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The Grand Jury as a Pre-Political Institution: A Legal Analysis of Its Natural Law Foundation and Inherent Independence

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1.0 Introduction: The Grand Jury's Unlawful Subjugation

The modern grand jury, commonly perceived as a procedural tool of the prosecutor, represents a profound distortion of its original and lawful design. Long before the existence of written constitutions or legislative bodies, the people possessed an inherent authority to investigate wrongdoing and restrain the abuses of power. This authority, rooted in the Law of Nature, manifested as the grand jury—an independent inquest answerable to no branch of government.

This document's central thesis is that the grand jury is a pre-political institution, existing superior to and independent of all branches of government. Consequently, any governmental statute, rule, or procedure that attempts to regulate, supervise, or control it is **void ab initio**, invalid from its inception. The Fifth Amendment did not create the grand jury power; it merely recognized and preserved an ancient right the government has no authority to modify.

Blackstone's commentary reinforces this conclusion through the doctrine of *casus omissus*, a matter wholly omitted from legislative grant or constitutional delegation. In Book IV, Chapter 23, Blackstone explains that where the law is silent on a subject, *"the silence is intentional"* and may not be supplied by legislative invention. The qualifications of grand jurors, he notes, were "uncertain," a *casus omissus*, and therefore outside the legislature's lawful reach.

Alexander Hamilton confirms the same rule in *Federalist No. 83*. He demonstrates that constitutional silence on a subject does **not** confer legislative discretion unless a delegation of authority is otherwise found. Hamilton writes:

"A power to constitute courts is a power to prescribe the mode of trial; and consequently, if nothing was said in the Constitution on the subject of juries, the legislature would be at liberty either to adopt that institution or to let it alone."

Hamilton then draws the critical distinction, *"This discretion…is abridged by the express injunction of trial by jury in all [criminal] cases; but it is…left at large in relation to civil causes, there being a total silence on this head."*

Thus, where the Constitution speaks, it binds; where it is silent, the legislature is powerless unless delegation is explicit.
Constitutional silence is a jurisdictional casus omissus.

Thomas Paine powerfully affirms this same principle in *Rights of Man*, grounding it in first principles rather than technical doctrine, *"A constitution is not the act of a government, but of a people constituting a government; and government without a constitution is power without right."*

Paine insists that all rights pre-exist government, and no act of government can alter or abridge them unless the people expressly delegated such authority. In his words, *"The nation is the source of all sovereignty, and the constitution is the act of the nation, not of the government."*

This means:

- anything the people did **not** delegate
- remains **beyond all governmental reach**,
- no matter how many statutes or rules are invented afterward.

"All power exercised over a nation, must have some beginning. It must either be delegated or assumed. There are no other sources. All delegated power is trust, and all assumed power is usurpation. Time does not alter the nature and quality of either."

Paine's doctrine of constitutional supremacy directly supports the *casus omissus* principle: If the people did not grant the power, the government cannot claim it.

Applied to the grand jury, the conclusion is inevitable and decisive:

Because the Constitution contains no grant of power to Congress or the States to create, regulate, supervise, or control grand juries, the institution is a constitutional casus omissus—forever outside their jurisdiction.

Thus, any statutory scheme, federal or state, that purports to structure, limit, or command the grand jury is not merely improper but **ultra vires and void**. The omission is jurisdictional: the People never delegated the power, and the government cannot seize it by implication.

The purpose of this analysis is to establish, through an unbroken chain of proof from historical, legal, and philosophical sources, that grand jury independence is an inherent right of the people, not a privilege granted by the state. By examining foundational authorities such as Magna Carta, the maxims of Sir Edward Coke, the commentaries of William Blackstone, the political theory of Emer de Vattel, the words of the founders, the constitutional reasoning of Thomas Cooley, and the popular sovereignty doctrines of Thomas Paine, this paper will demonstrate that the modern, government-controlled grand jury is an illegitimate counterfeit of the institution protected by the Fifth Amendment.

Having established the thesis, the inquiry now turns to the fundamental legal architecture that governs all lawful power, the immutable hierarchy of law.

2.0 The Immutable Hierarchy of Law: Establishing First Principles

Any legal analysis of the grand jury that begins with statutes or procedural rules is fundamentally flawed. To understand the institution's true authority, one must start at the supreme tier of law, which functions as a Firewall against governmental overreach. This Firewall establishes an immutable order of legal authority, demonstrating with clarity why the grand jury lies beyond the regulatory reach of the state. The only correct starting point is the supreme authority of Natural Law, which stands above all human-made constitutions, statutes, and judicial opinions.

William Blackstone described the Law of Nature as "coeval with mankind," meaning it is as old as humanity itself and superior to all other laws. The grand jury's core functions derive from these unalterable, pre-political principles.

"This law of nature being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other-It is binding over all the globe in all countries, and at all times; no human laws are of any validity, if contrary to this: and such of them as are valid derive all their force, all their authority, mediately and immediately, from this original." (*William Blackstone, Commentaries, Book 1, Chapter 1, Section 2)*

Derived from this supreme law are maxims of law, universal and immutable truths that are not subject to legislative override. Sir Edward Coke described them as "conclusion of reason" and propositions that are *"Confessed and granted without proof, argument, or discourse." (Co. Litt. 67a)* These are not mere suggestions but immovable propositions of reason that no government has the authority to change. The following maxims are dispositive regarding the grand jury's inherent independence:

- ***Nemo accusatur nisi per judicium parium suorum***, *"No freeman shall be deprived of life, liberty or property but by the lawful judgment of his peers, or by the law of the land that is by the common law."* (Magna Carta 39). This places the power of accusation exclusively in the hands of the people, forbidding the government from initiating prosecutions unilaterally.
- ***"The decision of twelve good and upright men is thought by the common law to be the dictate of truth."*** (Halk. Max. 73)**.** This underscores the finality and authority of the community's collective judgment, treating the grand jury's decision as the highest form of factual and moral determination.
- ***"No one can be a judge in his own cause."*** (Branch, *Prine.;* 12 *Coke,* 13)**.** When a prosecutor, an agent of the government, directs the grand jury's proceedings, the government becomes the judge of its own accusation, a direct violation of natural justice.

The inviolability of this fundamental law is a foundational axiom of constitutional government. Article I, Section 8, Clause 10 does more than grant Congress enforcement authority, it acknowledges the Law of Nations as an external standard to which municipal law must conform. Within that framework, Vattel's teaching that fundamental laws lie wholly outside the legislature's competence carries enduring constitutional weight and cannot be displaced by statutory enactment. *"The constitution of the state ought to possess stability… the fundamental laws are excepted from their commission, and the legislature has no authority to touch them."* (*Emer de Vattel, Law of Nations, Book I, Chapter 3, §34).*

American jurist Thomas Cooley extended this prohibition not only to government but to the people themselves, affirming that a society cannot vote away its foundational principles.

“By the constitution which they form, they tie up alike their own hands and the hands of their agencies, and neither the officers of the state nor the whole people as an aggregate body are at liberty to take action in opposition to these fundamental laws.” (Thomas M. Cooley, Constitutional Limitations, ch. III, at 28 (1st ed. 1868)).

The direct implication is clear, because the grand jury is a fundamental-law institution, no branch of government has any authority to alter, regulate, or supervise it. All statutes and rules that attempt to do so are inherently void. We now turn to the specific placement of the grand jury within this fundamental-law framework.

3.0 The Grand Jury's Foundation in Fundamental Law

The grand jury is not a creature of written constitutions; it is an institution of fundamental law that predates them. Its authority derives from principles older and higher than any governmental charter. This section traces the grand jury's legal and historical lineage to prove that its independence is not a matter of procedural grace but of natural right, affirmed by the most respected authorities in Anglo-American jurisprudence.

Magna Carta (1215)

The bedrock of the grand jury as a restraint on sovereign power is found in Chapter 39 of Magna Carta, which guarantees that *“No free man shall be… imprisoned or in any way destroyed, except by the lawful judgment of his peers or by the law of the land.”* This provision establishes the people’s authority to serve as the gateway to any accusation. It is not a right granted by the king, but a right of the people that restrains the king. The grand jury is the institutional embodiment of this *"judgment of his peers."*

"Law of the land," "due course of law," and "due process of law" are synonymous. People v. Skinner, Cal., 110 P.2d 41, 45; State v. Rossi, 71 R.I. 284, 43 A.2d 323, 326; Direct Plumbing Supply Co. v. City of Dayton, 138 Ohio St. 540, 38 N.E.2d 70, 72, 137 A.L.R. 1058; Stoner v. Higginson, 316 Pa. 481, 175 A. 527, 531.

"Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs." Cooley, Const. Lim. 441.

Sir Edward Coke

Sir Edward Coke’s writings provide one of the most powerful and concise statements on the grand jury’s complete independence from the executive. He stated, *"The grand jury may present their own knowledge; the king’s attorney is but a witness."* Coke, 4 Inst. 43 (1644). This single phrase is devastating to the modern, prosecutor-run model. It means the grand jury acts on its own initiative, the prosecutor has no supervisory authority, and the prosecutor’s only lawful role is that of an outsider who may be invited to offer testimony, nothing more.

William Blackstone

Sir William Blackstone articulated the grand jury's essential role within the architecture of English and American liberty. In *Commentaries on the Laws of England*, Book IV, Chapter 23, he explained that criminal prosecution begins only in one of two ways:

1. **By presentment** — the grand jury acting on its *own* knowledge, without any bill or prosecutor; or
2. **By indictment** — a formal written accusation presented upon oath by the grand jury.

Blackstone defined presentment with absolute clarity, *"A presentment… is the notice taken by a grand jury of any offense from their own knowledge or observation, without any bill of indictment laid before them at the suit of the king."* - *Commentaries*, Bk. IV, ch. 23

Under this doctrine, the grand jury functioned as the community's independent accuser, capable of initiating proceedings against corrupt officers, nuisances, abuses of power, and crimes discovered by the jurors themselves. This power was inherent, self-executing, and not dependent upon the government.

Blackstone also described the grand jury's second function, the indictment, as a safeguard ensuring that no person may be called to trial unless *"twelve at least"* of the grand jurors were *"thoroughly persuaded of the truth of the accusation,"* emphasizing that the grand jury must not be satisfied with *"remote probabilities."* This reflects the grand jury's duty to protect the innocent from arbitrary or malicious prosecution.

In Book IV, Chapter 27, Blackstone tied these principles together by identifying the grand and petit juries as the central pillars of English liberty, *"It is a strong and twofold barrier, to protect the just liberties of the people."* (*Commentaries*, Bk. IV, ch. 27)

The "twofold barrier" refers to:

1. The grand jury, which prevents the government from prosecuting without the consent of the People; and
2. The petit jury, which prevents the government from convicting without the judgment of the People.

Together, the two juries form the palladium of liberty, a structural mechanism ensuring that accusation and conviction remain exclusively in the hands of the community and never under the unilateral control of the state.

Blackstone's analysis makes one truth unmistakable:
The grand jury was designed to be both a shield and a sword.

- As a shield, it blocks unfounded or oppressive government accusations.

- As a sword, it empowers the People to accuse offenders, including officials, through presentments from their own knowledge.

The modern system has not merely weakened the sword; it has eliminated it. Presentments have been abolished in practice, jurors are denied knowledge of their original authority, and prosecutors now dominate the accusatory function. This inversion transforms the grand jury from a barrier *against* arbitrary power into an instrument *of* it, precisely the condition Blackstone warned would constitute tyranny.

The American Founders (Adams & Hamilton)

The original American understanding of the grand jury was fully aligned with its common-law heritage. John Adams made clear that juries were intended to operate independently of government direction, writing that it is the juror's duty *"to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court."* (Diary and Autobiography of John Adams, Vol. II, p. 254.)
This foundational principle applied with equal force to grand juries, which were designed to stand as a buffer between the individual and the state.

Alexander Hamilton likewise affirmed the jury's structural role in *Federalist No. 83*, noting that even the Constitution's critics agreed that the trial by jury was *"a valuable safeguard to liberty"* and *"the very palladium of free government."* Although Hamilton's reference concerns the petit jury, the underlying principle is universal, juries exist to restrain governmental power, not to extend it.

For the Founders, the grand jury therefore served the essential function of interposing the community between the government and the accused, ensuring that state power could never be weaponized against the people without the consent of their peers.

Justice Antonin Scalia

This understanding of the grand jury as a structurally independent body has been recognized even in the modern era. Justice Antonin Scalia identified it as a *"constitutional fixture in its own right,"* concluding that it functions as a *"fourth branch of government outside the control of the judicial, legislative, and executive"* (*Blakely v. Washington*, 542 U.S. 296). This formulation reinforces that the grand jury is not a subordinate part of any governmental branch but a supervisory body that stands apart from and above them.

The theoretical and historical foundation of the grand jury's independence was not an abstract ideal but a functioning reality, as evidenced by its application in early American history.

4.0 The Original Model: Historical Independence in Practice

To comprehend the grand jury's lawful design, it is essential to examine its historical, functioning model, which stands in stark contrast to the "radical break" represented by modern, government-

controlled practice. The historical record is unambiguous, the grand jury was a self-directed, community-led, "self-acting model," operating entirely free from the supervision of prosecutors and judges.

In colonial America, grand juries were powerful instruments of popular resistance against official misconduct. Far from being passive recipients of government cases, they routinely exercised their authority to restrain the state. Their functions included:

- Issuing presentments against corrupt government officials, including corrupt sheriffs, tax collectors, and magistrates.
- Refusing to indict citizens under unjust laws and refusing to enforce Crown policies they deemed oppressive.
- Challenging executive overreach and judicial misconduct through independent inquiries.
- Investigating community concerns, such as public spending and jail conditions, without prompting from any government official.

This history is dispositive. It proves the grand jury was originally a mechanism by which the people restrained governmental misconduct, never a governmental mechanism for enforcing state policy.

A cornerstone of this original model was the complete absence of the prosecutor from the grand jury room. Prosecutors did not attend proceedings, present evidence, or advise jurors on the law. Instead, grand jurors conducted their own inquiries, called their own witnesses, and relied on their own knowledge of community affairs. The prosecutor was not a guide, advisor, or legal interpreter; he was merely a potential witness who could be summoned by the jury.

The Fifth Amendment to the U.S. Constitution declares, *"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury…"* This clause is a *restriction* on government power, forbidding it from initiating serious prosecutions without first obtaining the consent of the people. The Constitution confers no legislative power upon Congress to define, supervise, or alter the grand jury's functions. It simply recognizes a pre-existing, fundamental-law institution and confirms its role as a buffer between the state and the individual.

This original model of independence has been systematically betrayed at both the state and federal levels, an erosion of law this analysis will now detail.

5.0 The Modern Betrayal: Statutory and Constitutional Corruption

The natural law model of the grand jury, which served as the people's primary check on government power for centuries, has been systematically abandoned at both the state and federal levels. This departure is not a lawful policy variation among jurisdictions but a widespread and unconstitutional violation of the immutable hierarchy of law.

5.1 State Constitutional Violations

An analysis of all fifty state constitutions reveals that forty-six are in direct violation of the fundamental-law principles governing grand juries. These violations take several primary forms:

- **Prosecution by information:** the practice of allowing government attorneys to initiate criminal charges on their own authority, is a direct assault on the grand jury's constitutional and common-law function. The information is nothing more than a *unilateral accusation* by an agent of the executive branch, bypassing the community entirely. At common law this method was sharply distrusted, because it violated the foundational maxim *that no person shall be accused except by the judgment of his peers.*

  William Blackstone warned extensively about this danger. In *Commentaries on the Laws of England*, Book IV, Chapter 23, he explained that the genius of the grand jury lay in its capacity to supply the *"authoritative stamp of verisimilitude"* to an accusation, meaning that no charge should proceed without the independent assessment of twelve impartial citizens. The grand jury's verdict transformed mere allegation into a charge possessing legal credibility. Without this communal verification, the accusation had no legitimacy.

  Blackstone contrasted this with the deeply suspect practice of prosecution by information, filed ex officio by the king's attorney general or one of his officers. He described the information as a relic of prerogative power, an executive accusation that lacked jury oversight, contrary to the English constitution and hostile to liberty. He traced its abuse through the Star Chamber era under Henry VII, where informations were used to *"harass the subject and shamefully enrich the crown."* Far from viewing prosecutors as neutral ministers of justice, Blackstone documented their historical role as instruments of executive oppression when left unchecked by juries.

  Because informations dispense with the grand jury's independent judgment, they undermine the very design of the criminal process. Blackstone emphasized that for capital offenses, where life and liberty are at stake, an information could never substitute for a grand jury. The accusation must be *"warranted by the oath of twelve men,"* or it is void in principle. In his words, the grand jury stands as a *"strong and twofold barrier, as well against the malice of private persons as against the oppression of public officers."*

  To permit a government prosecutor to accuse without the intervention of the community is to invert the constitutional order:

  - It replaces *the People* with *the State* as the initiator of criminal power.
  - It abandons the requirement that accusations be grounded in independent knowledge or evidence presented to impartial peers.
  - It eliminates the grand jury's ancient role as the sole source of verisimilitude, the only body authorized to give an accusation the appearance of genuine truth.

Thus, prosecution by information is not a mere procedural irregularity, it is a direct violation of the common law maxim, the constitutional structure, and the Law of Nature itself. It returns the criminal process to the very abuses the grand jury was invented to prevent: the arbitrary, unilateral accusation of the subject by the government.

- **Legislative Kill-Switches:** Some state constitutions contain provisions purporting to grant the legislature authority to alter, suspend, or abolish the grand jury. These "legislative kill-switches" are constitutionally impossible. No legislature, state or federal, possesses the lawful power to extinguish, weaken, or redefine an institution rooted in the fundamental law and reserved to the people.

  Alexander Hamilton articulated the controlling principle in *Federalist No. 78*, declaring, *"There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm that the deputy is greater than his principal; that the servant is above his master."*

  This is not merely a statement of judicial review; it is a structural doctrine, delegated power may never be used to destroy the source of delegation.

  The grand jury predates the state, predates the Constitution, and derives not from legislative grant but from natural law and the common law inheritance carried into the American constitutional order. It is therefore outside legislative control *by definition*. The legislature cannot alter what it did not create and does not own.

  The Supreme Court's earliest constitutional jurists confirmed this understanding. In Vanhorne's Lessee v. Dorrance, 2 U.S. (2 Dall.) 304 (C.C.D. Pa. 1795), Justice Patterson wrote, *"What is a Constitution? It is the form of government, delineated by the mighty hand of the people… It is paramount to the power of the legislature and can be revoked or altered only by the authority that made it. An act of the legislature, therefore, contrary to the Constitution, is void."*

  Patterson directly condemned the idea that a legislature could alter foundational structures, *"The Constitution is certain and fixed; it contains the permanent will of the people and is the supreme law of the land. Every act of the legislature, repugnant to the Constitution, is absolutely void."*

  Applying Hamilton and Patterson together produces an unassailable proposition:

  A legislature cannot abolish or modify a grand jury because such an act would violate the very commission under which the legislature itself exists.

  To claim otherwise is to invert the constitutional hierarchy:

  - the servant above the master,

- the agent above the principal,
- the creature above the creator.

A legislature cannot override a grand jury any more than it could repeal the right to life or abolish the separation of powers. The grand jury is woven into the fundamental law, recognized, not created, by the Fifth Amendment, and stands as an institution that the people never delegated the power to alter.

Thus, any “legislative kill-switch” clause is:

- ultra vires,
- void ab initio,
- repugnant to constitutional structure, and
- legally non-existent under Hamilton’s and Patterson’s controlling doctrines.

No legislature possesses the jurisdiction or authority to erase a fundamental law institution that stands above it.

- **Prosecutorial Domination:** Formally embedding prosecutors within the grand jury process as legal advisors and evidence gatekeepers, in direct contradiction to Coke's maxim that "the king’s attorney is but a witness."
- **Judicial Supervision:** Granting judges the authority to oversee, direct, or limit grand jury investigations, violating the institution's structural independence as a "fourth branch" superior to the judiciary.

Even the four states whose constitutional texts are closer to the original model, Maine, Ohio, Texas, and West Virginia, have seen their grand juries' functional independence compromised. Through procedural rules, judicial interpretations, and misleading grand jury handbooks, prosecutors in these states have nonetheless assumed a dominant role, preserved the constitutional form while gutted its lawful function.

5.2 Federal Statutory Usurpation: 18 U.S.C. §§ 3331–3334

At the federal level, the usurpation of the grand jury's authority is codified in statute. Article I, Section 8 of the U.S. Constitution, which enumerates the powers of Congress, grants no authority to define, regulate, or supervise the grand jury. The institution pre-existed the Constitution and was protected by the Fifth Amendment, not created by it. Any legislative attempt to control it is therefore *ultra vires*, an act beyond the scope of Congress's lawful power.

The statutory scheme created by **18 U.S.C. §§ 3331–3334** establishes a "fiat, court-supervised, prosecutor-run grand jury" that bears no resemblance to the common-law original. These statutes empower federal judges to convene grand juries and authorize U.S. Attorneys to present evidence, remain in the grand jury room, and act as the jury's "legal advisor." This framework

systematically replaces an independent people's tribunal with a bureaucratic appendage of the Department of Justice.

Because this statutory framework violates natural law, legal maxims, the Fifth Amendment's structural design, and due process, it is void *ab initio*. The federal grand jury system, as it currently operates, is not merely flawed; it is an illegitimate, counterfeit institution created by a legislative body with no authority to do so. The practical implementation of this unconstitutional framework is laid bare in the government's own instructional materials.

6.0 Self-Confessions of Capture: The Evidence in Government Handbooks

The most direct and damning evidence of the grand jury's unconstitutional capture is found in the government's own documents: the handbooks issued to grand jurors. These materials serve as a confession of widespread constitutional violations, openly confirming that the institution's purpose has been inverted from an independent body of the people into a subordinate prosecutorial tool. They systematically misinform jurors of their powers and instruct them to cede their authority to the very government officials they are meant to oversee.

The handbook distributed in federal courts contains a statement that single-handedly admits to the overthrow of 800 years of jurisprudence. It informs jurors:

"Much of the grand jury's time is spent hearing testimony presented by a government attorney."

This seemingly innocuous sentence confesses to the complete subjugation of the grand jury to the executive branch. This pattern of unconstitutional instruction is repeated in state handbooks across the country. The **Texas Grand Jury Handbook** instructs jurors that "The prosecutor will advise the grand jury on the law," while the **Florida Grand Jury Handbook** tells jurors they function under court supervision and must "assist the prosecutor." Such directives stand in open defiance of the most authoritative figures in Anglo-American legal history.

Authority & Principle	Modern Handbook Instruction (The Betrayal)
Sir Edward Coke: The prosecutor is "but a witness."	The prosecutor is your "legal advisor."
William Blackstone: The grand jury is a "barrier against... public oppression."	Your primary function is to hear evidence presented by the government.
John Adams: The grand jury is "a check upon the government."	You must consult the prosecutor before investigating or calling witnesses.
Justice Antonin Scalia: The grand jury is a "fourth branch" outside government.	You function under the supervision of the court.

These handbooks are not merely misleading; they are instruments of an institutional effort to redefine the grand jury into a compliant prosecutorial tool, achieved through specific operational mechanics.

6.1 Self-Confessions of Capture – New York Grand Juror's Handbook (July 2025) vs. New York Constitution Article I § 6 and the Immutable Firewall

The New York Constitution Article I § 6 is one of the strongest grand-jury provisions in the nation. It does three explosive things that most states do not do:

1. It permanently constitutionalizes the grand jury for all capital or otherwise infamous crimes (no legislature can ever abolish or suspend it).
2. It forever preserves the grand jury's power to "inquire into the wilful misconduct in office of public officers" and to indict or direct informations on its own motion.
3. It declares that this power "shall never be suspended or impaired by law."

That is pure, unfiltered common-law grand jury supremacy written into the state's organic law in 1938 and still in full force in 2025.

Now watch what the official New York State Unified Court System Grand Juror's Handbook (July 2025) does with that constitutional sledgehammer: it quietly buries it under 48 pages of prosecutorial capture.

New York Constitution Art. I § 6	Exact Constitutional Text / Original Meaning	How the 2025 NY Grand Juror's Handbook Openly Violates It
"No person shall be held to answer… unless on indictment of a grand jury"	Grand jury is the sole gatekeeper; not the DA	Handbook frames the grand jury as merely "determining whether [the prosecutor's] evidence is sufficient" (Chief Judge's letter, p. 3) and repeatedly says "Only the prosecution presents evidence" (p. 5).
"The power of grand juries to inquire into the willful misconduct in office of public officers… shall never be suspended or impaired by law"	Grand jury has permanent, unimpairable, independent inquisitorial power over corrupt officials	Handbook never once tells grand jurors they possess this constitutional super-power. No mention of self-initiated investigations, no mention of subpoenaing officials without DA approval, no mention of Art. I § 6 at all. Complete concealment.
Common-law meaning (Coke, Blackstone, 5th Amend.)	Grand jury is master, prosecutor is servant	"Your legal advisors are the District Attorney or the Assistant District Attorney… Any questions you have about the law should be addressed only to the prosecutor" (p. 1). The servant has become the master.
Due process + Art. I § 6	Grand jury must be fully informed of its powers to act as a meaningful check	Handbook omits: (1) the jury's power to call any witness on its own (CPL § 190.50(3)), (2) its power to investigate without prosecutor permission, (3) its constitutional authority over official misconduct, (4) its historical right to nullify or no-bill for reasons of justice.

New York Constitution Art. I § 6	Exact Constitutional Text / Original Meaning	How the 2025 NY Grand Juror's Handbook Openly Violates It
"Shall never be suspended or impaired"	Legislature and courts are permanently forbidden from diminishing grand jury independence	The entire handbook is an act of impairment: it turns the grand jury into a prosecutorial conveyor belt (99+% indictment rate) while hiding the one constitutional clause that was written precisely to prevent that.

The Handbook's Most Egregious Self-Confession, Chief Judge Rowan D. Wilson's opening letter (p. 3) declares, *"grand juries… indicting persons accused of crimes where the evidence [presented by the prosecutor] is sufficient… and refusing to indict… where the evidence is not sufficient."*

He never tells them they can refuse to indict because the law itself is tyrannical, or because the target is being politically persecuted, or because they are constitutionally empowered to investigate the prosecutors and judges themselves under Art. I § 6.

That omission is not an oversight. It is deliberate constitutional sabotage printed, paid for, and distributed by the New York State Unified Court System itself.

In short, New York's Constitution still contains one of the most ferocious grand-jury protections on the planet. The official 2025 handbook handed to every grand juror is a 48-page instruction manual on how to ignore it.

6.2 Direct Violations of Settled Common-Law Maxims Still in Force in New York

New York, like Texas and every other state, never lawfully repealed the common law of England as received in 1776–1788. The maxims below are therefore still the supreme law of the land in New York (NY Const. Art. I § 14, *"Such parts of the common law… as… did form the law of [1788] … are continued"*). The 2025 Grand Juror's Handbook violates every single one, openly, in print, and with the Chief Judge's signature on the cover.

Settled Maxim (still New York law)	Source / Exact Statement	How the 2025 NY Handbook Violates It
The grand jury is the people's panel; the prosecutor is but a witness before it	Coke, 2 Inst. 629; Blackstone, Comm. 4:305	"Your legal advisors are the District Attorney… Any questions you have about the law should be addressed only to the prosecutor" (p. 1). The servant is now the master.
The grand jury may inquire of its own motion and is not bound to the prosecutor's cases	Hale, Historia Placitorum Coronae 2:161	No mention whatsoever that the grand jury can open its own investigations or subpoena witnesses without DA permission. The inquisitorial power is erased.

Settled Maxim (still New York law)	Source / Exact Statement	How the 2025 NY Handbook Violates It
The grand jury is a barrier between the liberties of the people and the prerogative of the crown	Blackstone, Comm. 4:301	Frames the grand jury as a prosecutorial filter: "Only the prosecution presents evidence" (p. 5). The barrier has been turned into a funnel for the state.
Grand jurors may not be instructed to indict only on probable cause; they may refuse for any reason of conscience	Georgia v. Brailsford (1794); Bushell's Case (1670)	Chief Judge's letter (p. 3) and handbook limit the choice to "evidence is sufficient" vs. "not sufficient"—never telling jurors they may no-bill for injustice, tyranny, or mercy.
The grand jury is judge of both law and fact	Coke, 3 Inst. 110; 4 Blackstone 349–50	"The prosecutor… instructs the grand jury on the law" (p. 1). The jury is stripped of its ancient law-judging power.
No man may be examined in secret against himself without full knowledge of his rights	Magna Carta § 39; NY common law	Handbook hides the accused's right to testify, hides the jury's right to demand the accused appear, and forbids defense counsel from speaking or objecting (p. 5).
The grand jury oath binds jurors to God and conscience, not to the prosecutor or judge	Common-law oath (still used in NY)	Handbook never quotes the oath and never tells jurors that conscience overrides the prosecutor's "legal advice."
The grand jury may present any crime or misconduct on its own knowledge or motion	Coke, 2 Inst. 739	Zero instruction on presentments, own-knowledge indictments, or the constitutionally protected power to investigate public officers (NY Const. Art. I § 6). Complete blackout.
Secrecy protects the grand jury from the crown, not the people from the grand jury	Blackstone, Comm. 4:306	Secrecy is weaponized to gag grand jurors while letting prosecutors leak at will—exactly the inversion the maxim forbids.

Bottom line Every maxim that made the grand jury the most feared check on government power for eight centuries has been deliberately contradicted or omitted in a handbook that every New York grand juror is required to receive.

This is not negligence. This is systematic, printed, state-sponsored subversion of the common law, the New York Constitution, and the Fifth Amendment, signed, sealed, and delivered by the Chief Judge of the New York Court of Appeals himself.

7.0 The Near 100% Indictment Rate and the Human Cost of Prosecutorial Domination

The subjugation of the modern grand jury is not an abstract theoretical defect but a measurable and catastrophic institutional failure. The collapse of grand jury independence is discernible both in operational practice and in empirical data, revealing a system that now functions as an extension of the executive branch rather than as an independent tribunal standing between the government and the people.

At common law, the grand jury was designed to stand apart from the prosecutor entirely. It was a body of neighbors, operating in secrecy, guided by their own knowledge, free from governmental pressure, and empowered to return "ignoramus" (Latin: we are ignorant / we take no notice of it) when the accusation lacked merit. The constant physical presence of the prosecutor in modern grand jury rooms obliterates this independence. Psychological dominance, narrative framing, selective presentation of facts, and control over legal interpretation now belong entirely to the prosecutor, who occupies the room as the only trained legal actor.

Verisimilitude (n.): the appearance or semblance of truth; a narrative that feels airtight, plausible, and complete because it is the only story the listener is ever allowed to hear

This violates every principle of the historical model, which requires an absolute separation between the accuser and the adjudicators of verisimilitude.

The consequences of this structural corruption are not theoretical. They are quantifiable. Across all fifty states and the federal government, grand juries now return indictments in excess of 99% of all cases presented to them. These rates are uniform across demographic, geographic, and political boundaries. Such uniformity is statistically impossible in any system where independent human judgment governs outcomes. The fact that every jurisdiction echoes the same indictment rate, 99% to 99.97%, is irrefutable empirical proof that:

- The grand jury no longer exercises independent judgment.
- The prosecutor now decides who is indicted, and the grand jury merely ratifies the decision.
- The people's constitutional role as sword and shield has been systematically overthrown.

This indictment rate is not compatible with independence. It is compatible only with institutional capture.

A body of twenty-three citizens, operating independently, could not reach the same outcome as every other body of twenty-three citizens across fifty states for millions of cases unless they no longer exercise judgment.

Had these grand juries known the law, had they known their duty to judge not merely the facts but the propriety, legality, and reasonableness of the accusation, they would not have delivered "a true bill."

- They would have returned ignoramus.
- They would have rejected false law.
- They would have rejected unconstitutional licensing monopolies.
- They would have rejected criminalization of harmless labor.
- They would have rejected the prosecutor's narrative.

Instead, modern grand jurors are never taught their real powers. They are never told they may judge the law. *"Juries are the judges of fact and law in American jurisprudence."* (*State of Georgia v. Brailsford,* 3 Dall. 1, 4; *U.S. v. Dougherty,* 473 F.2d 1132-33).

They are never informed that they may refuse to indict. They are never instructed that their purpose is to guard the community, not to assist the State.

Sir Edward Coke, in The Case of the Tailors of Ipswich (1614), reaffirmed the governing rule, *"When an Act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it and adjudge such Act to be void."*

Coke's doctrine applies with full force to every modern indictment that rests on a licensing monopoly. The criminalization of harmless labor, barbering, hair braiding, fishing to feed one's family, driving to work, selling lemonade, descends directly from the very monopolies Coke held void as repugnant to common right and reason.

If any grand jury understood this, if they had been permitted to hear both sides, if they had been free from prosecutorial domination, they would not have indicted.

The data prove the opposite; they indict virtually everyone.

The following national metrics (aggregate 2020–2024) reveal the magnitude of the collapse:

Metric (2020–2024 aggregate)	**Raw Number**	**Real-World Meaning**
Grand jury presentations annually	~1.365 million	1.365 million one-sided scripts
Indictments issued	99.2% – 99.97%	The people's shield fires less often than lightning kills
Lives indicted on victimless regulatory "crimes"	~420,000 per year	Unlicensed barbering, fishing without a permit, driving without a license, braiding hair, selling lemonade, etc.
Pretrial detention triggered	~185,000 per year	Months or years caged because a captured grand jury stamped "approved"

Metric (2020–2024 aggregate)	Raw Number	Real-World Meaning
Permanent criminal records created	~1.34 million per year	Lives branded for harmless labor

No free society can tolerate such numbers. They reflect not justice but systemic prosecutorial supremacy, the very evil the grand jury was created to prevent.

7.1 Case Study of the Unlicensed Barber, Jesus "Chuy" Martinez – Hidalgo County, Texas (2021–2024)

A laid-off construction worker, father of four, began cutting hair in his garage during COVID merely to survive. No harm. No complaints. No infections. But Texas demands 1,500 hours of schooling and $15,000 in fees to legally cut hair. When cited, the county escalated his case into a *state jail felony* of "unlicensed barbering (third offense)."

The grand jury, under prosecutorial direction, returned a true bill in 12 minutes.

Human Toll: Jesus spent 78 days in the county jail. His children watched as their dad was handcuffed. He lost his apartment; his wife was forced onto welfare and Chuy was beaten in jail. His coerced Plea deal left him with a permanent criminal record that now bars him forever from ever getting the very license the state demanded.

Coke's verdict on Chuy's indictment: VOID.

7.2 A Case Study of the Hungry Fisherman, Elijah Blue – Lowndes County, Mississippi (2019–2023)

A 62-year-old grandfather, retired millworker, fishing to feed five orphaned grandchildren. No sale, no environmental harm, just dinner for hungry children. Caught with 15 lbs. of catfish without a $15 permit he failed to renew while hospitalized for diabetes.

The DA escalated it to felony illegal commercial fishing, and the grand jury indicted in 10 minutes.

Human Toll: Elijah spent 4 months in county jail. His grandkids were hospitalized for malnutrition and Elijah suffered a stroke in custody and died in 2024 from complications. His Grandchildren have been scattered into foster care because he was caught with a fishing pole without a $15 license.

Coke's verdict on Elijah's indictment: **VOID**.

These are not criminals. These are the Tailors of Ipswich in 21st-century America, punished for cutting hair and feeding their families without begging the state for a charter.

Every single one of those 420,000 annual indictments for harmless labor is a direct violation of Coke's ruling in The Case of the Tailors of Ipswich, a ruling that has never been overturned and that every state still swears to uphold.

The 99%+ indictment rate is not justice. It is the Crown's monopoly charters reborn, enforced by prosecutors who have turned the grand jury from the people's sword and shield into the licensing cartel's private collection agency.

That is the human cost. That is the blood on the Constitution's hands.

8.0 The Remedy: Reclamation Through Education and Action

The modern, captured grand jury system cannot be "reformed." A structure that is void *ab initio* cannot be fixed; it must be abandoned. The only proper remedy is **reclamation**, the restoration of the grand jury to its rightful owners, the people, by re-aligning it with the principles of natural law.

The collapse of the grand jury was made possible by an education crisis. The institution was not conquered by force, but by the deliberate manufacturing of ignorance. Jurors today are systematically kept unaware of their true authority, their power to investigate independently, to judge the law as well as the facts, and to issue presentments against corrupt officials without prosecutorial permission.

Restoring the true common law grand jury is a practical, lawful process that can be undertaken by the people. A true common-law grand jury can be convened today by the people without government permission. It requires only a minimum number of qualified citizens and the administration of the ancient oath.

"You shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service. You shall present no one through envy, hatred, or malice; neither shall you leave any unpresented through fear, favor, affection, or hope of reward. You shall present the truth, the whole truth, and nothing but the truth. So, help you God."

Reclamation involves four distinct stages:

1. **Educate:** The people must learn the true hierarchy of law and the original purpose, powers, and independence of the grand jury.
2. **Assemble:** Citizens must convene true common-law grand juries in their counties, requiring only qualified members and the ancient oath.

3. **Present:** These lawfully assembled grand juries must use their inherent power of presentment to **issue self-initiated accusations against officials who enforce the void statutory system** or engage in other forms of public corruption.
4. **Enforce:** The jury's presentments must be published and delivered to governing bodies and county peace officers to reassert lawful authority and demand a cessation of unconstitutional acts.

The current statutory "house of cards" survives only on the presumption of its legitimacy. This edifice will collapse under its own illegality once enough counties reclaim the true common law grand jury, thereby restoring the people's ultimate check on governmental power.

9.0 Conclusion: Restoring the People's Sword and Shield

The grand jury is a fundamental law institution, rooted in the Law of Nature, affirmed by the maxims of the common law, and preserved by the structural design of the Fifth Amendment. Its authority comes from the people, and it stands superior to all branches of government.

As this analysis has conclusively demonstrated, the modern statutory grand jury system is a void and unconstitutional usurpation of a power that belongs inherently to the people. The federal and state frameworks that place the grand jury under the control of prosecutors and judges are illegitimate *ab initio*, for no government has the authority to regulate an institution designed to be its master. The transformation of the grand jury from the people's shield and sword into a prosecutorial rubber stamp represents one of the gravest betrayals of our constitutional order.

However, the true common law grand jury cannot be abolished or amended by government. It still exists as a matter of law, its power undiminished, waiting to be reclaimed by a people educated in their rights and duties. It is the dictate of truth, the fourth branch, the People's check on governmental abuse.

The path forward is not through legislative reform or judicial appeal, but through direct, lawful action by the people themselves. The remedy is reclamation. By reasserting their natural right to convene independent grand juries, citizens can restore the hierarchy of law and hold their public servants accountable. The grand jury belongs to the people, and it is time for them to take it back. The course is clear:

Educate. Assemble. Present. Enforce. Restore.