

**MEMORANDUM OF LAW IN SUPPORT OF FREE ACCESS
BY THE PEOPLE TO THE GRAND JURY**

In *UNITED STATES v. John H. WILLIAMS, Jr.*, 504 U.S. 36 (112 S.Ct. 1735, 118 L.Ed.2d 352), the U.S. Supreme Court stated:

"Rooted in long centuries of Anglo-American history," *Hannah v. Larche*, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result), the GJ is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It... **"is a constitutional fixture in its own right."** *United States v. Chanen*, 549 F.2d 1306, 1312 (CA9 1977) (quoting *Nixon v. Sirica*, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977). In fact the whole theory of its function is that it **belongs to no branch of the institutional government**, serving as a kind of **buffer or referee between the Government and the people**. See *Stirone v. United States*, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); *Hale v. Henkel*, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); G. Edwards, *The Grand Jury* 28-32 (1906)." (Emphasis added throughout).

Continuing *Williams*, supra, case site...

"Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, **its institutional relationship with the judicial branch has traditionally been, so to speak, at arm's length**. Judges' direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office." See *United States v. Calandra*, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); Fed.Rule Crim.Proc. 6(a)."

"The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. Unlike a 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.'** *United States v. R. Enterprises*, 498 U.S. 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting *United States v. Morton Salt Co.*, 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950))."

"It need not identify the offender it suspects, or even "the precise nature of the offense" it is investigating. *Blair v. United States*, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919). **The grand jury requires no authorization from its constituting court to initiate an investigation**, See *Hale*, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375,

nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day-to-day functioning, the grand jury generally operates without the interference of a presiding judge. See *Calandra*, supra, 414 U.S., at 343, 94 S.Ct., at 617. It swears in its own witnesses, Fed.Rule Crim.Proc. 6(c), and **deliberates in total secrecy**, See *United States v. Sells Engineering, Inc.*, 463 U.S., at 424-425, 103 S.Ct., at 3138.”

Continuing *Williams* supra, case cite...

“Even in this setting, however, we have insisted that the grand jury remain ‘free to pursue its investigations unhindered by external influence or supervision so long as it does not trench upon the legitimate rights of any witness called before it.’ *United States v. Dionisio*, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973). Recognizing this tradition of independence, we have said that **the Fifth Amendment's "constitutional guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge'.** . . . *Id.*, at 16, 93 S.Ct., at 773 (emphasis added) (quoting *Stirone*, supra, 361 U.S., at 218, 80 S.Ct., at 273).”

While *Williams* clearly shows that the three branches of government cannot control the GJ’s ability to “freely” act, it brings up this statement that the GJ is subject to the “courts”...

Continuing *Williams* supra, case cite...

“Although the grand jury has not been ‘textually assigned’ to ‘any of the branches described in the first three Articles’ of the Constitution, ante, at 47, it is not an autonomous body completely beyond the reach of the other branches. Throughout its life, from the moment it is convened until it is discharged, the grand jury is subject to the control of the court. As Judge Learned Hand recognized over sixty years ago, ‘a grand jury is neither an officer nor an agent of the United States, but **a part of the court.**’ *Falter v. United States*, 23 F.2d 420, 425 (CA2), cert. denied, 277 U.S. 590, 48 S.Ct. 528, 72 L.Ed. 1003 (1928). This Court has similarly characterized the grand jury:

"A grand jury is clothed with great independence in many areas, but it remains an appendage of the court, powerless to perform its investigative function without the court's aid, **because** powerless itself to compel the testimony of witnesses. It is the court's process which summons the witness to attend and give testimony, and it is the court which must compel a witness to testify if, after appearing, he refuses to do so." *Brown v. United States*, 359 U.S. 41, 49, 79 S.Ct. 539, 546, 3 L.Ed.2d 609 (1959)." (Emphasis added).

This in no way suggests the court has “control over” the GJ in convening, or in preventing access to the GJ, by the public, apart from the three branches, but merely has authority in “compelling” witnesses to give testimony before the GJ where needed...

“Past attempts to expand the court's supervisory role over the grand jury have been repeatedly rejected by the Supreme Court as counter to the grand jury's independent role. *See e.g., U.S. v. Williams*, 504 U.S. 36 (1992).”

“This Court has, of course, long recognized that the grand jury has wide latitude to investigate violations of federal law as it deems appropriate and **need not obtain permission from either the court or the prosecutor**. *See, e.g., id.*, at 343, 94 S.Ct., at 617; *Costello v. United States*, 350 U.S. 359, 362, 76 S.Ct. 406, 408, 100 L.Ed. 397 (1956); *Hale v. Henkel*, 201 U.S. 43, 65, 26 S.Ct. 370, 375, 50 L.Ed. 652 (1906). Correspondingly, we have acknowledged that ‘its operation generally is unrestrained by the technical procedural and evidentiary rules governing the conduct of criminal trials.’ *Calandra*, 414 U.S., at 343, 94 S.Ct., at 617.”

“The grand jury system is an investigative body acting independently of either prosecutor or judge whose mission is to bring to trial those who may be guilty and clear the innocent. *United States v. Dionisio*, 410 U.S. 1, 93 S. Ct. 764, 35 L. Ed. 2d 67 (1973).” *Marston's, Inc., v Strand*, 560 P.2d 778, 114, AZ 260.

Due process of law has been thwarted in all previous court cases plaintiff filed to not only protect his rights and assets, but to expose the evidence of ongoing fraud against millions of Americans never properly adjudicated since original Supreme Court stare decisis (precedent)⁽¹⁾ declarations on these issues. Such due process deprivation renders any past judgments on the issues void⁽²⁾ on their face. A judgment is void and should be vacated pursuant to Rule 60(b)(4) if the court that rendered the judgment “acted in a manner inconsistent with due process of law.”⁽³⁾ Due process of law... proper adjudication of all the evidence, and evidence in fact provided to rebut plaintiff’s claims, was never accomplished in any of the past court cases.

¹ "Precedent" as a ‘rule of law established for the first time by a court for a particular type of case and thereafter referred to in deciding similar cases.’” Black's Law Dictionary, p. 1059 (5th ed. 1979).

² “A judgment is void if the court that rendered it . . . acted in a manner inconsistent with due process. *Margoles v. Johns*, 660 F.2d 291 (7th Cir. 1981) cert. denied, 455 U.S. 909, 102 S.Ct. 1256, 71 L.Ed.2d 447 (1982); *In re Four Seasons Securities Laws Litigation*, 502 F.2d 834 (10th Cir.1974), cert. denied, 419 U.S. 1034, 95 S.Ct. 516, 42 L.Ed.2d 309 (1975). Mere error does not render the judgment void unless the error is of constitutional dimension. *Simer v. Rios*, 661 F.2d 655 (7th Cir.1981), cert. denied, sub nom *Simer v. United States*, 456 U.S. 917, 102 S.Ct. 1773, 72 L.Ed.2d 177 (1982).” *Klugh v. United States*, 620 F.Supp. 892 (1985).

³ *See Philos Techs., Inc. v. Philos & D, Inc.*, 645 F.3d 851, 854 (7th Cir. 2011) (citing *Planet Corp. v. Sullivan*, 702 F.2d 123, 125 n.2 (7th Cir. 1983); *Price v. Wyeth Holdings Corp.*, 505 F.3d 624, 631 (7th Cir. 2007) (citations omitted). *Marques v. Fed. Reserve Bank of Chicago*, 286 F.3d 1014, 1018 (7th Cir. 2002)).

The powers for citizen grand juries have been affirmed by several Supreme Court decisions. Justice Powell, in *United States v. Calandra*, 414 U.S. 338, 343 (1974), stated:

“The grand jury’s historic functions survive to this day. Its responsibilities continue to include both the determination of whether there is probable cause to believe a crime has been committed and the protection of citizens against unfounded criminal prosecutions. *Branzburg v. Hayes*, 408 U.S. 665, 686-687 (1972).”

“Today’s grand jury continues to implement the fundamental governmental role of securing the safety of the person and property of the citizen.” *Branzburg v. Hayes*, 408 U.S. 665, 700 (1972).

The scope and ramifications of such an inquiry is evident, but has no bearing as to whether a GJ should be convened or not. *Calandra*, *supra*, goes on to quote:

"It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime." *Blair v. United States*, 250 U. S. 273, 250 U. S. 282 (1919).

Of course, such an investigation should be thorough and without bias or prejudicial interference...

“The grand jury’s investigative power must be broad if its public responsibility is adequately to be discharged.” *Branzburg v. Hayes*, *supra*, at 408 U. S. 700; *Costello v. United States*, 350 U. S. 364.

Calandra continues:

A grand jury investigation “is not fully carried out until every available clue has been run down and all witnesses examined in every proper way to find if a crime has been committed.” *United States v. Stone*, 429 F.2d 138, 140 (CA2 1970).

“Such an investigation may be triggered by tips, rumors, evidence proffered by the prosecutor, or the personal knowledge of the grand jurors.” *Costello v. United States*, 350 U.S. at 350 U. S. 362.