

Time for a thorough accounting. Time for a Special Grand Jury.

It took me just one term in the state legislature to realize the futility of believing effective oversight of state actors could be exercised from that body. The truth of the matter is individual legislators, and entire investigatory committees, are unable to even solicit testimony under oath from willing participants. Ask former representative Leah Cushman of Weare. She was removed from her position as chair of an investigatory committee after swearing in witnesses despite it being lawful in the RSAs (the laws of New Hampshire) to do so.¹

Why this matters is that without testimony under oath there is little point in conducting hearings in the first place. If one can go in and tell lie after lie, with no repercussions, then the whole proceeding is little more than a theatrical performance.

There is a solution, the Grand Inquest or as we've come to know them, The Grand Jury. I will spare you the historical development of these august² bodies from England and skip right to the part that matters most for our current predicament.

From The Judicial Branch of California's website:

"California is unique among most other states in that we have an independent body called a Civil Grand Jury. Every year, in each of California's 58 counties, a group of ordinary citizens takes an oath to serve as grand jurors. Their function is to investigate the operations of the various officers, departments and agencies of local government. Each Civil Grand Jury determines which officers, departments and agencies it will investigate during their term of office."³

It is important to understand how Grand Juries work. On the New Hampshire Judicial Branch website they state, "the grand jury shall consist of no fewer than twelve nor more than twenty-three members." In addition, "If twelve or more grand jurors find probable cause that a felony or misdemeanor was committed, the grand jury should return an indictment."⁴

Yet, there is a whole other side to the Grand Jury that I am only learning about now from the excellent book, *The People's Panel: The Grand Jury in the United States, 1634-1941* by Richard D. Younger (1963).⁵ They are the number one choice for eliminating political corruption.

"The ballot box, a newspaper crusade, public indignation meetings, and a citizen's investigating committee had all been unable to unseat the Ring. It was not until a Grand Jury began a thorough inquiry into municipal corruption that the Tweed Ring was in real danger. The Grand Jury's broad authority to subpoena witnesses and books, made effective by its contempt powers and ability to indict for perjury, enabled it to obtain evidence in spite of the elaborate efforts of Tammany politicians to hide their operations. The secrecy that attended all investigating sessions made it possible for witnesses who feared reprisals to safely disclose what they knew."⁶

This is the critical factor that legislative committees will never be able to overcome. Witnesses who fear reprisals will not testify. As a legislator you are totally at the mercy of bureaucratic entities whose goal is to wear you down through misdirection and attrition.

“Legislative investigating committees have intruded upon the work of the Grand Inquest. Frequently this has constituted a serious threat to individual liberty. The rules of evidence and other traditional safeguards that control a Grand Jury’s deliberations and conclusions do not protect witnesses before legislative committees. Hearings often take place in a carnival-like atmosphere, and investigations become little more than publicity devices for participating congressmen.”⁷

A lot can be learned from looking at how early Grand Juries were selected and the concerns they had. Massachusetts elected Jurors at Town Meeting. Paul Revere and Ebenezer Hancock, brother of John Hancock, were both Grand Jurors.⁸ “Massachusetts Jurors were toasted as ‘volunteers in the cause of truth and humanity,’ defending the people from ‘tyrannical violence’”.⁹ They refused to return indictments against Rebel leaders and denounced rampaging British soldiers, among other activities.

“By the end of the Colonial period, the Grand Jury had become an indispensable part of the government in each American colony. Grand Juries served as more than Panels of public accusers. They acted as local representative assemblies ready to make the People’s wishes known. They proposed new laws, protested against abuses in government, and performed many administrative tasks. They wielded tremendous authority in their power to determine who should and should not face trial. They enforced or refused to enforce laws as they saw fit and stood against indiscriminate prosecution by royal officials.”¹⁰

Excited to learn that this was something that could be launched at the county level, where government seemed much more accessible to the People, I wrote to Merrimack County Attorney Halvorsen inquiring as to the process for restoring the traditional investigating Grand Jury.

June 24, 2025

Good afternoon County Attorney Halvorsen,

Recently, I came across this great book written in the 1960s about Grand Juries and I was wondering if we have any process for initiating special Grand Juries in New Hampshire. I dug into the RSAs and was not able to find anything. I also read Rule 8 on Grand Juries in the New Hampshire Rules of Criminal Procedure but nothing was mentioned there either.

Not sure if I'm looking in the wrong area or if this is something that falls under the authority of the Sheriff. Or is it that the currently seated juries are able to bring forth presentments of crimes they know from their own understanding?

It's amazing how in California they have Grand Juror associations that educate jurors as to their duties and in their Penal Code they are required to inspect the county jails and perform other oversight functions. One last thing, I read that people can write to the Grand Jurors and submit evidence of crimes so long as they are not contacting them to sway a current investigation. How would one go about that without violating any current laws?

Any help would be greatly appreciated. Each day I realize there is so much that I don't know.

Thanks again.

Jason Gerhard

It was a bit disappointing to receive the following in response:

June 27, 2025

It's prudent that I not engage in answering the kinds of scenarios/questions you pose as my comments could be viewed as legal advice and I am not able to provide legal advice to individuals.

P.

Paul Halvorsen
Concord, NH

This letter is primarily addressed to state legislators who by law simultaneously sit as part of their county delegation. Apparently it is forbidden for one of the People to inquire how to reestablish an institution that is able to investigate government corruption. Will you assist me in reconstituting this tremendous resource for government accountability? Please consider the following:

“Although the object of their investigations has shifted from place to place through the years, Grand Juries have remained guardians and spokesmen of their communities. Grand Juries have the effect of placing criminal justice in the hands of community members. They possess broad inquisitorial powers derived from a constitutional republic, yet they are of the people, not the state. By constantly changing personnel, it prevents small groups from gaining a vested interest in law enforcement and gives all persons an opportunity to participate in their constitutional republic.

The Grand Jury enables the American people to act for themselves rather than do an official act. It is the one Institution that combines the necessary measure disinterestedness with sufficient authority to effectively investigate malfeasance and corruption in public office. Today, as in the past, it is the one body that can effectively handle the complaints of individual citizens, whether the grievances are against their fellow citizens or their government.

The most significant aspects of the Grand Jury are its control by a constitutional republic and its local character. Government power has replaced other threats to liberty in the United States to a large extent. The increasing centralization of governmental

authority and the growth of a huge bureaucracy, in no way responsible to the people, have made it vitally necessary to preserve the Grand Jury....In the past, citizen Panels proved an effective instrument of protest against centralized authority. They remain potentially the strongest weapon against big government and the threat of 'statism.'" ¹¹

All 10 counties of New Hampshire need a thorough accounting of what is happening in their names. Bureaucrats watching other bureaucrats has only led to increasing payouts from the public treasury to settle court cases. It is time we put We the People back in charge. Government does a terrible job regulating itself.

God bless,

Jason Gerhard
Former Rep. Northfield – Franklin
Candidate for Merrimack County Sheriff

Citations

- 1.) <https://www.theepochtimes.com/us/republican-lawmaker-removed-as-chair-for-asking-witnesses-to-take-oath-5611033>
- 2.) au·gust (adj) - marked by majestic dignity or grandeur
<https://www.merriam-webster.com/dictionary/august>
- 3.) <https://courts.ca.gov/courts/jury-service/civil-grand-jury>
- 4.) <https://www.courts.nh.gov/new-hampshire-rules-criminal-procedure/rule-8-grand-jury>
- 5.) *The People's Panel: The Grand Jury in the United States, 1634-1941* by Richard D. Younger (available online for or free) <https://babel.hathitrust.org/cgi/pt?id=mdp.39015029832964&seq=7>
- 6.) *ibid.* Page 185 [Note: Page numbers reference the reprint by Tactical Civics (July 2022) available on Amazon] <https://a.co/d/6144Fnf>
- 7.) *ibid.* Page 243
- 8.) *ibid.* Page 37
- 9.) *ibid.* Page 33
- 10.) *ibid.* Page 29
- 11.) *ibid.* Page 247