

**MEMORANDUM ON THE GRAND JURY**  
**STATE OF MINNESOTA**  
**FEBRUARY 2009**  
**by Nancy Lazaryan**

To: Justice Paul Anderson, Judge Debra Hedlund, Judge James Dehn, Judge Jack Nordby  
cc: David Orrick of the Pioneer Press, Representative Dan Severson

Greetings,

To the members of the Minnesota Judicial Branch, I have been in contact with you on the telephone about my concern over the restricted access to our Grand Jury.

The following is my research on the subject, as well as the case law that sets forth the right and duty of a judge to convene a Grand Jury open or special venire.

**Introduction**

Citizens from across the state of Minnesota have repeatedly attempted to bring evidence of corruption of public officials directly to their Grand Juries. Members of the Minnesota Judicial Branch have consistently blocked access by the Citizens to the Grand Jury. The names of the Grand Jury forepersons have been withheld from the Citizens.

In November of 2007, an indictment from the Grand Jury in Ramsey County came down that contained the signature of the Grand Jury foreperson.

Christina Becher, foreperson for the Ramsey County grand jury was sent a Criminal Complaint concerning crimes done against a Citizen that is on active military duty. Christina Becher gave the Complaint to Charles Balck of the Ramsey County attorney's office. Instead of properly handling the matter, by contacting the office of the Minnesota Attorney General, Mr. Balck gave the Complaint to Chief Judge Gregg Johnson of the Ramsey County district court.

Evidence of felonies being committed by certain judges in the Ramsey county district court were contained in the package sent to the Jury foreperson. Then Chief Judge Gregg Johnson buried the Complaint.

Mr. Balck, by his actions of giving the Complaint to the Chief Judge of the Ramsey County district court, compromised any secrecy the Grand Jury would have in investigating the public officials of Ramsey County for their alleged criminal activity.

**The Complaint sent to Christina Becher is one of MANY complaints that the Citizens have, supported by evidence, of corruption of public officials in *every branch* of government.**

## The Minnesota Constitution

In my telephone discussions with the above named judicial officers, I addressed the issue of whether the Grand Jury is a constitutional right the People secured unto themselves, or a civil right granted by government. I also indicated to you that the Minnesota constitution was unlawfully amended to remove the Grand Jury as a constitutionally secured right.

The distinction between a constitutional right and a civil right is pivotal. A right secured by our constitution is a right that a constitutional officer has the duty to defend, pursuant to his or her oath of office. A civil right is one “granted” by the government and controlled by the government and is akin to a privilege.

The People of Minnesota set forth in our original constitution that the Grand Jury was a right that we secured unto ourselves.

In 1868 a bill was passed to amend the constitution to remove the Grand Jury. The language of the bill is as follows:

“No person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or property without due process of law. All persons shall, before conviction, be bailable by sufficient sureties except for capital offenses where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in case of rebellion or invasion, the public safety may require it.”

“The ballots used at said election by those voting in favor of said amendment shall have written or printed thereon the following words, “against the grand jury;” and the ballots used at said election by those voting against the amendment shall have written or printed thereon the following words, “for the grand jury.”

When brought to the People in 1868, the amendment to the constitution was overwhelming defeated with two-thirds of those voting on the amendment declaring the Grand Jury would remain in the constitution.

A commentary on the amendments to the state constitution speaks to the failure of this amendment to pass in 1868, stating, “As early as 1868 an amendment was made to abolish the requirement of an indictment or presentment of a grand jury as a condition precedent to a trial for felony. The peculiar form in which the question was presented to the voters probably had much to do with the defeat of the amendment.”

In 1903 another bill to amend the state constitution was passed. The language of the bill is as follows:

“No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the

presumption great; and the privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion the public safety may require.”

“The ballots used at said elections on said amendment shall have printed on them “Amendment to Section Seven (7) of Article One (1) of the Constitution providing for criminal prosecutions and the rights of the accused.” “Yes—No,” and each elector voting on said amendment shall place a cross mark thus (X) in a space left opposite either the word “Yes” or the word “No” and shall be counted for or against the proposition in accordance with the expressed will of the elector as provided by the election laws of the state.”

### **Proper Notice to Amend the Constitution**

In my research I repeatedly attempted to find the actual ballots for constitutional amendments that were sent to the People. Accordingly, I submitted a written request under M.S. Chap. 13 for the ballots to the Minnesota Secretary of State’s office. Said state office wrote back and told me they were only required to keep records for TWO YEARS, and that any other records had been sent to the Minnesota Historical Society.

I repeatedly attempted to find the ballots at the Minnesota Historical Society and was told each time, that the documents had not been sent to them. I am unable to find authorization within the statutes for the Minnesota Historical Society to maintain the records of the Secretary of State. Currently, the secretary of state, with approval of the attorney general, prepares a short title to identify each amendment on the ballot. The ballot question specified by the legislature appears under the title. **The text of the constitution as it would appear if amended is not printed on the ballot.**

It is unclear as to WHAT the People actually voted on in 1903, as the ballots (ballots spanning over the course of 100 years) are mysteriously missing from the public record. It *is clear* that in 1868, when the People were noticed that the amendment would eliminate the Grand Jury from our constitution, the amendment was overwhelmingly defeated.

**Valid argument can be made that the People in 1903 were frauded by the legislature to vote on an amendment to remove the Grand Jury from our constitution**, as the amendment failed in 1868 when the People were noticed that the amendment would remove the Grand Jury. *In 1903 the legislature specifically excluded this notice to the People.*

**Equally, argument can be raised that ALL ballots brought to the People that do not contain the original constitution and the proposed amendment to the constitution are null and void on their face as proper notice was not given to the People.**

## Denial of Access to The Grand Jury

For years I have been working with a group of state Citizens that have been attempting to bring evidence of the corruption of state officials before the Grand Jury. Members of the Minnesota Judicial Branch throughout the state, have blocked every attempt.

M.S. Sec. 628.61 (3) states: “The **grand jury** shall inquire into the willful and corrupt misconduct in office of all public officers in the county.”

The Minnesota Supreme Court case of *Wild v. Otis* proclaims the Citizen had the authority to “go around” the county attorney and present evidence directly to the Grand Jury.

*Wild v. Otis* was written in the same time period that a runaway Grand Jury brought indictments against corrupt public officials in Minneapolis. Curiously, it was in this same timeframe that the “purported” amendment to remove the Grand Jury from the constitution was “passed”.

**With the purported removal of the Grand Jury from the state constitution, the Grand Jury was then enacted as a statutorial “right”, as such, a “civil” right granted (and controlled) by government.**

Our government then put into place additional restraints to prevent access to the Grand Jury. The legislature enacted M.S Sec. 480.056, 480.0591 and 480.59 that give the power to supercede statutes to the judicial branch. (Including the statutes concerning the Grand Jury.) The judicial branch wrote the rules concerning the Grand Jury. And, the judicial branch promulgated the Minnesota General Rules of Practice. Rule 1.02 of the M.R.G.P. states: “A judge may modify the application of these rules in any case to prevent manifest injustice.”

There has been a deliberate and methodical process set into place to keep the People from bringing evidence directly before their Grand Jury. Our republican form of government has been wrenched from us by an oligarchy that protects itself by denying the Citizens their Grand Jury and thereby the restraining our ability to expose and prosecute corruption within our government.

## The intent of the People concerning the Grand Jury

To those members of our Judicial Branch, I direct you to the following Minnesota and federal court opinions:

**The grand jury is not appointed for the prosecutor or for the court; it is appointed** for the government and **for the people**; and both the government and the people are surely concerned, on the one hand, that all crimes, whether given or not given in charge to the grand jury and whether described or not described with professional skill, should receive the punishment which the law denounces, and on the other hand, that innocence, however strongly assailed by accusations drawn up in regular form, and by accusers marshaled in legal array, should, on full investigation, be securely protected. *Hale v Henkel*, 201 US 43, 50 L ed 652, 26 S Ct 370, disapproved on other grounds *Murphy v Waterfront Com. of New York Harbor*, 378 US 52, 12 L ed 2d 678, 84 S Ct 1594, motion to retax costs den 379 US 898, 13 L ed 2d 174, 85 S Ct 183.

**The power and duty of the grand jury to investigate is original and complete**, susceptible of being exercised upon its own motion and upon such knowledge as it may derive from any source which it may deem proper, and is not therefore dependent for its exertion upon the approval or disapproval of the court. *People v Polk*, 21 Ill 2d 594, 174 NE2d 393; *State v Iosue*, 220 Minn 283, 19 NW2d 735 citing *United States v. Thompson*, 251 U.S. 414, 40 S. Ct. 292, 64 L. ed. 342.

**The duty of the grand jury is to inquire diligently into all offenses which come to its knowledge, whether from the court, the prosecuting officer, its own members, or from any source.** *People v Polk*, 21 Ill 2d 594, 174 NE2d 393; *State v Iosue*, 220 Minn 283, 19 NW2d 735.

Provisions within the statutes for the grand jury are intended to *secure the same protection that was provided by the common law*, through the same kind of grand jury, which was traditional at common law, functioning substantially in the same way. *Re Opinion to Governor*, 62 RI 200, 4 A2d 487, 121 ALR 806.

### **Authority to summon Grand Jury open venire or special venire**

**Courts have taken the view that the authorization of a special grand jury may exist or function contemporaneously with the regular grand jury, and does not violate constitutional provisions guaranteeing the right to presentment or indictment by a grand jury for infamous crimes and felonies.** *People ex rel. Ferrill v Graydon*, 333 Ill 429, 164 NE 832; *State ex rel. Doerfler v Price*, 101 Ohio St 50, 128 NE 173.

**At common law the grand jurors could be summoned by open venire.** *Rogers v. People*, 104 Colo 594, 94 P2d 453.

#### **M. S. Sec. 628.41**

##### **Subd. 2. Venue.**

If subject matter of the grand jury inquiry concerns activity, events, or other matters in more than one county, a grand jury may be selected, in reasonable proportion, from the counties in which the activity, events, or other matters occurred. **A judge of the district court from any judicial district which includes one of the counties involved in an inquiry may convene a multicounty grand jury**, without regard to judicial district boundaries, **and may designate which county attorney or county attorneys shall attend upon the grand jury.** The judge shall designate where a grand jury drawn from more than one county shall sit.

#### **M.S. Sec 554.05 RELATIONSHIPS TO OTHER LAW.**

Nothing in this chapter limits or precludes any rights the moving party or responding party may have under any other constitutional, statutory, case, or common law, or rule.

#### **M.S. Sec.599.04 COURTS TO TAKE JUDICIAL NOTICE.**

Every court of this state shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States.

**M.S. Sec.609.015 SCOPE AND EFFECT.**

Subdivision 1.Common law crimes abolished.

Common law crimes are abolished and no act or omission is a crime unless made so by this chapter or by other applicable statute, but this does not prevent the use of common law rules in the construction or interpretation of the provisions of this chapter or other statute. Crimes committed prior to September 1, 1963, are not affected thereby.

Subd. 2.Applicability.

Unless expressly stated otherwise, or the context otherwise requires, the provisions of this chapter also apply to crimes created by statute other than in this chapter.

**M.S. Sec.611A.85 OTHER REMEDIES PRESERVED.**

Sections 611A.80 to 611A.88 do not affect the right of any person to bring an action or use any remedy available under other law, including common law, to recover damages arising out of the use of the individual in prostitution or the coercion incident to the individual being used in prostitution; nor do sections 611A.80 to 611A.88 limit or restrict the liability of any person under other law.

“Under the provisions of section 7, page 186, Session Laws of 1891, **the judge of the district court may order a grand jury to be drawn as provided by law for any county of his district.** It is not necessary that such order be made by the court. Under the provisions of section 3961 of the Revised Statutes, the court or judge may order an open venire to issue for such number of persons as may be required to appear for service at any term of court in his district. *State, v. Charles H. Barber* 13, Idaho 65; 88 P. 418; 1907 Ida. LEXIS 14

We are unable to interpret the statutes as limiting the power of the court in calling a grand jury to the [\*\*\*4] one mode provided in said paragraph. **At common law, a court possesses the power of directing the summoning of a grand jury upon an open venire whenever, in the discretion of the court, it be found necessary.** The statutes ought not, therefore, unless the legislative intention appears otherwise, to be so construed as to deprive the court of this power. *Territory Of Arizona, Plaintiff and Respondent, v. John Chartz*, Supreme Court Of Arizona, 4 Ariz. 4; 32 P. 166; 1893 Ariz. LEXIS 2 citing *Mackey v. People*, 2 Colo. 13; *Levy v. Wilson*, 69 Cal. 105, 10 P. 272; *Wilson v. State*, 32 Tex. 112; *White v. People*, 81 Ill. 333; *State v. Marsh*, 13 Kan. 596

**"Courts shall have power to procure juries by an open venire,** according to the ancient practice, whenever it may happen that one is not in attendance for the trial of causes under the procedure prescribed by the act." See, also, *Babcock v. People*, 13 Colo. 515; *Beery v. U.S.*, 2 Colo. 186; *Mackey v. People*, 2 Colo. 13; *Wilson v. People*, 3 Colo. 325.

It will be observed that the foregoing is only applicable "in case a grand jury is required," and that it is then selected from "the first panel." In counties like Las Animas the calling of a grand jury [\*\*\*7] is discretionary with the judge. It often happens that when the first panel is drawn (as was the case here), or when the term opens, no grand jury [\*\*456] has been ordered or decided upon. Hence we have held such acts directory only, and **that grand jurors can nevertheless be summoned by open venire as under the common law.** *Rogers v. The People*, Supreme Court of Colorado, 104 Colo. 594; 94 P.2d 453; 1939 Colo. LEXIS 317 citing *Imboden v. People*, 40 Colo. 142, 151, 90 Pac. 608.

## CONCLUSION

Whether by the constitution or the statutes, it is the intent of the People that our Grand Jury investigates the misconduct of public officials.

It is my argument that the amendment to the state constitution that removed the Grand Jury was not validly passed. Accordingly, my assertion is the Grand Jury remains a remedy and right that the People in this state secured unto Ourselves.

Even if my argument fails, the enactment of the Grand Jury within our statutes should be construed as codification of the common law.

Under common law, a judge may summon a Grand Jury open or special venire, and appoint a separate county attorney to attend to the Grand Jury.

The constitutional officers that are reading this memorandum have the power to summon a Grand Jury to hear the evidence of corruption. As well, said officers are bound by their oaths to uphold the rights the People secured in our constitutions. The right of redress is one of these secured rights and presenting evidence of corruption to our Grand Jury is the remedy the People have set forth for redress of corruption.

**PETITION**

I, Nancy Lazaryan, in propria persona, in sumo jure, as a member of the Sovereign People of the state of Minnesota, under common law and the constitutions of the state of Minnesota and these united States and M. S. Sec. 628.41 Subd. 2 do hereby PETITION the constitutional judicial officers named in the afore attached Memorandum to:

1. Summon a Grand Jury, either open or special venire to hear the evidence of corruption of public officials in various counties within the state (including but not limited to the county said judge presides in), and
2. Appoint a special county attorney to attend said Grand Jury.

See attached Memorandum in support of Petition.

I hereby swear under oath that the information set forth in the afore Memorandum is true and correct to the best of my knowledge.

Further affiant sayeth not.

Date: \_\_\_\_\_

\_\_\_\_\_  
Nancy Lazaryan, in propria persona, in sumo jure  
10734 West Lake Road  
Rice, MN 56367

Notarized by: \_\_\_\_\_