

Grand Jury Power, Take It Back

by Alan Stang
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As you know, I always try in these essays not only to analyze what the conspiracy for world government is doing to our country; I also search out and offer realistic solutions, practical ways to revive our dormant, constitutional system. Recently, for instance, we discussed the true powers of the sheriff, explained by former Arizona sheriff Richard Mack, who says that, in his county, the sheriff has more power than the President and can keep federal agents out.

Now let's look at the grand jury. Everything that follows is based on research assembled by New Jersey attorney Leo C. Donofrio, J.D. Leo has been a guest on my daily radio talk show. He is one of the patriot attorneys who have gone to court to adjudicate the most important constitutional issue in our history: the question of whether the man who presently sits in the Oval Office is legally eligible to be there.

The 5th Amendment to the U.S. Constitution says in part as follows: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury" You have read that 101 times. What does it mean? What is the difference between a presentment and an indictment?

An article appearing in *American Juror*, the newsletter of the American Jury Institute and the Fully Informed Jury Association, cites American jurist Joseph Story, an icon of the legal profession known to every member. The article explains:

"An indictment is a written accusation of an offence preferred to, and presented, upon oath, as true, by a grand jury, at the suit of the government. An indictment is framed by the officers of the government, and laid before the grand jury. Presentments, on the other hand, are the result of a jury's independent action:

"A presentment, properly speaking, is an accusation, made by a grand jury of its own mere motion, of an offence upon its own observation and knowledge, or upon evidence before it, and without any bill of indictment laid before it at the suit of the government. Upon a presentment, the proper officer of the court must frame an indictment, before the party accused can be put to answer it."

So, government officials prepare an indictment and lay it before the grand jury. On the contrary, the presentment *originates* in the grand jury. The grand jury discovers an offense on *its own*. It observes and collects evidence of the offense and the government has nothing to do with it. So the grand jury is independent. The court then prepares the indictment based on the presentment.

The question obviously leaps from the page: Then what is the true purpose and what are the true powers of the grand jury? If the grand jury can do all the things I

mentioned, then it is clearly meant to be quite a different institution from the one you may be used to, which the (government) prosecutor controls completely. So what is the answer to our question?

High Court Justice Lewis Powell, in *United States v. Calandra*, 414 U.S. 338, 343 (1974), said this: "The institution of the grand jury is deeply rooted in Anglo-American history. [n3] In England, the grand jury [p343] served for centuries both as a body of accusers sworn to discover and present for trial persons suspected of criminal wrongdoing and as a protector of citizens against arbitrary and oppressive governmental action. In this country, the Founders thought the grand jury so essential to basic liberties that they provided in the Fifth Amendment that federal prosecution for serious crimes can only be instituted by "a presentment or indictment of a Grand Jury." Cf. *Costello v. United States*, 350 U.S. 359, 361-362 (1956). The grand jury's historic functions survive to this day. Its responsibilities continue to include both the determination whether there is probable cause to believe a crime has been committed and the protection of citizens against unfounded criminal prosecutions. *Branzburg v. Hayes*, 408 U.S. 665, 686-687 (1972)."

So the grand jury has two purposes, says Justice Powell: deciding whether a crime has been committed and protecting the citizen from the government. It gets better. In *United States v. Williams*, 504 U.S. 36 at 47 (1992), Justice Antonin Scalia, delivered the opinion of the Supreme Court:

"[R]ooted in long centuries of Anglo-American history," *Hannah v. Larche*, 363 U. S. 420, 490 (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) (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 (1977)."

So, since the grand jury is not part of the three branches of government set forth in the Constitution – Scalia also says the grand jury "is an institution separate from the courts, over whose functioning the courts do not preside." – it is perfectly reasonable to characterize the grand jury as the "fourth branch of government." Attorney Donofrio says this: "That is exactly what the grand jury is, and what it was always intended to be."

In the same place, Scalia says this: ". . . 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. See *Stirone v. United States*, 361 U.S. 212, 218 (1960); *Hale v. Henkel*, 201 U.S. 43, 61 (1906); G. Edwards, *The Grand Jury* 28-32 (1906). 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. See *United States v. Calandra*, 414 U.S. 338, 343 (1974); Fed. Rule Crim. Proc. 6(a). [504 U.S. 36, 48]"

Notice! The only thing the judge should do says the Supreme Court, is assemble the grand jurors and swear them in. That's all! Again, the court does not preside over it. The grand jury goes to work "as a kind of buffer or referee between the Government and the people." The grand jury protects the people. It oversees the government. It does that by investigating the government, by rooting out government corruption.

In the *Creighton Law Review*, Vol. 33, No. 4 1999-2000, 821, in an article entitled, *If It's Not a Runaway, It's Not a Real Grand Jury*, attorney Roger Roots says this: "In addition to its traditional role of screening criminal cases for prosecution, *common law grand juries had the power to exclude prosecutors from their presence at any time and to investigate public officials without governmental influence.* These fundamental powers allowed grand juries to serve a vital function of oversight upon the government. The function of a grand jury to ferret out government corruption was the primary purpose of the grand jury system in ages past." (Emphasis added)

Correct! The grand jury can tell the prosecutor to skedaddle. The main reason for grand jury secrecy was to keep its proceedings secret from the government. For an expanded look at the incredible powers of the grand jury in action, which more than justify calling it the "[fourth branch of government](#)."

The Founding Fathers who wrote the grand jury into the Fifth Amendment would not recognize the puny husk it is today. Here is lawyer Roots's description of a real grand jury:

"In the early American experience, the grand jury became more a part of local government than it had apparently ever been in England. A grand jury in Virginia in 1662 was part of the country system, which meant that they would meet two times a year 'to levy taxes and oversee spending, supervise public works, appoint local officials, and consider criminal accusations.' Connecticut grand juries were levying taxes and conducting local government work by the middle of the 1700s. A similar active role in local government was assumed by grand juries in the Carolinas, Georgia, Maryland, New Jersey, and Pennsylvania, all of which had sufficient independence to publicly announce dissatisfaction with government.

". . . In 1765, a Boston grand jury refused to indict Colonists who had led riots against the Stamp Act. Four years later, as tensions intensified, a Boston grand jury indicted some British soldiers located within the city boundaries for alleged crimes against the colonists, but refused to treat certain colonists who had been charged by the British authorities for inciting desertion in a like manner. A Philadelphia grand jury condemned the use of the tea tax to compensate the British officials, encouraged a rejection of all British goods, and called for organization with other colonies to demand redress of grievances."

Then why is every grand jury you have ever seen run by the government, by the prosecutor? Why does the government, the prosecutor, decide what it will investigate and who will testify? Why does the government, the prosecutor, micromanage everything it does? Because the government doesn't want to be investigated. It does want to stay corrupt. So it has completely perverted this hallowed institution, the fourth branch of government. How?

In the same law review piece, attorney Roots explains: "In 1946, the Federal Rules of Criminal Procedure were adopted In the area of federal grand jury practice, however, a remarkable exception was allowed. The drafters of Rules 6 and 7, which loosely govern federal grand juries, denied future generations of what had been the well-recognized powers of common law grand juries: powers of unrestrained investigation and of independent declaration of findings. The committee that drafted the Federal Rules of Criminal Procedure provided no outlet for any document other than a prosecutor-signed indictment. In so doing, the drafters at least tacitly, if not affirmatively, opted to ignore explicit constitutional language."

Here is Rule 7 of the Federal Rules of Criminal Procedure (FRCP): "An offense which may be punished by death shall be prosecuted by indictment. An offense which may be punished by imprisonment for a term exceeding one year or at hard labor shall be prosecuted by indictment. . . ."

As you see, there is no mention of "presentments." But Note 4 of the Advisory Committee Notes on the Rules says this: "4. Presentment is not included as an additional type of formal accusation, since presentments as a method of instituting prosecutions are obsolete, at least as concerns the Federal courts."

The *American Juror* says as follows about Note 4: "[W]hile the writers of the federal rules made provisions for indictments, they made none for presentments. This was no oversight. According to Professor Lester B. Orfield, a member of the Advisory Committee on Rules of Criminal Procedure, the drafters of Federal Rules of Criminal Procedure Rule 6 decided the term presentment should not be used, even though it appears in the Constitution. Orfield states [22 F.R.D. 343, 346]:

"There was an annotation by the Reporter on the term presentment as used in the Fifth Amendment. It was his conclusion that the term should not be used in the new rules of criminal procedure. Retention might encourage the use of the run-away grand jury as the grand jury could act from their own knowledge or observation and not only from charges made by the United States attorney. It has become the practice for the United States Attorney to attend grand jury hearings, hence the use of presentments have been abandoned.' "

The effrontery of these legal bozos is breathtaking. Here they say in effect that the grand jury endorsed by the Constitution could give the people the crazy idea that they are the ultimate power in government. The bozos use the pejorative term "run-away" to denigrate the grand jury. Worse, they couldn't remove it from the Constitution, the Fifth Amendment, so they decided to delete it from the Rules, hoping that with the passage of time they could brainwash us into the belief that

there never had been an independent grand jury that investigates and restrains the government.

And they were successful. The 5th Amendment still says what it has always said, but if you sit on a grand jury and return a "presentment" today, the prosecutor will bully you into the belief that he must sign it or the judge will throw it out. Judges and lawyers have repeated the lie so long, the people now believe it. They don't know they have that power. Indeed, so successful has the lie been that even many legal people believe Note 4 makes presentments "illegal."

For instance, in another law review article, Professor Susan Brenner says this: "Finally, federal grand juries' subservience to prosecutors was exacerbated when the federal system eliminated the use of presentments, which allowed a grand jury to bring charges on its own initiative. Now, federal grand jurors cannot return charges in the form of an indictment without a prosecutor's consent. Elimination of the presentment demonstrates the historical trend towards elimination of proactive features in the grand jury system."

So, Professor Susan believes Congress can eliminate something from the Constitution by passing a mere law and attaching to it an even more mere administrative note. I sure hope she isn't teaching constitutional law. Even lawyer Roots himself gets it wrong: He says the Federal Rules of Criminal Procedure "made independently-acting grand juries illegal for all practical purposes."

Lawyer Leo Donofrio explains: "The key word is, 'obsolete.' Obsolete means 'outmoded,' or 'not in use anymore,' but it does not mean 'abolished' or 'illegal.' And therein lies the big lie. The legislature knew it could not directly overrule the Constitution [I]n its vampire like thirst for more governmental control, it inserted this insidious Note 4 in the hope that scholars and judges would play along with their ruse, or in the alternative, their ruse would appear to be legally viable."

So, you have the power but you have not been using it because you don't know about it, which has the same effect as not having it. Now you must pick it up, scrape off the crud and begin taking charge. How? Here is one example of what you are up against. I went to the chief federal judge in Los Angeles. We were alone in his office and I told him I had proof that major felonies were being committed in the courts he supervised.

For instance, accused in court of intimidating banks into surrendering customer records by pretending to be the grand jury, a prosecutor told the judge: "Your honor, I have been here for ten years, and that is how we've always done it." The judge replied, "I don't care how you've done it. You are not going to do it in my court." Because his admission was so outrageous, the judge threw out two of the charges. But the judge did not punish him despite his admission, on the record, that he had been committing major felonies for ten years.

What would you do if you were the chief federal judge and someone came to you and said he had proof of major crimes committed in the federal courts in your

district? I would ask to see the proof. But the chief federal judge in Los Angeles expressed zero interest in the matter, nada, none. Before I could say, "Objection!" I was out on the street. So you have to convince them you know you have the power.

First, you need to launch a media blitzkrieg to create public acceptance. Use every available tool, talk shows, the internet, newspapers and old fashioned back fence discussions. If a lawyer is available to guide you through the process, use him. The judge and prosecutor certainly will tell you nothing.

The grand jury can convene anywhere, but there will be more credibility if it conducts sessions in the court house. The foreman could ask a court administrator for use of one of the rooms there. If the court administrator refuses, the foreman could sue. Start small with cases everyone agrees should be prosecuted. Gradually restore true grand jury legitimacy in the public mind. Gargantua won't like it but a time will come when you can kick the prosecutor out and then put Rahm "the Hemorrhoid" Emmanuel on trial.

Do it now! Law is too important to be left to the courts.

[Announcement: Alan Stang's radio show, The Sting of Stang, airs from 11 a.m. to 1 p.m. Central, M-F, via Republic Broadcasting Network. Call him on the air at (800) 313-9443. To listen, go to republicbroadcasting.org and click on Listen Live. If you can't listen at that time, do so via the archives. I'll be talking about the various manifestations of the conspiracy for world government, its tactics, such as the illegal alien invasion, its purposes and its players, from Jorge W. Boosh on down.]

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Alan Stang was one of Mike Wallace's original writers at Channel 13 in New York, where he wrote some of the scripts that sent Mike to CBS. Stang has been a radio talk show host himself. In Los Angeles, he went head to head nightly with Larry King, and, according to Arbitron, had almost twice as many listeners. He has been a foreign correspondent. He has written hundreds of feature magazine articles in national magazines and some fifteen books, for which he has won many awards, including a citation from the Pennsylvania House of Representatives for journalistic excellence. One of Stang's exposés stopped a criminal attempt to seize control of New Mexico, where a gang seized a court house, held a judge hostage and killed a deputy. The scheme was close to success before Stang intervened. Another Stang exposé inspired major reforms in federal labor legislation.

His first book, It's Very Simple: The True Story of Civil Rights, was an instant best-seller. His first novel, The Highest Virtue, set in the Russian Revolution, won smashing reviews and five stars, top rating, from the West Coast Review of Books, which gave five stars in only one per cent of its reviews.

Stang has lectured in every American state and around the world and has guested on many top shows, including CNN's Cross Fire. Because he and his wife had the most kids in Santo Domingo, the Dominican Republic, where they lived at the time, the entire family was chosen to be actors in "Havana," directed by Sydney Pollack and starring Robert Redford, the most expensive movie ever made (at the time). Alan Stang is the man in the ridiculous Harry Truman shirt with the pasted-down hair. He says they made him do it.