

The Struggle ...

... against ALL ENEMIES ... domestic

**Georgia's Grand Juries ...
The Power and Citizens' Right of Access**

INTRODUCTION

“It is the right of any citizen or any individual of lawful age to come forward and prosecute for offenses against the state,”

In re Lester, 77 Ga. 143, 148 (1886), Justice Hall.

In those nations whose legal system are derived from the Common Law, the “rights” of citizens are usually defined in the document which acts as the “legal founding document” of that nation and is generally referred to as a constitution, which, in law, is understood to be a “special contract” between a people and their neighbors who would serve the social and economic needs of the masses as their public servants.

Among the rights which are guaranteed to be protected to an individual citizen are, at least, the fundamental rights, i.e., the rights of speech, petition, assembly, and religion; and other rights may be specified, implied, or found in the Common Law, i.e., possession of weapons, choice, privacy, being heard, and travel.¹

To understand the right of a citizen’s free access to a Grand Jury in Georgia, keep in mind the fundamental rights listed above, particularly petition, assembly, speech, and hearing.

“Woe to those who make unjust laws,
to those who issue oppressive decrees,
to deprive the poor of their rights
and withhold justice from the oppressed of My people,”
- Isaiah 10

It is for that Divine warning that our forefathers were influenced to bring forth the Grand Jury, fully intact from the Common Law, into the statutory text of our Constitution of this State.

Disclaimer – You are not to believe as true anything written here unless it is consistent with that which you already know to be true, or you are willing to research for yourself.

¹ *U.S. Const.*, Amend. IX, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

See also, *Ga. Const.*, Art. I, § I, par. XXIX, “The enumeration of rights herein contained as a part of this Constitution shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed.”

ESTABLISHMENT OF THE CRIMINAL JURY SYSTEM ...

In Georgia the establishment of the criminal jury system is comprised of two separate Article I “Courts of Inquiry”, The Criminal Trial Jury and The Grand Jury, and each is an independent constitutional entity; both are children of and adopted directly from the Common Law. They have a separate legal constitutional cognizance of both their nature and historical powers by their establishment in the Ga. Const., Art I, § I, par. XI. Their placement in Article I clearly makes them a tool available directly by the people or an individual citizen ... not a tool to be controlled or abused by any other branch of our government; they are not agencies under the auspices, direction, or control of any other government entity, and they are not subject to legislative enactments beyond the General Assembly’s providing for the *selection* and *compensation* of those sworn to serve and the number necessary in any particular jurisdiction ... nothing else.²

THE CRIMINAL TRIAL JURY

The Criminal Trial Jury is established as an Article I Court of Inquiry and is populated by 12, or not less than 6 in some cases, “Judges of the Law” (commonly referred to as jurors). These Judges (quasi-judicial officers) take an oath of office and their jurisdiction is limited to the facts and law of a particular case being tried before them. They are clothed with all the power of that body as was known to and acceptable by the Common Law; which is basically, to judge the facts and the law involved in the case before them. Their proceedings are not to be the subject of legislative, executive, or judicial encroachment. The focus of a criminal trial jury is to, first, determine the “rightness” and legality of the law under which a charge is made and as given them by the Judge, and, if finding no objection to the law, then to determine whether this law should be applied to the defendant in the case; then to determine the facts from the evidence before them, apply the facts to the elements of the law to be proved, and return a verdict based upon their individual and collective judgment as to whether the weight, relevance, and sufficiency of the facts proves to them, beyond a reasonable doubt, that the accused did, or did not, commit the act alleged or that a crime was even committed.

² *Ga. Const.*, Article I. § I. Paragraph XI.

(a) ... In criminal cases, the defendant shall have a public and speedy trial by an impartial jury; **and the jury shall be the judges of the law and the facts.** (*the semicolon after jury means that what follows applies to “criminal cases”.*)

...

(c) The **General Assembly** shall provide by law for the **selection** and **compensation** of persons to serve as grand jurors and trial jurors.

[*Here note the provision of Ga. Const., Article III. Section VI. Par. I mandate to the Legislature, (... “not inconsistent with this Constitution” ...)*]

See also, *Prosecuting Attorneys’ Council of Georgia, 2015, Grand Jury Handbook, p. 4*, “The oath should be administered to witnesses in an impressive manner, so that they will realize that it is a serious, **judicial hearing**, ...”

THE GRAND JURY

The Grand Jury is likewise established as an independent legal entity in that same constitutional provision and is, also, an Article I Court of Inquiry. It is populated by 16 to 23 “Judges of the Law” (jurors). The entire broad scope of the duties incumbent upon a grand Jury are contained in its oath³ of office as applied to the statutes and found in the Common Law. The oath of a Grand Juror in Georgia is almost 400 years old.

“The grand jury has its roots in the common law brought to this country by the early colonists ([Costello v. United States, 350 U.S. 359, 362, 76 S.Ct. 406, 100 L.Ed. 397 \(1956\)](#)) and in colonial times, the grand jury inspected roads, jails, and other public buildings; monitored public works expenditures, construction and maintenance; and criticized poor administration, in addition to serving as accusatory bodies. Ric Simmons, Re-Examining the Grand Jury: Is There Room for Democracy in the Criminal Justice System? 82 B.U.L. Rev. 1, 10 (cited in [United States v. Navarro-Vargas, 408 F.3d 1184, 1191 \(9th Cir.2005\)](#)). **American grand jury in effect enjoyed a roving commission to ferret out official malfeasance or self-dealing of any sort ...**” Akhil Reed Amar, The Bill of Rights: Creation and Reconstruction 85 (1998) (cited in [United States v. Navarro-Vargas, supra, 408 F.3d at 1191](#)).^[4] Throughout colonial times, grand jury secrecy was an important part of grand jury proceedings, with violation of the grand jurors' oath of secrecy punishable as contempt and as a crime. 1 Sara Sun Beale et al., Grand Jury Law and Practice § 5:2 (cited in [United States v. Navarro-Vargas, supra, 408 F.3d at 1192](#)).

... There is no statutory distinction drawn between the criminal accusatory and civil investigative roles of the grand jury with regard to the requirement that secrecy be maintained. The secrecy of the grand jury while conducting civil investigations is a means of ensuring the grand jury the freedom of action needed for effective discharge of its duties in that secrecy protects the members of the grand jury, ensures the utmost freedom to the grand jury in its deliberations, encourages unhampered disclosures by persons who have information pertinent to the subject matter of the investigation, and protects the future use of the grand jury as an investigative tool.”

In re Gwinnett County Grand Jury, 284 Ga. 510, 668 S.E.2d 682, 684 (2008).

There are two significant differences between a criminal trial jury and the criminal inquest of a Grand Jury. First, the Grand Jury’s primary focus is upon the question of

³ *O.C.G.A.* § 15-12-67(b) ... “You as foreperson (or member) of the grand jury for the County of _____, shall diligently inquire and true presentment make of all such matters and things as shall be given you in the court's charge or shall come to your knowledge touching the present service; and you shall keep the deliberations of the grand jury secret unless called upon to give evidence thereof in some court of law in this state. You shall present no one from envy, hatred, or malice, nor shall you leave anyone unrepresented from fear, favor, affection, reward, or the hope thereof, but you shall present all things truly and as they come to your knowledge. So help you God.”

whether a crime has been committed as opposed to a trial jury who presumes that a crime has occurred. And, in the fulfillment of that duty, the Common Law recognizes that the Grand Jury is possessed with extraordinary inquisitorial power. They may, upon noting more substantial than a rumor, commence their inquiry into any entity's (personal or governmental) conduct in this State. Second, a Grand Jury needs go only to the question of *probable cause to believe* that a crime has been committed and that a person or persons accused probably committed, or did not commit, the act. Upon probable cause, established by sworn testimony and other evidence, they may issue an indictment⁴. A trial jury must go *beyond a reasonable doubt* in order to convict.

Secondly, unlike a criminal trial jury, the Grand Jury is not confined to just one or two laws upon which they may pass judgment and from which they may issue a presentment. One must realize that the enabling constitutional language, adopted from the Common Law and approved by the voters of this State relative to a Grand Jury in Georgia, brings the full scope of the powers and duties of grand juries as was known to the Common Law⁵ into the legally enforceable governmental structure of this State, providing them legal recognition under our "Rule of Law", and it is this broad power to be "Judges of the Law" which is of such great import to the protection of the Liberties of all citizens.

A current example is found in the Affordable Health Care Act. The mandate of that federal statute requires the taking of wages from employees and gives them little or no value in return, or, alternatively, deprives them, or punishes them, for their "right to choose" as to whether they even want insurance if it is not their choice to participate. This is a violation of the 4th Amendment's Unreasonable Seizure and the Taking Clauses of the 5th Amendment;

"... shall be free from unreasonable ... seizures." and
"... nor shall private property be taken for public use, without just compensation.",

and as such, its enforcement in Georgia counties creates a violation of our Theft By Taking statute (O.C.G.A. 16-8-2).

Should a local Grand Jury understand this relationship, they have remedial power in the Constitution and statutes of this State to rectify the matter. They can issue a Special Presentment declaring that a particular law is null and void and unenforceable in this State

⁴ At Common Law, at least 12 grand jurors had to agree to the return of either a True Bill or a No Bill. 4 BLACKSTONE'S COMMENTARIES, 301 (1st Amer. Ed 1772). In *Nelson v. State*, 247 Ga. 172, 174 (1981), the court held that "mere failure of the Grand Jury to indict does not constitute the return of a no bill." See also *State v. Auerswald*, 198 Ga. App. 183 (1990). It is important to note that in *Williams v. State*, 13 Ga. App. 83 (1913), the Court citing Sir Matthew Hale, held that if the grand jury is presented a bill of indictment charging murder, but returns a "True Bill" for voluntary manslaughter, it "is the equivalent to the finding of 'no bill' as to the higher grade of homicide . . ." Ibid. at 84.

⁵ *O.C.G.A.* § 1-1-10 (c) The following specific laws and parts of laws are not repealed by the adoption of this Code and shall remain of full force and effect, pursuant to their terms, until otherwise repealed, amended, superseded, or declared invalid or unconstitutional:

(1) An Act for reviving and enforcing certain laws therein mentioned and adopting the common laws of England as they existed on May 14, 1776, approved February 25, 1784. (For the adopting Act of 1784, see Prince's 1822 Digest, p. 570; Cobb's 1851 Digest, p. 721; and Code of 1863, Section 1, paragraph 6.)

and serve notice of the same by Presentment upon both State and Federal officials. Should there be any resistance to their Order, they may then decide whether to issue indictments against any official(s), state or Federal, for violations of Georgia's Theft Statute or appropriate Federal criminal statutes. This is a present case wherein the Law has been subverted and turned to an instrument of unlawful plunder, and it is within a Grand Jury's jurisdictional power as "Judges of the Law" to invalidate (nullify) it and indict to trial those who brought such a law into existence.

As to the legal effect of those brief sentences in our Constitution, combined with the knowledge of the recognized Common Law powers and duties of grand juries, evolved over the centuries since the League of Twenty-Five Barons established in the Magna Carta, it is made plain that the following exist as a matter of Constitutional Law in this State,

- The Grand Jury is a legal, singular and separate, independent governmental quasi-judicial and enforcement entity; not constitutionally assigned to any of the other three branches nor to be controlled by them in the proper exercise of its duties as defined in their oath; and the Legislature may not go beyond constitutionally approved statutes providing for the *selection* and *compensation* of that body,
- The Grand Jury is established as an Article I Court of Inquiry separate from the Art. VI Courts, and each member is clothed as a Judge (quasi-judicial officer),
- These Grand Jury Judges are acknowledged to exercise the power to be "Judges of the Law" in addition to all other powers known to the Common Law, and that power, shared only by a trial jury, is *not acknowledged to any other state officer or branch of this government*,
- The proceedings of a Grand Jury is self-administered by this tribunal of Judges,
- Their *Paramount Duty* is to, in the language of the Magna Carta, "... to keep, and cause to be observed with all their might, the peace and liberties granted and confirmed to them by this charter." Today, that command is found in the Ga. Const., Art. I, § I, par II and states, "Protection to person and property is the paramount duty of government ...".
- The jurisdictional limit of a Grand Jury is found in these words, it may not "violate a valid privilege whether established by the Constitution, statutes, or the Common Law."⁶

⁶ *United States v. Calandra*, 414 US 338, 346, [Grand Jury] "... may not itself violate a valid privilege, whether established by the Constitution, statutes, or the common law."

All State and Local Officers (public servants) are subject to the inquisition of a Grand Jury!⁷

Though the usual method of selecting and removing government officers is a matter of the elective franchise, there is an interim method (in addition to the recall) for holding all state and local public servants accountable by the people ... the Grand Jury. Provision is specifically made in our Constitution for this process which acknowledges the authority of any Grand Jury in any County to make inquiry into the proper performance of an office by its elected holder.

This constitutional authority to a Grand Jury does not permit any Federal, State, or local officer's exclusion from the inquisition of this Court of Inquiry, especially judges.⁸

DUTIES OF INDIVIDUAL GRAND JURORS

Our Constitution provides that Grand Jurors are to be Judges of the Law and the facts. Being ordinary citizens and drafted for a specific time, ranging from 2 months to 6 months (with 3 months being the norm), they are known in the Law as "Quasi-Judicial Officers", but for their term, they are, and make no mistake about this, Judges; and they are clothed with the

⁷ O.C.G.A. § 1-3-2, As used in this Code or in any other law of this state, defined words shall have the meanings specified, unless the context in which the word or term is used clearly requires that a different meaning be used.

See also, rules of statutory interpretation, some illustrative works of which are Crawford, *THE CONSTRUCTION OF STATUTES* (1940), Sutherland, *STATUTES AND STATUTORY CONSTRUCTION* (3rd ed., Horack, 1943), and Sanders and Wade, *LEGAL WRITINGS ON STATUTORY CONSTRUCTION*, 3 *VAND. L. REV.* 569 (1950).

⁸ Ga. Const., Article II, § III, Paragraph I, Suspension and Removal of Public Officials

(a) As used in this Paragraph, the term "public official" means the **Governor, the Lieutenant Governor, the Secretary of State, the Attorney General, the State School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, the Commissioner of Labor, and any member of the General Assembly.**

(b) **Upon indictment for a felony by a grand jury** of this state or by the United States, *which felony indictment relates to the performance or activities of the office of any public official, ...*

Ga. Const., Article VI, § VII, Paragraph VII, Discipline, removal, and involuntary retirement of judges

(a) **Any judge may be removed, suspended, or otherwise disciplined** for willful misconduct in office, or for willful and persistent failure to perform the duties of office, or for habitual intemperance, or for conviction of a crime involving moral turpitude, or for conduct prejudicial to the administration of justice which brings the judicial office into disrepute. ...

(b)(1) **Upon indictment for a felony by a grand jury** of this state or by a grand jury of the United States of *any judge, ...*

awesome power of the Common and Statutory Law in this State to investigate and prosecute crime wherever, and in whatever office, it might be found.⁹

The body of the Grand Jury is divided into two parts, the Chief Judge (the foreperson) and the “panel” of the other Judges (jurors). Together, they are known as the Tribunal or simply, the Grand Jury.

THE FOREPERSON

- The Chief Judge (foreperson) has the duty to manage the daily affairs of the Tribunal,
- He sets the schedule of their proceedings,
- He maintains order among the body (usually in accordance with Robert’s Rules),
- He creates committees and assigns members (usually on a volunteer basis first),
- He swears witnesses to a statutorily required oath, and
- He must sign each and every indictment and special or general presentment.

(Note: as part of his duty of scheduling his Court’s proceedings, the Foreman usually schedules the DA to present his complaints first, then, if any juror has an issue to bring before the body, it would be scheduled, and lastly, any citizen petitioning to be heard must be scheduled.)¹⁰

INDIVIDUAL JURORS

The normal duty of the individual Jurors is to hear cases presented by the district attorney which usually precedes any other business. Although most every case has been preceded by a magistrate’s determination of probable cause, it is still necessary that, unless knowingly waived in writing, no felony may be prosecuted without first, the Grand Jury’s judgment of the law under which the charge is made, and second, there is the finding of probable cause, or lack thereof, by its members diligently inquiring into the evidence and witnesses in the case. It is important to keep in mind that this dual probable cause determination is not a mere exercise in duplicity. The Grand Jury is acknowledged to be clothed, in criminal cases, with a power not acknowledged by our Constitution to any other Judge; the power to JUDGE the Law ... which no Article VI judge enjoys ... nor does a district attorney.

It should not go unnoticed that at this stage, if a Grand Jury, or one of them, might wish to question the accused, then the accused may be summoned and brought before that body for inquiry as to any evidence he might wish to proffer upon the question of probable cause. However, he may not be compelled to testify without a grant of immunity. Nor

⁹ O.C.G.A. § 1-1-10(c) The following specific laws and parts of laws are not repealed by the adoption of this Code and shall remain of full force and effect ...:

(1) An Act for reviving and enforcing certain laws therein mentioned and adopting the common laws of England as they existed on May 14, 1776, approved February 25, 1784.

¹⁰ It should be noted, however, that at all times it is the prerogative of the entire body of jurors to determine their schedule.

should it go unnoticed that criminal complaints may be laid before this Court by private citizens, or their attorney, who, under current case and statutory law, may stand in the place of a state's prosecutor (the DA or the State's Attorney General).

Individual jurors may be assigned to various committees to perform inspections or investigations known to the Common Law. These include;

- Periodic Inspections,
- Annual Inspections,
- Optional Inspections,
- Recommendations as to taxing authorities and transportation concerns to state and local infrastructure bodies, and
- Investigative Committees (to make initial inquiries of crimes which may have been committed by county, state, or federal officers or others) which may result in an independent Grand Jury Investigation leading to possible indictments or presentments, either general or special.

THE GRAND INQUEST

Though the presentment of cases by a district attorney requires the perceptive attention of each Juror, it must be understood that there could be times when an individual Grand Juror obtains information of some serious allegations of impropriety, or worse, crimes committed within his government; or it could be that a citizen petitions the Grand Jury to be heard upon such a matter. In either case, it becomes the duty of the Grand Jury Foreperson to schedule a hearing upon the complaint, and, if the jury is convinced of the seriousness of the matter, they may commence an investigation; and depending upon whether a government office, or officer, is involved, it is possible that the district attorney may be incompetent to act as the Jury's legal advisor. In such a case, it shall devolve to the Grand Jurors assembled to determine whether some member of the district attorney's office, or member of the Prosecuting Attorney's Council might be qualified to substitute; or if another district attorney, or even an attorney in private practice, might have to be suggested to be employed by the district attorney's office as a substitute.

As a matter of law, when a district attorney is disqualified, the method is for the district attorney to notify the Governor of his disqualification, in which case the Governor shall appoint the replacement. That statutory scheme, however, does not prohibit the Grand Jury from making a recommendation to the Governor as to whom they might prefer for their legal advisor.

But, in every case, it is the discretion of the Grand Jury to decide whether it even needs the assistance of counsel as it is possible that the petitioner before them, or a member of their tribunal, may be sufficiently knowledgeable to inform that body of the law upon which the case is predicated.

It is in such cases of independent Grand Jury investigations, that the secrecy of the Grand Jury's proceedings is paramount, even to the exclusion of district attorneys and judges. And that is true especially in the event that information of crime comes from a citizen of the county. The imparting of that information and evidence constitutes a privileged communication before those judges, even to the exclusion of whoever stands as the legal advisor of the Grand Jury unless the Grand Jury determines it requires legal advice or the advisor's presence, until the investigation is complete and a presentment is decided upon.¹¹ If no presentment is returned, that information, i.e., the identity of the witness or prosecutor (as the case may be), remains privileged and may not be revealed except as provided by law.

CITIZEN'S ACCESS

About the year 1848, a small book was published in France titled "The Law" in which the author, Frédéric Bastiat, commented,

"It is impossible to introduce into society a greater change and a greater evil than this: the conversion of the law into *an instrument of plunder.*" [this author's emphasis]

It is for this very purpose that our Constitutional provision concerning this jury system was authorized to be imported from the Common Law by our forefathers and affirmed by the voters in the adoption of this body, this 4th and most powerful, branch of our government. Should any citizen, or member of a Grand Jury, believe that a law, in its operation within their society and within their jurisdiction, is unlawful, unjust in its application, or just simply bad law, the Grand Jury, upon being made aware of it, shall pass judgment upon it, either through presentment, by indictment, or the withholding of either. Should they find, as a matter of law, that such a statute commits an unlawful act in the violation of some criminal statute of their State, they may exercise their discretion to charge every state or federal lawmaker who passed such a law and the Governor, or President of the United States, who signed it into law, with a crime by special presentment, and may require indictment thereby. On the other hand, they may simply summon those to be indicted and offer them the opportunity to allocute their conduct, resign their office, and enter a written agreement never to seek or hold another office of public trust for the rest of their lives in exchange for the Jurors granting them immunity from prosecution. (See footnote 6 above.)

Though dictum at the time of Justice Hall's writing, it was later raised to case law precedence through the holdings of two other State Supreme Courts by the authority of the Full Faith and Credit Clause, the statement in the case of *In re Lester*, 77 Ga. 143 (1886) is the most succinct statement of both the right of a citizen to bring information to a Grand Jury and the duty of a Grand Juror receiving it, and the Grand Jury's duty, upon receiving the information, when he wrote:

¹¹ *In re Quarles*, 158 U.S. 532, 535-536 (1895), "... and such information, given by a private citizen, is a privilege and confidential communication, for which no action of libel or slander will lie, and the disclosure of which cannot be compelled ..."

“It is the right of any citizen or any individual of lawful age to come forward and prosecute for offenses against the state, or when he does not wish to become the prosecutor, he may give information of the fact to the grand jury, or any member of the body, and in either case, it will become their duty to investigate the matter thus communicated to them, or made known to one of them, whose obligation it would be to lay his information before that body.”

Id. at 148, [*Emphasis added*]

As was held in the case of Illinois, vs. Parker, 374 Ill. 524; 30 N.E.2d 11; (1940);

"Some courts hold that a stranger has a right voluntarily to bring facts to the knowledge of the grand jury. (In re Lester, 77 Ga. 143; State v. Stewart, 45 La. Ann. 1164.)".

And in the case of Brack v Wells, 184 Md. 86, 95-96 (1944) it was held;

“ ... that the right of a private person to appear before the grand jury to make a complaint has been affirmed in the states of Louisiana, Alabama, Texas, and Georgia ...”.

One must not miss the point that, in the State of Georgia, any citizen has the right to stand before a Grand Jury and present the evidence of which he has discovery, including questioning witnesses. And no person, or officer of the state, may obstruct him in the exercise of the constitutional rights which form the basis of this prerogative. Consistent with their oath of office, the Grand Jury MUST hear; otherwise they, themselves, would violate the Constitution and the criminal laws of both this State and this Nation.

An example of the proper functioning of a Grand Jury, in regard to citizen access, is found in a precedent case from southeast Georgia. Some 68 years after *Lester*, from Liberty County where a citizens committee, through their hired attorney, approached a Grand Jury and was successful in the removal of a Sheriff of the County. In that resulting Georgia Supreme Court case, Justice Candler, writing for the Court, said of the citizens committee and their attorney:

“As to the defendants John W. Underwood and the individual members of the so-called Citizens Committee, the petition shows no more than an effort on their part to assist the grand jury, **as any good citizen should**, in a proper discharge of the duties imposed upon it by law; ...” Cook v. Sikes, 210 Ga. 722, 727; 82 S.E.2d 641 (1954)

Therefore, based upon these authorities, and the Common Law decision of Lord Chancellor Bacon in the Countess of Shrewsbury’s case, cir. 1612, wherein Lord Bacon wrote,

“... you must know that all subjects without distinction of degrees owe to the King tribute and service, not only of their deed and hand, but of their knowledge and discovery.”,

it becomes without argument that in the State of Georgia the protectable guaranteed rights of a citizen, in his own person or by his attorney, to petition, peaceably assemble with, responsibly speak to, and be heard by those vested with the power of government for a redress of grievance includes a citizen’s right to appear before the Grand Jury, there to lay down the evidence of his discovery; for this is the Constitutional Law, the Statutory Law, and the Common Law in accord pursuant to the Rule of Law. In this Constitutional scheme, the State of Georgia is unique among the 50 States, and the ultimate maintenance of their government is left in the hands of citizens when in Grand Jury assembled.

As with any investigation, secrecy is paramount, and though this Court of Inquiry is clothed with the power to open its proceedings to public scrutiny (except when they deliberate the evidence), with or without the presence of members of the press, such is not usually done. This in turn gives rise to the question, to whom does a citizen, wishing to impart evidence to a Grand Jury, make his petition? The Foreman (Chief Judge) or any judge of that body is the answer, however, any member thereof may be noticed. This may be accomplished through the submission of a formal written petition filed either with the Clerk of Court styled as a petition to the Grand Jury, a letter, a phone call, a visit to the juror’s home, asking the Bailiff to inform the Foreman that the petitioner wishes to speak with the Foreman for a moment, or a chance meeting on the street.¹²

Due to the secrecy of a Grand Jury inquisition, it must be understood that the right of a citizen to petition a Grand Jury to be heard is a privileged communication. It is not within the authorized duties of a District Attorney or another Court’s Judge to inquire as to the reason; nor is it within the powers granted to District Attorneys, Judges, or Sheriffs to obstruct any citizen’s right to petition. Any attempt by any state or local actors to violate or obstruct this privileged communication is the violation of at least two state felonies and at least one, possibly two, federal felonies. It is solely the duty of the Grand Jury to determine if a petitioner is bringing information which touches their present service.

This awesome inquisitorial power of a Grand Jury coupled with the rights of citizens to petition, peaceably assemble with, responsibly speak to, and be heard by the Grand Jury is the last bastion of Liberty precluding the necessity of an oppressed people taking a death-grip upon the 2nd Amendment.

We, the citizens, must be fully informed and knowledgeable, both of our duties as citizens and our responsibilities and powers when in Grand Jury assembled, when appeal is made to that body of our neighbors ... the most powerful of our ‘public servants’.

¹² O.C.G.A. § 15-12-74. Grand jurors have a duty to examine or make presentments of such offenses as may or shall come to their knowledge or observation after they have been sworn. Additionally, they have the right and power and it is their duty as jurors to make presentments of any violations of the laws which they may know to have been committed at any previous time which are not barred by the statute of limitations.

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ADDENDUM

Case Law Cites:

Principal Purpose

One of the primary functions of grand jury is to act as shield against arbitrary prosecution and errant judges.

Ill.-People v. Rodgers, 92 Ill.2d 283.

Ga. & U.S.-Wood v. Georgia, 370 U.S. 375,

Ala.- Carr v. State, 187 So. 252, 28 Ala:App. 466,

Alaska - U.S. v. Caldwell, 8 Alaska 117,

Cal. - People v. Foster, 243 P. '667, 198 C. 112,

Fla. - Skipper v. Schumacher, 124 Fla. 384, appeal dismissed and certiorari denied 299 U.S. 507 - Lake v. State, 100 Fla. 373, affirmed on rehearing 100 Fla. 373 - Reed v. State, 94 Fla. 32,

Ind.-Adams v. State, 214 Ind. 603,

OkI . -Tweedy v. Oklahoma Bar Ass'n, 624 P.2d 1049,

United.States.- U.S. v. Donohue, D.C.Md., 574 F.Supp. 1269.

Investigate possible offenses

Ga. - Beckham v. O'Brien, 176 Ga.App. 518.

N.Y.- People v. Perez, 433 N.Y.S.2d 541 [purpose is to determine if crime committed and who committed it]

Duty and Confidentiality of Citizen's Report of Crime

U.S. - *In re Quarles*, 158 U.S. 532, 535-536 (1895)

U.S. - *18 U.S.C. 4* (enforceable duty)

Other Authorities:

Blackstone's Commentaries on the Laws of England, Book III, Chapter 23, p. 351 – ANOTHER species of extraordinary juries, is the jury to try an attain; which is a process commenced against a former jury, for bringing in a false verdict; of which we shall speak more largely in a subsequent chapter. At present I shall only observe, that this jury is to consist of twenty four of the best men in the county, who are called the grand jury in the attain, to distinguish them from the first or petit jury; and these are to hear and try the goodness of the former verdict.

Foreman's authority to reconvene from recess

State v. Grace, 263 Ga. 220, 221 (1993), wherein the Supreme Court held that: ". . . a grand jury properly summoned, sworn, and charged to serve during a particular term of the court, may recess and reconvene as it sees fit to conduct its business in the course of that term, and need not be resworn or recharged by the court during that term."

Attorney General Opinion - Unofficial, 96-15. This holding stands for the proposition that the grand jury itself may establish its own schedule of activities. However, as indicated in footnote 5 of *Grace*, the grand jury is subject to being recalled by the court at any time during the term of court. Thus, it is clear that the court may override the grand jury's self established schedule in order to insure that the functions of the grand jury are properly carried out in a timely fashion.

Id., " . . . it appears that in Georgia the duties of the foreman are "essentially ministerial" (*Ingram v. State*, 253 Ga. 622, 627 (1984)). A "ministerial act" is defined as one which a person performs "in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment upon the propriety of the act being done." Black's Law Dictionary 1190 (3rd ed. 1944)."

Id., ... "while the foreman of the grand jury may facilitate the reconvening of the grand jury, it is the grand jury itself which retains the authority to establish its schedule of activities, ..."

O.C.G.A. 15-12-71 (a) The duties of a grand jury shall be confined to such matters and things as it is required to perform by the Constitution and laws or by order of any superior court judge of the superior court of the county.

Note: Does the phrase, " . . . and laws or by order of any superior court judge of the superior court of the county." need to be nullified as violating the Ga. Const., Art. 1, sec. I, par. XI (Legislative restriction)?