Elk v. U.S., 177 U.S. 529.; Housh v. People, 75 111. 491; State v. Leach, 7 Conn. 452; State v. Gleason, 32 Kan. 245; Ballard v. State, 43 Ohio 349; State v Rousseau, 241 P. 2d 447; State v. Spaulding, 34 Minn. 3621.; Jones v. State, 26 Tex. App. I; Beaverts v. State, 4 Tex. App. 1 75; Skidmore v. State, 43 Tex. 93, 903.; State v. Robinson, 145 ME. 77, 72 ATL. 260.; State v. Mobley, 240 N.C. 476, 83 S.E. 2d 100.; Adams v. State, 121 Ga. 16, 48 S.E. 910; Runyan v. State, 57 Ind. 80; Miller v. State, 74 Ind. 1.