

Grand Jury Power

The *Key* to Restoring

Honest Government

How and Whom is the GRAND JURY supposed to check on?

What is the GRAND JURY's role in maintaining honest government?

Why is the GRAND JURY *the perfect institution* for maintaining honest government?

How and Why this important role of GRAND JURY has been forgotten about?

How can YOU *restore honest government* with FULLY INFORMED GRAND JURIES?

To receive the answer to the above questions, read the articles and statutes (laws) of California, which are in this packet and listen to the audiotape which accompanies this packet.

For more information contact the

Jury Education Committee

9582 Buttemere Rd, Phelan, CA 92371

(760)868-4271 www.jurypower.org

JURY EDUCATION COMMITTEE

9582 Buttemere Rd, Phelan, CA 92371

(760)868-4271 Voice (208)977-8674 FAX www.jurypower.org

Board of Directors

Pastor Wiley Drake, Hon. George Hansen, Larry Dodge, Ph.D., Peymon Mottahedeh

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Jon M. Alexander, Esq., Steve Kubby, Hon. Don Rogers, Daniel Shultz, Esq.,

Walter Williams, Rev. Lou Shelton, Clay Conrad, Esq.

MISSION STATEMENT

The **Jury Education Committee** is a political action committee whose mission is to enact policies and laws, which bring added justice to our judicial system through educated and informed jurors.

The Committee plans to promote laws which:

- 1) inform trial jurors of their inherent right and power as trial jurors to veto unjust laws or unjustly applied laws and thereby stop imprisonment of the innocent;
- 2) educate the grand jurors of their important duty in maintaining public trust in the integrity and uprightness of our public servants, by presenting or indicting apparently corrupt or criminal public servants;
- 3) provide for adequate compensation of jurors to ensure all citizens a meaningful opportunity to become involved in their own governance as jurors.

Justice depends on informed and educated juries!

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Board of Directors

Reverend Wiley Drake, Hon. George Hansen, Larry Dodge, Ph.D., Peymon Mottahedeh

Board of Directors

Reverend Wiley Drake is the Chairman of the Jury Education Committee. As the Pastor First Southern Baptist Church of Buena Park, California, Reverend Drake housed and sheltered scores of poor and homeless people on the grounds of his church in violation of local zoning ordinances. He was tried and convicted on 4 counts, for these “crimes.” After conviction, several of the jurors said that they would not have convicted Reverend Drake, had they been properly informed by the trial judge that they could have judged the unjustly applied law which Reverend Drake was charged under, and voted to acquit Reverend Drake.

Honorable George Hansen is a former congressman from Idaho. During his tenure, Congressman Hansen authored many legislative acts for empowerment and protection of the individual citizens, such as the taxpayer bill of rights. A mis-informed jury tried Congressman Hansen. After serving his prison term, the charges against Congressman Hansen were ruled as unconstitutional by the U.S. Supreme Court. Currently Congressman Hansen is working to empower county grand juries in indicting corrupt and criminal government officials.

Larry Dodge, Ph.D. is the co-founder, Vice President and Acting Executive Director of the Fully Informed Jury Association (FIJA.) FIJA was founded in 1989 and has been the premier organization in promoting and educating the public about jury rights, responsibilities and powers. Dr. Dodge received his Ph.D. in Sociology from Brown University and has been a Professor of sociology at New York State University at Plattsburgh and University of Missoula, Montana. Dr. Dodge has been a nationally recognized political educator, speaker and commentator on juries, and has been featured in numerous print, radio and Television programs.

Peymon Mottahedeh is the Founder and Secretary/Treasurer of the Jury Education Committee. He is the Founder and President of Freedom Law School, which is designed and committed to fostering law and justice by educating and training the average citizen on the basic practical fundamentals of law and procedure. Mr. Mottahedeh is an Iranian-born immigrant of Jewish origin, who through FIJA’s educational efforts discovered the importance of educated juries in retaining our liberties. Several of Mr. Mottahedeh’s relatives were tortured and executed by the repressive “Islamic” Government of Iran, without a jury trial.

Justice depends on informed and educated juries!

GRAND JURY POWER TO CHARGE CORRUPT/CRIMINAL PUBLIC OFFICIALS IS THE SOLUTION TO BRINGING HONEST GOVERNMENT BACK TO AMERICA

Allow me to share with you why *any* California State **Grand Jury** has the **power and jurisdiction** to investigate **and** charge criminal and corrupt public officials even though some of them might be high officials of government such as county supervisors, city counsel members, prosecutors, commissioners and judges.

First, the Grand Jury does have the power to bring charges before the accused in the form of a “presentment.” Please see the accompanying copy from the 4th edition of Black’s Law Dictionary where, on page 912 it states: “A **presentment** differs from an indictment in that it is an **accusation made by a grand jury of their own motion, either upon their own observation, or upon evidence before them;**...”

In the 6th edition of the Black’s law dictionary on page 1184, it states: “ **Presentment.** The written 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 government. A presentment is an accusation, **initiated by the grand jury itself** [not by the district attorney], and in effect an instruction that an indictment be drawn.”

In the expanded legal dictionary/digest called “Words and Phrases”, on page 363, it defines the grand jury as: “The ‘grand jury’ is inquisitorial body of county, drawn and summoned from among its best citizens, and **must investigate all violations of law** under presiding judge’s direction **and make presentments in accordance with such investigations.**”

In the second column of this page it continues: “ ‘Grand Jury’ is not judicial but accusing body, **permitted to act upon knowledge obtained by members from any source.**” and “ ‘Grand jury’ is informing and judicial tribunal, exercising functions which are original, complete, and susceptible of being **exercised on its own motion** [without D.A.’s initiation] and on **such knowledge as it may derive from any proper source.**”

A California District Court of Appeal, in the case of Samish v. Superior Court, 28 C.A.2d 685 (1938), on the bottom of page 688 and continuing into page 689, quoting from the U.S. Supreme Court and the California Penal Code, fully explains the powers, jurisdiction and duties of the grand jury. I shall quote of a few excerpts:

“But **when grand jurors** possess personal knowledge or **are furnished with reliable information** indicating that a crime has been committed by someone within borders of the county, **it is the duty of the grand jury to fearlessly and fairly investigate the charges and indict the culpable party** if the evidence warrants that finding [from U.S. Supreme court cases of Blair v. United States and United states v. Philadelphia].”, and

“In the Blair case, *supra*, discussing the rights of a **grand jury** to investigate crime, Mr. Justice Pitney said: ‘ 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 possible result of the investigation** ’”, and

“In the case of *United States v. Philadelphia, etc., supra*, the court said; ‘ The power of the **grand jury** extends to the broadest kind of an inquisitorial proceeding, and it **may, before a bill of indictment is framed, investigate at the instance of the court or the district attorney, or at its own instance**, a suspected or an alleged crime, and determine whether it has been committed, and if so, who committed it. The **grand jury has jurisdiction to proceed** under its inquisitorial powers **without any specific charge** against a particular person or corporation being **before it.**” and

“The grand jury has authority and it becomes it’s duty to inquire into **all public offenses** “committed or triable in the county’ in which the jury is impaneled. (Sects. 915, 923, Pen. Code.) Section 915 [now Section 917] provides:

‘The **grand jury may inquire into all public offenses** committed or triable within the county, and present them to the court by indictment.”

Section 919(c) provides: “The **grand jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county** [even prosecutors and judges].”

Section 903 [now Section 911] of the Penal Code prescribes the form of **oath** to be administered to the grand jury, which **clearly contemplates an investigation of all public offenses** ‘committed or triable in the county.’

Judges, Court commissioners and prosecutors are public officers. They are **not above the law**; no one is above the law. Unfortunately, prosecutors, county government lawyers and judges often misinform grand jurors and tell them that the grand jury “has no jurisdiction to investigate judges or courts”, but such a statement would simply be not true.

If a judge were to shoot and kill some one with a gun from his bench during a trial, would you say that the grand jury has no jurisdiction to charge the judge with murder just because he was a judge and committed the crime while performing a judicial function?

Clearly the grand jury has jurisdiction to charge such a judge with murder, and as outlined above, it would be the grand jurors legal **duty** to do so. In fact, grand jurors have repeatedly charged judges for crimes while acting as a judge. Indictments that have led to conviction and imprisonment of the accused judge

Take a look at People v. Hardeman, 224 C.A.2d 1 (1966), in which a judge was indicted and convicted of conspiracy to obstruct and pervert justice among other convictions. Also see People v. Martin, 135 Cal. App.3d 710 (1982), where an L.A. **Judge** and an attorney friend of him were **indicted by the Grand Jury** for Conspiracy to obstruct and pervert justice (same charge as the accused in this complaint are accused of), **convicted** (which was upheld in the appeal) and **sentenced to State Prison** the same as an ordinary citizen.

Please take a close look also at the case of Lorenson v. Superior Court, 35 C.2d 49 (1950), where the California Supreme Court ruled on page 59 and 60 of the case that “A conspiracy with or among public officials **not to perform their official duty** to enforce criminal laws **is an obstruction of justice** an indictable offense at common law.” This means that if judges deliberately fail to report criminal violation by other, such as judges, as they are required by California Code of Judicial Conduct, Canon 3D, the silent judge just joined a conspiracy to obstruct and pervert justice.

At the end of People v. Coleman, 83 Cal. App.2d 812 (1948), the court resolutely concluded: “One of the statutory **duties of the district attorney** is to draw all indictments ... ‘attend before and give **advice** to the **grand jury whenever cases** are presented to it for their consideration.’ **There is no requirement, however, that it is the duty of the grand jury to request or accept that advice.** The obvious indictment is that the district attorney must draw all indictments only when requested by the grand jury for its advice and assistance... An indictment is the independent act of the grand jury. *To require the signature of the district attorney thereto would destroy the independency of action of that body and defeat the primary purpose of its existence.*”

The court clearly concluded that the grand jury is free and independent in indicting the accuseds without approval or concurrence of the District Attorney. Recently a California Court of Appeal in the Case of Bradley v. Lacey, 53 Cal.App4th 883 (March 25, 1997), concluded this about Grand Jury’s powers: “It is apparent from the foregoing description of the **grand jury’s** powers with respect to public offenses that it is **not the mere handmaid of the district attorney**.... The decision whether or not to indict, to initiate a criminal prosecution, resides **entirely** with the grand jury.”

For more information, contact the Jury Education Committee at (760)868-4271 or go to www.jurypower.org

To: The respected members of the
California Grand Jurors Association
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April 11, 1998

From: Peymon Mottahedeh
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GRAND JURY
POWER EXPOSED!!!

Re: Syllabus for Grand Jurors of the California Grand Jurors Association

Dear Ladies and Gentlemen,

It is a pleasure of mine to recognize your organization and the members of the Generic Handbook Committee for your hard work, commitment and perseverance in putting together the much needed Syllabus for Grand Jurors. Most particularly I wish to acknowledge Lila Thomas, Howard Rein, Mickey Strang, Steven Phipps and Dan Taranto who had collaborated for 2 years in bringing such a sorely needed handbook to fruition.

Your hard work and labor has paved the way for further work on this Syllabus to have it become **THE handbook for Grand Jurors**. As you well know, there is no other document, which educates the average grand juror of his rights and duties as fully, and in plain language, as your Syllabus does. I plan to share additional copies of this book among interested citizens. I will recommend to the Fully informed Jury Association, which is a not for profit jury education organization, to recommend and endorse this Syllabus for education of grand jurors, as well as educating the members of the public as to what they might expect when called upon to serve as grand jurors.

If I may, I would like to share some observations about certain portions of your beautiful work in the hope that it might assist you in preparing an improved 2nd edition. Before doing so, please allow me to share with you a bit about my personal background so that you may be fully aware of my biased view of the following comments.

I am a 35-year-old American Citizen who came to this *last bastion of liberty* from a Jewish family in Iran, only 2 years before the Islamic Government of Iran came to power in

1979. Years later, I learned that one of my relatives was tortured and executed by this so called "Islamic" and "Godly" government, with false, baseless and politically incorrect charges of being a "Zionist Spy" and "Corrupt on Earth."

When my uncle went to the jail morgue to recover the body of my executed relative, he was immediately taken into custody, *solely* because he was related to my executed relative. After several months of incarceration and mental torture, such as mock executions, my uncle was freed, since they found nothing on him, and since they already had their "fun" with him!

As I searched to learn about my newly acquired constitutional free governments, the United States and California, I learned that *We the People*, by our ignorance, have been allowing our *public servants* to become our *masters*. I learned that this is not a new phenomena; that in England, King John had become so despotic that in 1215 AD, the English barons took him to Runnymede and placed his neck under the blade of the sword and forced him to sign a document which now is referred to as the **Magna Charta (The Great Charter.)**

I learned that the greatest mechanism, which was placed in the Magna Charta to prevent a return of tyranny, was the institutionalization of the jury systems. These jury institutions have now become our Petit and Grand Juries. The Petit Jury was empowered to veto and disregard all unjust laws and unjust impositions of the King's laws. The Grand Jury was empowered to hold the King hostage in his own castle in order to force him to perform his sworn duties to serve and protect the people instead of abusing them.

Later I found that the founders of this Great State of California were very aware of the importance of the Jury System in retaining our liberties. Magna Charta is still a part of our system of laws; it is published by the State Legislature along with the U.S. and California Constitutions as the supreme laws of the land, and can be obtained by anyone, free of charge by contacting their California Representatives.

What interested me the most about the Grand Jury System in America in general, and in California in particular, was the *immense power* which the founders of America and California have placed in the Grand Jury **to be a check on abuse of power by our public servants** and prevent a take-over of our liberties by our public servants. It was enlightening for me that, not only the California Constitution mandates the existence and operation of the grand Jury, but the State Legislature has further made it a *mandatory duty* of the grand jury to *investigate (inquire)* into allegations of corrupt misconduct by public officers of every description, and to remove such corrupt public servants from the positions of trust after accusation by the grand jury and a trial by jury.

This duty was imposed on the California Grand Juries at inception of our Great State of California in **Statutes at large of 1850, in chapter 119, section 235, page 292**. This law is today codified in **Penal Code Section 919(c)**, which states: "The grand jury *shall inquire* into willful or corrupt misconduct in office of *public officers of every description* within the county." (Emphasis mine.)

The language of this law is very simple, precise and explicit. The grand jury **MUST** (shall) **INVESTIGATE** (inquire) into willful or corrupt misconduct in office of public officers of **EVERY KIND** (every description.) In many areas, the grand jury has a lot of discretion to act or refuse to act. For example, it has the discretion to investigate or ignore crimes, even if the crime is a heinous crime such as murder or rape.

However, the legislature believed that willful and corrupt misconduct in office by our public officers constituted such a potential danger, that they imposed a **MANDATORY** duty on the Grand Jurors to investigate and look into charges of corrupt misconduct in office of all public *servants* so that the apparently guilty ones may be properly tried and removed from office.

Clearly the Legislature believed that corrupt public servants are a dangerous *threat to our liberties and constitutional system of government*, more dangerous than the common street murderer. The California Legislature explicitly empowered the grand jury to remove such corrupt public officers by way of an accusation. This law was enacted by the Legislature in **Statues at Large of 1851, chapter 29, section 70, page 219**, and is today codified in **Government Code Section 3060** and states: "An accusation in writing against any officer of a district, county [including a district attorney or a judge],... may be presented by the grand jury of the county...."

It is important to note that the Legislature did not exclude the district attorneys or the judges from these awesome investigatorial and accusing powers of the grand jury. The term "public officers of every description" as used in **Penal Code Section 919(c)**, clearly includes judges and district attorneys. Back in 1851, California Counties did not have a lot of different departments, unlike today's California counties. However, they all had district attorney(s) and judge(s), and many of them had very few other full time public servants beside a judge and a district attorney. Obviously the California Legislature had judges and district attorney's in mind when they enacted this law in 1851

An old saying states: "***Power corrupts, and absolute power corrupts absolutely.***" In America, even though the State Legislature enacts the statutes, it is the local district attorney and judges who *interpret and execute* such statues, *properly or corruptly*. If the district attorneys and judges conspire to pervert and obstruct justice, and cover up each others corrupt misconduct in office, the legislature is practically powerless to do anything, since any new enactment of the State Legislature could be ignored or corruptly applied by the same corrupt district attorneys and judges. So what was the solution?

This dilemma was precisely the reason why the California Legislature entrusted the *un-entrenched* members of the Grand Jury, chosen from among the whole people of the county, to be the watchdog over our professional and *entrenched public servants*. Unfortunately this beautiful design of the founders of California has been *in practice* has been rendered a *nullity*.

Trained lawyers of the district attorney and county counsel's office tell the grand jurors, who are untrained in law, that they have "no jurisdiction over court matters." Although it is true that the grand jury has no power to intervene in any court proceeding, this does not negate the power of the grand jurors to accuse and indict judges and district attorneys for criminally corrupt acts, which they might commit *in court*.

If the grand jury is not to accuse and indict criminally corrupt judges and district attorneys, who will? The district attorney?? Who will report a judge's criminally corrupt acts for prosecution, a fellow judge??? When was the last time you heard of a judge snitching on another judge for his crimes? Is this because judges and district attorneys by nature are holier than though, some how purer than the rest of us, immune form human frailties and tendency to become *drunk with power*?

Sadly, our California grand juries are told to stay busy with their Report writings; reports that get ignored anyway. Grand jurors are told that writing these reports is a top priority of the grand jurors, yet, the grand jurors are cleverly *kept in the dark* about their *paramount duty* of investigating and accusing criminally corrupt public *servants* to keep our public *servants* honest. When the citizen watchdog of the public officials, the grand jury, is kept in the dark, corruption becomes entrenched and becomes much harder to eradicate. This is sadly the case in some of our most populous counties, such as Orange County, where I reside.

Although the California Court of Appeal in the celebrated 1997 case of **Bradley v. Lacey**, 53 Cal.App.4th 883 (Mar. 1997) has stated that the grand jury "is not a mere handmaid of the district attorney", the sad truth is that *in practice*, in most parts of California, especially in its populous counties, the grand jury has in fact become the mere handmaid of the District Attorney. The grand jury will fail to perform its historical role in keeping our government free of corruption and criminality *unless* it is once again made an *independent institution*, who is fully aware and willing to exercise its accusatory powers under **Government Code section 3060!**

Unfortunately, some of the language of the Syllabus for Grand Jurors reflects this unconstitutional practice of keeping grand juries subservient to the full time officials of the county, namely the county counsel and the district attorney. This condition has left our grand juries *sterile in combating judicial corruption*. Below are some of my observations about the

Syllabus for Grand Jurors. These observations are *not* in any way an attack on the integrity or sincerity or the hard work of its authors.

The authors of this celebrated Syllabus have put an enormous amount of time and energy in putting such a sorely needed Syllabus together. It is quite understandable that no one would “get everything right” on the first try; hence revised and second and third editions of books are naturally regarded as superior to the original work, even though most of time and energy to research and write the book goes in the original version. I hope the authors of this Syllabus find the following observations worthy of serious consideration.

- 1) On page, 39, under “Conduct of the Hearing”, some of the prescribed methodology reflects the “grand jury is a mere handmaid of the district attorney” approach as shown by the following quotes:
 - a) “No oral questions will be allowed or directed to the district attorney by the jurors.” There is no law stating that the grand jurors can not question the district attorney. This is simply a bad practice which has been allowed to take place in our grand jury chambers. The District Attorney and his motives and questions are *potential subjects of grand jury investigation*. This statement should be deleted.
 - b) “A juror may not question a witness directly...” **Why not? Who is in charge here?** The grand jury or the district attorney? If the district attorney wants to be in charge, he can investigate the crime and the witness on his own. But if he wants the grand jury’s assistance, he has to follow the *grand jury’s lead* and instructions, not the other way around. This sentence should be modified to read “A jury may question a witness directly ...”
 - c) The next sentences read: “Jurors may present written questions to the foreperson for submission to the district attorney. The district attorney scans these for relevance to the case. The district attorney then asks the questions of the witness.” Although the grand jury may choose to allow the district attorney to ask questions of the witness, there is no legal reason why a grand juror has to submit his question to the district attorney for his filtering and censorship! There is *no reason* why a grand juror can not ask question of the witness as he wishes. The *grand jurors themselves* are the judges of what is, and is not relevant, not the district attorney. These sentences should be modified accordingly.
- 2) On page 57, on 4th paragraph it states: “The Grand Jury is not required by law to accept or act on every complaint or request.” This is clearly *inaccurate*. As the analysis I shared with you earlier in this report shows, the grand jury has a

mandatory duty to investigate allegations of corrupt misconduct in office of public

officers *of every description*, per Penal Code 919(c). Therefore, this sentence should be amended as follows: “except where an allegation of corrupt misconduct in office of a public officer is brought to the attention of the grand jury. In such a case, the grand jury *must investigate* the allegations and *if* the accusations are found to be true, accuse the corrupt public officer(s) under **Government Code Section 3060.**”

- 3) Further down this page it states: “rejection of a complaint may be for the following reasons: ... Complaint requires more resources than the Grand jury has at its disposal.” If the subject of the complaint is something that the grand jury has a mandatory duty to perform, such as allegations of corrupt misconduct in office of public officers, then the grand jury should *curtail some of its discretionary activities* to free up time and resources to perform these **mandatory investigations**. The discretionary activities that might be curtailed include doing fewer indictments at the request of the district attorney.
- 4) On page 70, the recommended letter that states: “The County Grand Jury has no jurisdiction over matters before the courts...” is precisely the kind of wrong response which the grand jurors have to stop giving to *legitimate* charges of corrupt misconduct of judges and district attorneys. The language of this erroneous letter would lead one to believe that if a judge were to *steal and destroy court records*, that the grand jury “would not have jurisdiction over it” for “it is a matter that is before the courts.”!!! I know this might seem like an unlikely event, but *where* else would judges and district attorneys commit their *corrupt misconduct in office*, but in the courts?

The “Refusal after Preliminary Inquiries” letter on the same page is an example of an excellent letter. The grand jury should make a preliminary inquiry into allegations of corrupt misconduct in office of public officers and *if* after such an inquiry the grand jury believes the charges are not substantiated, THEN no action is warranted.

- 5) On page 33, under “ACCUSATION”, the Syllabus states: “The Grand Jury is empowered by Government Code 3060 to conduct a civil proceeding to remove a public officer by Grand Jury accusation. Although this proceeding is seldom is used,...”, further down it continues: “Experience has shown that charges of misconduct are easily made and may be unwarranted. ... Investigation into such charges must proceed with extreme caution and discretion. ... Very few

accusations are filed.” I believe the reason that this proceeding is seldom used and very few accusations are filed, is probably because grand juries are so much *kept in the dark*

about their powers and are taught to *blindly trust and follow* instructions of judges and district attorneys.

Why is “extreme caution” needed when dealing with corruption in office of public officials? Does the *public servant* deserve more of a protection and caution when he or she is the subject of an investigation than a *citizen master*? No wonder not enough judicial officers are accused and most people are deathly afraid of judges!!! The subjective language of the above quoted statements should be deleted. IN some counties whose public officials are honest, typically the smaller ones, there might not be much accusations by the grand jury. But in corrupt counties, generally the bigger ones, with many public servants, lots of accusations might be in order.

- 6) On page 34, an erroneous “Exceptions to the Above:” is listed. Where it states: “Grand Juries do not investigate complaints brought against judges.” As it was shown above, nothing could be further from the truth. Judges have *always been* subject to investigative and accusing and presenting powers of the grand jury. The cases of **People v. Hardeman**, 244 C.A.2d 1, (1966) and **People v. Martin**, 135 Cal.App.3d 710, are two examples of cases where *grand juries indicted judges for conspiracy to obstruct and pervert justice*. This neglect on behalf of the grand juries to combat judicial corruption statewide has led to serious erosion of integrity and public confidence in our court system. The above quoted statement should be removed from the book.

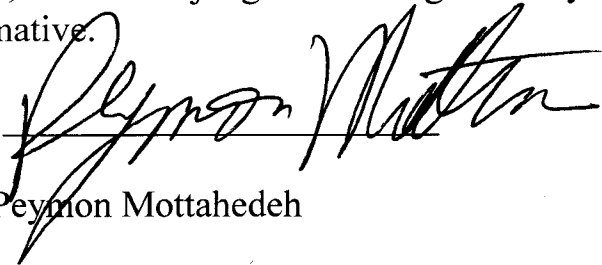
- 7) On page 35, the last sentence erroneously states: “Prior to beginning an investigation the Grand Jury should check with the district attorney or county counsel to verify if the investigation is within the realm of authority.” Not only the grand jury is under no legal obligation to check with the district attorney or the county counsel, but the county counsel and/or *the district attorney themselves may be the subjects of such an investigation!* This undeserving over-trusting of our public servants, if continued unabated, will lead to further mastery of *We the People* by our *public servants*. Is this a legacy, which we wish to leave our children and grand children? The above quoted statement should be replaced with: “The grand jury may wish to seek the advice of the district attorney with regarding a possible accusation, however, the grand jurors should not do so unless they are certain than the district attorney himself can in no way be involved or related to the investigation subject or parties.

8) The Syllabus correctly on page 28 analyses **Penal Code Section 919(c)** which imposes a mandatory (shall) duty to inquire into willful or corrupt misconduct in office of public officers of every description within the county.” Also on page 22,

the Syllabus correctly shows the courts and the district attorney to be within the investigatory powers of the grand jury. I wish to commend you for these accurate statements. I hope you will consider my above suggestions in making the above-mentioned parts compatible with page 22 and 28 of the Syllabus.

I have included a copy of an educational piece on grand jury’s powers to accuse and present corrupt and criminal judges, whom I had addressed to the Orange County Grand Jury when I reported criminally corrupt acts, like stealing of court records and conspiracy to obstruct and pervert justice, of certain judges in Orange County. I hope you will find it to be interesting and informative.

Sincerely:

A handwritten signature in black ink, appearing to read "Peymon Mottahedeh", written over a horizontal line.

Peymon Mottahedeh

GRAND JURY POWER TO CHARGE CORRUPT/CRIMINAL PUBLIC OFFICIALS

Before continuing, I need to assure the **Grand Jury** that it **has** the **power and jurisdiction** to investigate **and** charge the following parties even though some of them are judges and commissioners of the Municipal Court of Orange County.

First, the Grand Jury does have the power to bring charges before the accused in the form of a "presentment." Please see the accompanying copy from the 4th edition of Black's Law Dictionary where, on page 912 it states: "**A presentment differs from an indictment in that it is an accusation made by a grand jury of their own motion, either upon their own observation, or upon evidence before them;...**"

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A California District Court of Appeal, in the case of **Samish v. Superior Court**, 28 C.A.2d 685 (1938), on the bottom of page 688 and continuing into page 689 quoting from the U.S. Supreme Court and the California Penal Code, fully explains the powers, jurisdiction and duties of the grand jury. I shall quote of a few excerpts:

"But **when grand jurors** possess personal knowledge or **are furnished with reliable information** indicating that a crime has been committed by someone within borders of the county, **it is the duty of the grand jury to fearlessly and fairly investigate the charges and**

indict the culpable party if the evidence warrants that finding.[from U.S. Supreme court cases of Blair v. United States and United states v. Philadelphia].”, and

“In the Blair case, *supra*, discussing the rights of a **grand jury** to investigate crime, Mr. Justice Pitney said: ‘ 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 possible result of the investigation,...**’”, and

“In the case of *United States v. Philadelphia, etc., supra*, the court said; ‘ The power of the **grand jury** extends to the broadest kind of an inquisitorial proceeding, and it **may, before a bill of indictment is framed, investigate at the instance of the court or the district attorney,**

Or at its own instance, a suspected or an alleged crime, and determine whether it has been committed, and if so, who committed it. The **grand jury has jurisdiction to proceed** under its inquisitorial powers **without any specific charge** against a particular person or corporation being **before It.**” and

“The grand jury has authority and it becomes it’s duty to inquire into **all** public offenses “committed or triable in the county’ in which the jury is impaneled. (Sects. 915, 923, Pen. Code.) Section 915 [now Section 917] provides:

“The **grand jury may inquire into all public offenses** committed or triable within the county, and present them to the court by indictment.” and

“Section 923 [now Section 919] provides in part: “The **grand jury must inquire... into the willful or corrupt misconduct in office of public officers of every description within the county** [even judges].” and

“ Section 903 [now Section 911] of the Penal Code prescribes the form of **oath** to be administered to the grand jury which **clearly contemplates an investigation of all public offenses** ‘committed or triable in the county’.”

Judges and court commissioners are public officers. They are **not above the law**; no one is above the law. Please be mindful of the fact that the judges or the district attorney **may** mis-inform you and tell you that you “have no jurisdiction into investigating judges or courts”, but such a statement would simply be not true.

When the criminal activities of the below named parties started, **I wrote a letter to you on March 25, 1996**, and in **your April 4, 1996 response**, you indicated (I assume based on false legal advice of a deputy district attorney) that the Grand Jury has no jurisdiction before the courts, and that this matter will no doubt be resolved.

I had not asked you to get into matters before the courts; instead **I had reported crimes committed by the court personnel**; and you have total jurisdiction to investigate crimes

committed by anyone, even judges, even from the bench. If a judge were to *steal and destroy court records in court* would you say that you had no jurisdiction to charge him with murder just because he was a judge and committed the crime while performing a judicial function?

Clearly you would have jurisdiction to charge such a judge with murder, and as outlined above, it would be your legal **duty** to do so. The criminal acts charged in this complaint are not murder charges, but nonetheless are **CRIMES** as provided by law and **you do have the legal jurisdiction and duty to indict the culpable parties even if they happen to be judges and even if they committed the crimes from the bench!**

Please take a look at the copy of the court case of **People v. Martin, 135 Cal. App.3d 710 (1982)** which I have provided you, where an L.A. **Judge** named **Brown** and an attorney friend of him were **indicted by the Grand Jury** for Conspiracy to obstruct and pervert justice (same charge as the accused in this complaint are accused of), **convicted** (which was upheld in the appeal) and **sentenced to State Prison** the same as an ordinary citizen.

Please take a close look also at the case of **Lorenson v. Superior Court, 35 C.2d 49 (1950)**, where the California Supreme Court ruled on page 59 and 60 of the case that “A conspiracy with or among public officials **not to perform their official duty** to enforce criminal laws **is an obstruction of justice** an indictable offense at common law.” This is another main charge which the officials (including Municipal Court Judges) in this complaint are accused of.

At the end of **People v. Coleman, 83 Cal. App.2d 812 (1948)**, the court resolutely concluded: “One of the statutory **duties of the district attorney** is to draw all indictments ... ‘attend before and give **advice** to the **grand jury whenever cases** are presented to it for their consideration.’ **There is no requirement, however, that it is the duty of the grand jury to request or accept that advice.** The obvious intent is that the district attorney must draw all indictments only when requested by the grand jury for its advice and assistance... An indictment is the independent act of the grand jury. To require the signature of the district attorney thereto would destroy the independency of action of that body and defeat the primary purpose of its existence.”

The court clearly concluded that the grand jury is free and independent in indicting the accuseds without approval or concurrence of the District Attorney. Recently a California Court of Appeal in the Case of **Bradley v. Lacey, 53 Cal.App4th 883 (March 25, 1997)**, concluded this about Grand Jury’s powers: “It is apparent from the foregoing description of the **grand jury**’s powers with respect to public offenses that it is **not the mere handmaid of the district attorney**.... The decision whether or not to indict, to initiate a criminal prosecution, resides **entirely** with the grand jury.”

THE

STATUTES OF CALIFORNIA,

PASSED AT THE

SECOND-SESSION

OF THE

LEGISLATURE:

BEGUN ON THE SIXTH DAY OF JANUARY, 1851, AND ENDED ON
THE FIRST DAY OF MAY, 1851, AT THE CITY
OF SAN JOSE.

EUGENE CASSERLY, STATE PRINTER.

1851.

§ 61. The oath or affirmation having been administered, the Senate shall proceed to try and determine the impeachment and may adjourn the trial from time to time.

And to proceed with trial.

§ 62. The defendant cannot be convicted on impeachment without the concurrence of two thirds of the members present; and if two thirds of the members present do not concur in a conviction he shall be declared acquitted.

What necessary to convict.

§ 63. After conviction the Senate shall immediately, or at such other time as they shall appoint, pronounce judgment, which shall be in the form of a resolution entered upon the journals of the Senate. The vote upon the passage thereof shall be taken by yeas and nays, and shall in like manner be entered upon the journal.

Form of judgment.

§ 64. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, the same shall be the judgment of the Senate.

Judgment.

§ 65. The judgment may be that the defendant be suspended and removed from office, or that he be removed from office and disqualified to hold and enjoy a particular office or class of offices, or any office of honor, trust, or profit, under this State.

What judgment may be.

§ 66. If judgment of suspension be given the defendant shall during the continuance thereof be disqualified from receiving the salary, fees, or emoluments of the office.

Judgment of suspension.

§ 67. No judicial officer shall exercise the office after being impeached until he is acquitted.

When officer not to execute official duties.

§ 68. If the Lieutenant Governor be impeached notice of the impeachment shall be immediately given to the Senate by the Assembly, that another President may be chosen.

Impeachment of Lieut. Governor.

§ 69. If the offence for which the defendant is impeached be the subject of an indictment, the indictment shall not be barred by the impeachment.

Indictment barred by impeachment.

TITLE III.

Of the Removal of Civil Officers otherwise than by Impeachment.

§ 70. An accusation in writing against any District, County, or Township officer for wilful or corrupt misconduct in office may be presented by the Grand Jury of the County for which the officer accused is elected or appointed.

Accusation of certain officers.

§ 71. The accusation shall state the offence charged in ordinary and concise language and without repetition.

What to state.

§ 72. The accusation shall be delivered by the foreman of the Grand Jury to the District Attorney of the County, who shall cause a copy thereof to be served upon the defendant, and require by notice in writing of not less than ten days that he appear before the District Court of the County at the next term, and answer the accusation. The original accusation shall then be filed with the Clerk of the District Court.

To be delivered to Grand Jury.

§ 73. The defendant must appear at the time appointed in the notice, and answer the accusation, unless for some sufficient cause the

Defendant to appear.



- Court assign another day for that purpose. If he do not appear, the Court may proceed to hear and determine the accusation in his absence.
- Proceeding by defendant.** § 74. The defendant may answer the accusation, either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same.
- Objection to sufficiency of accusation.** § 75. If he object to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it present intelligibly the grounds of the objection.
- Denial of truth of accusation.** § 76. If he deny the truth of the accusation, the denial may be oral and without oath, and shall be entered upon the minutes.
- Objection overruled.** § 77. If an objection to the sufficiency of the accusation be not sustained, the defendant shall be required to answer the accusation forthwith.
- Court to convict, or proceed to try.** § 78. If the defendant plead guilty, or refuse to answer the accusation, the Court shall render judgment of conviction against him. If he deny the matters charged, the Court shall immediately, or at such time as they may appoint, proceed to try the accusation.
- Trial to be by jury.** § 79. The trial shall be by a jury and shall be conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.
- Attendance of witnesses.** § 80. The District Attorney and the defendant shall be respectively entitled to such processes as may be necessary to enforce the attendance of witnesses as upon a trial of an indictment.
- Judgment on conviction.** § 81. Upon a conviction the Court shall immediately, or at such other time as they may appoint, pronounce judgment that the defendant be removed [from] office. But to warrant a removal, the judgment must be entered upon the minutes assigning therein the causes of removal.
- Appeal from judgment.** § 82. From a judgment of removal an appeal may be taken to the Supreme Court in the same manner as from a judgment in a civil action, but until such judgment be reversed the defendant shall be suspended from his office. Pending the appeal the office may be filled as in case of vacancy.
- Proceedings on accusation against District Attorney.** § 83. The same proceedings may be had on like grounds for the removal of a District Attorney, except that the accusation shall be delivered to the District Judge of the District, who shall thereupon appoint some one to act as prosecuting officer in the matter, or shall place the accusation in the hands of the District Attorney of an adjoining County, and require him to conduct the proceedings.

PART IV.

OF THE PROCEEDINGS IN CRIMINAL ACTIONS PROSECUTED BY INDICTMENT.

TITLE I.

*Of the Local Jurisdiction of Public Offences.***Who liable to punishment.**

§ 84. Every person, whether an inhabitant of this or any other State,