

COMMON LAW CITIZENS' GRAND JURIES - IS IT TIME TO INDICT THE CORRUPT POLITICAL CLASS?

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With government corruption and treasonous acts running rampant, particularly with regard to President Obama and his administration, many have asked what ordinary American citizens can do to legally mete out justice. Short of violent revolution, there is only one strong legal mechanism that can be invoked. That is the so-called "citizens grand jury," by which Americans themselves can enforce the law. This is our only recourse to hold the president and his accomplices truly accountable for their actions. Over the years, impeachment has not worked, nor has any other means to address crimes at the presidential and other high levels of government.

In this regard, the Fifth Amendment to the Constitution establishes that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury." A proper understanding of the effect of this requirement begins with the common law, since, as Supreme Court Justice Learned Hand stated in *In re Kittle*, "we took the [grand jury] as we found it in our English inheritance, and he best serves the Constitution who most faithfully follows its historical significance."

The grand jury dates back at least to 1166, under the Norman kings of England. These earliest grand juries were convened to provide answers from local representatives concerning royal property rights, but developed into a body of 12 men who presented indictments at the request of either private individuals or the king's prosecutor. (Susan W Brenner & Gregor G. Lockhart, "Federal Grand Jury: A Guide to Law and Practice," 4 [1996]). The Magna Carta granted individuals the right to stand before a grand jury to be charged of their crimes. (Id)

By 1681, an important characteristic of the grand jury had developed: the rule of secrecy. This characteristic set up the grand jury as a bulwark against government abuse. Grand juries were designed to exclude all outside persons, including the government's prosecutors, ensuring that all phases of an investigation (not just deliberation) remained secret. Thus, English grand juries functioned to prevent prosecutorial abuses by blocking the king's attempts to prosecute.

This tradition was continued and expanded by colonial grand juries. In America, the grand jury originally began as a defense against the monarchy and was arguably even more independent than the English grand jury of the 1600s. American grand juries initiated prosecutions against corrupt agents of the government, often in response to complaints from individuals. For example, a Massachusetts grand jury refused to indict the organizers of the Stamp Act rebellion. (See Roger Roots, "If It's Not A Runaway, It's Not A Real Grand Jury," 33 Creighton L. Rev. 821, 832).

Four years later, another Massachusetts grand jury indicted some British soldiers located within the city boundaries for alleged crimes against the colonists, but refused to treat certain colonialists who had been charged by the British authorities for inciting desertion in a like manner. Similarly, a Philadelphia grand jury condemned the use of the tea tax to compensate British officials, encouraged a rejection of all British goods and called for organization with other colonies to demand redress of grievances.

By the dawn of the 20th century, the powerful role of the grand jury had come to be established law. In 1902, a Minneapolis grand jury, acting on its own initiative, hired private detectives and collected enough evidence to indict the mayor and force the police chief to resign.

In *Frisbie v. United States*, Supreme Court Justice David Brewer declared that "in this country

it is for the grand jury to investigate any alleged crime, no matter how or by whom suggested to them, and after determining that the evidence is sufficient to justify putting the suspected party on trial, to direct the preparation of the formal charge or indictment." [157 U.S. 160 (1895)]

Again, in *Hale v. Henkel*, Supreme Court Justice Henry Brown stated that "we deem it entirely clear that under the practice in this country, at least, the examination of witnesses need not be preceded by a presentment or indictment formally drawn up, but that the grand jury may proceed, either upon their own knowledge or upon the examination of witnesses, to inquire for themselves whether a crime cognizable by the court has been committed." [201 U.S. 43 (1906)]

More recently, in *United States v. Williams*, Supreme Court Justice Antonin Scalia held, writing for the majority of the court, that "[t]he 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."' [504 U.S. 36, 48 (1992) (quoting *United States v. R. Enterprises, Inc.*, 498 U.S. 292, 297 (1991)]

Speaking of the origins of the grand jury, Scalia also found that "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. 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. Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the Judicial Branch has 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." [*Id.* at 47]

Although the customary practice for summoning a federal grand jury is by a court (see Rule 6 of the Federal Rules of Criminal Procedure, or FRCP), such action is mandatory "when the public interest so requires." Regardless, the FRCP does not preclude citizens from exercising their own rights to impanel grand juries under the Constitution. [See, i.e. *Marbury v. Madison*, 5 U.S. 137 (1803), establishing the doctrine of judicial review.] Thus, it is clear that citizens themselves can impanel a grand jury, and if a true bill of indictment results, the courts are technically required to commence proceedings and the executive branch to enforce the court's edicts.

However, if the courts refuse and the executive branch does not carry out its duties by, for instance, arresting the criminally accused, Americans do have a right to make "citizens arrests," hold trials and legally mete out punishment in their own right. Indeed, this is what occurred in the western part of the United States, in particular, during our early years as a nation — before there was a developed federal court system and executive branch.

Given the increasingly corrupt and treasonous actions of our public officials, which have nearly destroyed our republic, and the almost complete breakdown of the justice system as run by the government, the time has come for we Americans to rise up and use the God-given rights left to us by our founders.

We can do this by using citizen-impanelled and administered grand juries to hold presidents like Obama and others at the highest levels of government accountable for the crimes that have driven our nation to the brink of extinction.

SOURCE: <http://www.citizensgrandjury.com/120420-klayman.php>