

MEMORANDUM OF LAW GRAND JURY AUTHORITY

A right of Self-Governing

The purpose of this Memorandum of Law is to “clearly establish” the sovereign unalienable right of the People to have “Government by Consent” through the free and independent administration of our own Juries. We the People have the unbridled right to empanel and preside over our own proceedings unfettered by technical rules and to investigate merely on suspicion. The judiciary through congresses’ BAR written codes and the Judiciary’s BAR written rules have subverted and tainted our Juries and hidden our Natural Law Courts’ of Record. It is the Grand Jury's function to consider criminal charges whereas prosecutors have no authority to change or negotiate away our findings. Grand Jury indictments are final and cannot be added to or taken away from without our Consent. Nor does any of our finding require a treasonous BAR attorney signature of approval who has NO STANDING in our courts of Law.

WE THE PEOPLE ARE THE 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...”¹
“Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree.”²

“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.”³ And “the state cannot diminish the rights of the people.”⁴ “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.”⁵

We the people have been providentially provided legal recourse to address the criminal conduct of the Judiciary ourselves entrusted via Natural Law to dispense justice.

¹ Yick Wo v. Hopkins, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit.

² Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.;

³ 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.

⁴ Hurtado v. People of the State of California, 110 U.S. 516.

⁵ NEW YORK CODE - N.Y. CVR. LAW § 2: NY Code - Section 2.

- We the People ordained and established the Constitution for the United States of America⁶.
- We the People vested Congress with statute making powers⁷.
- We the People defined and limited Congresses power of law-making⁸.
- We the People ordained limited law-making powers via the Constitution⁹.
- We the People did not vest the Judiciary with law-making powers.
- The Rules of Common Law rule the court the FRCP do not.
- We the People in ALL Courts of Law are Free and Independent Jurist independent from the Judiciary.¹⁰

“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 ...”¹¹

WE THE PEOPLE HAVE UNBRIDLED RIGHT TO EMPANEL OUR OWN GRAND JURIES

In the United States Supreme Court case of United States v. Williams,¹² Justice Antonin Scalia, writing for the majority, confirmed that “the American grand jury is neither part of the judicial, executive nor legislative branches of government, but instead belongs to the people. It 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. Thus, [People] have the unbridled right to empanel their own grand juries and present “True Bills” of indictment to a court, which is then required to commence a criminal proceeding. Our Founding Fathers presciently thereby created a “buffer” the people may rely upon for justice, when public officials, including judges, criminally violate the law.”

⁶ 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.

⁷ **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.

⁸ **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.

⁹ “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]

¹⁰ 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.; “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.

¹¹ Thomas Jefferson, letter to John Cartwright; June 5, 1824.

¹² 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

SUMMONSING THE GRAND JURY: Elected Sheriffs or Coroners vested by Natural Law may summons a Grand Jury. We the People, vested by nature's God, may gather ourselves as the "Sureties of the Peace" on behalf of all the People if in the defense of Liberty are called, as did the first recorded Grand Jury did via the Magna Carta. Elected or appointed public prosecutors vested by repugnant statute to subvert justice have been given NO LAWFUL AUTHORITY by the People to summons a Grand Jury. If a prosecutor desires to bring a case before the Grand Jury, he can bring it to the Sheriff who may according to his discretion bring it before the Grand Jury, this is the Common Law process.

A RIGHT OF SELF-GOVERNING

In 1215AD twenty-five (25) freemen assembled themselves in the name of the "Sureties of the Peace" stood-up to restore their Natural Law Courts of Justice, thereby taking back their island nation England that was subverted by a tyrant king.

In 1776 fifty-six (56) Sovereigns, a/k/a We the People or Grand Jurist, assembled themselves in the name of "We the People" stood-up to restore their Natural Law Courts of Justice, thereby taking back their Thirteen American Colonies that were subverted by a tyrant king.

Today, herein more than 10,400 Grand Jurist assembled themselves, from every state, in the name of "We the People" to stand and restore our Natural Law Courts of Justice, thereby taking back our state and federal courts in these Fifty United States of America that were subverted by the Federal Judiciary. We the People having been providentially provided legal recourse to address the criminal conduct of the said judiciary, ourselves having been entrusted to dispense justice.

Natural Law demands that only the People via "free and independent Grand Juries and Petit Juries" have the supreme judicial authority to indict or not, to decide the law, to sit as the tribunal in all criminal cases, to nullify any statute, to deny any rules, to judge guilt or innocence, and pronounce the remedy or punishment, free from judiciary interference. Tribunals are established in 12 unalienable sovereigns whose decisions are final and cannot be overturned.

GRAND JURY IS A CONSTITUTIONAL FIXTURE IN ITS OWN RIGHT¹³

In *United States v. Calandra*, quoted in *US v Williams*, the United States Supreme Court said: "The grand jury is an institution separate from the courts, over whose functioning the courts do not preside. The "common law" of the Fifth Amendment demands the traditional functioning of the grand jury. The grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it

¹³ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

clear that, as a general matter at least, no such “supervisory” judicial authority exists. “[R]ooted in long centuries of Anglo-American history,”¹⁴ 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.”¹⁵ 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.¹⁶ 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. Judges' direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office.”¹⁷

GRAND JURY INVESTIGATES MERELY ON SUSPICION¹⁸

The United States Supreme Court in *US v Williams* went on to say: “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.”¹⁹ It need not identify the offender it suspects, or even “the precise nature of the offense” it is investigating.²⁰ The grand jury requires no authorization from its constituting court to initiate an investigation,²¹ 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.²² It swears in its own witnesses²³, and deliberates in total secrecy.²⁴ 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.”²⁵ Recognizing this tradition of independence, we have said that the Fifth Amendment's “constitutional

¹⁴ *Hannah v. Larche*, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result)

¹⁵ *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).

¹⁶ *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).

¹⁷ *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).

¹⁸ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

¹⁹ *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)).

²⁰ *Blair v. United States*, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919).

²¹ see *Hale*, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375,

²² See *Calandra*, supra, 414 U.S., at 343, 94 S.Ct., at 617.

²³ *Fed.Rule Crim.Proc.* 6(c)

²⁴ see *United States v. Sells Engineering, Inc.*, 463 U.S., at 424-425, 103 S.Ct., at 3138.

²⁵ *United States v. Dionisio*, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973).

guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge' “²⁶

RIGHT TO COUNSEL DOES NOT ATTACH BEFORE A GRAND JURY²⁷

“No doubt in view of the grand jury proceeding's status as other than a constituent element of a “criminal prosecution,”²⁸ we have said that certain constitutional protections afforded defendants in criminal proceedings have no application before that body. The Double Jeopardy Clause of the Fifth Amendment does not bar a grand jury from returning an indictment when a prior grand jury has refused to do so.²⁹ 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.³⁰ And although “the grand jury may not force a witness to answer questions in violation of [the Fifth Amendment's] constitutional guarantee” against self-incrimination,³¹ our cases suggest that an indictment obtained through the use of evidence previously obtained in violation of the privilege against self-incrimination “is nevertheless valid.”³²

GRAND JURY IS UNFETTERED BY TECHNICAL RULES³³

“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.”³⁴ We declined to enforce the hearsay rule in grand jury proceedings, since that “would run counter to the whole

²⁶ *Id.*, at 16, 93 S.Ct., at 773 (emphasis added) (quoting *Stirone*, supra, 361 U.S., at 218, 80 S.Ct., at 273).

²⁷ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

²⁸ U.S. Const., Amdt. VI,

²⁹ 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).

³⁰ *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).

³¹ *Calandra*, supra, 414 U.S., at 346, 94 S.Ct., at 619 (citing *Kastigar v. United States*, 406 U.S. 441, 92 S.Ct. 1653, 32 L.Ed.2d 212 (1972)),

³² *Calandra*, supra, 414 U.S., at 346, 94 S.Ct., at 619; *Lawn v. United States*, 355 U.S. 339, 348-350, 78 S.Ct. 311, 317-318, 2 L.Ed.2d 321 (1958); *United States v. Blue*, 384 U.S. 251, 255, n. 3, 86 S.Ct. 1416, 1419, n. 3, 16 L.Ed.2d 510 (1966).

³³ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

³⁴ 414 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),

history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules.”³⁵

GRAND JURY PRESIDES OVER THEIR OWN PROCEEDINGS³⁶

“These authorities suggest that any power federal courts may have to fashion, on their own initiative, rules of grand jury procedure is a very limited one, not remotely comparable to the power they maintain over their own proceedings.³⁷ It certainly would not permit judicial reshaping of the grand jury institution, substantially altering the traditional relationships between the prosecutor, the constituting court, and the grand jury itself.³⁸ (supervisory power may not be applied to permit defendant to invoke third party's Fourth Amendment rights); see generally Beale, *Reconsidering Supervisory Power in Criminal Cases: Constitutional and Statutory Limits on the Authority of the Federal Courts*,³⁹ As we proceed to discuss, that would be the consequence of the proposed rule here.”

GRAND JURY'S FUNCTION IS TO CONSIDER CRIMINAL CHARGES⁴⁰

“It is axiomatic that the grand jury sits not to determine guilt or innocence, but to assess whether there is adequate basis for bringing a criminal charge.⁴¹ That has always been so; and to make the assessment it has always been thought sufficient to hear only the prosecutor's side. As Blackstone described the prevailing practice in 18th-century England, the grand jury was “only to hear evidence on behalf of the prosecution, for the finding of an indictment is only in the nature of an enquiry or accusation, which is afterwards to be tried and determined.”⁴² So also in the United States, according to the description of an early American court, three years before the Fifth Amendment was ratified, it is the grand jury's function not “to enquire . . . upon what foundation [the charge may be] denied,” or otherwise to try the suspect's defenses, but only to examine “upon what foundation [the charge] is made” by the prosecutor.⁴³ As a consequence, neither in this country nor in England has the suspect under investigation by the grand jury ever been thought to have a right to testify, or to have exculpatory evidence presented.”⁴⁴

³⁵ *Id.*, at 364, 76 S.Ct., at 409.

³⁶ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

³⁷ See *United States v. Chanen*, 549 F.2d, at 1313.

³⁸ *Cf.*, e.g., *United States v. Payner*, 447 U.S. 727, 736, 100 S.Ct. 2439, 2447, 65 L.Ed.2d 468 (1980)

³⁹ 84 *Colum.L.Rev.* 1433, 1490-1494, 1522 (1984).

⁴⁰ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

⁴¹ See *United States v. Calandra*, 414 U.S., at 343, 94 S.Ct., at 617.

⁴² 4 *W. Blackstone*, *Commentaries* 300 (1769); see also 2 *M. Hale*, *Pleas of the Crown* 157 (1st Am. ed. 1847).

⁴³ *Respublica v. Shaffer*, 1 U.S. (1 Dall.) 236, 1 L.Ed. 116 (Philadelphia Oyer and Terminer 1788); see also *F. Wharton*, *Criminal Pleading and Practice* § 360, pp. 248-249 (8th ed. 1880).

⁴⁴ See 2 *Hale*, *supra*, at 157; *United States ex rel. McCann v. Thompson*, 144 F.2d 604, 605-606 (CA2), cert. denied, 323 U.S. 790, 65 S.Ct. 313, 89 L.Ed. 630 (1944).

GRAND JURY INDICTMENTS ARE FINAL⁴⁵

“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.”⁴⁶ We accepted Justice Nelson's description⁴⁷, 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.”⁴⁸ 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.⁴⁹ 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.”⁸ 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].”^{50,51}

CONCLUSION: The People are sovereign and have an unalienable right to have “Government by Consent” through free and independent administration of our own Juries. The Grand Jury is a Constitutional Fixture in its Own Right. The judiciary through congresses’ BAR written laws and the Judiciary’s BAR written rules have subverted and tainted our Juries and hidden our Natural Law Courts’ of Record and we intend on restoring them.

It is the Grand Jury's function to consider criminal charges whereas prosecutors have no authority to change, discharge or negotiate away our findings. Grand Jury indictments are final and cannot be added to or taken away from, without their Consent. We the People are the Author & Source of Law and have the unbridled right to:

- Empanel our own Juries,
- Investigate merely on suspicion,
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⁴⁵ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

⁴⁶ *United States v. Reed*, 27 Fed.Cas. 727, 738 (No. 16,134) (CCNDNY 1852).

⁴⁷ *Costello v. United States*, 350 U.S. 359, 76 S.Ct. 406, 100 L.Ed. 397 (1956)

⁴⁸ *Id.*, at 363-364, 76 S.Ct., at 409.

⁴⁹ 487 U.S., at 261, 108 S.Ct., at 2377.

⁵⁰ 350 U.S., at 364, 76 S.Ct., at 409.

⁵¹ *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)