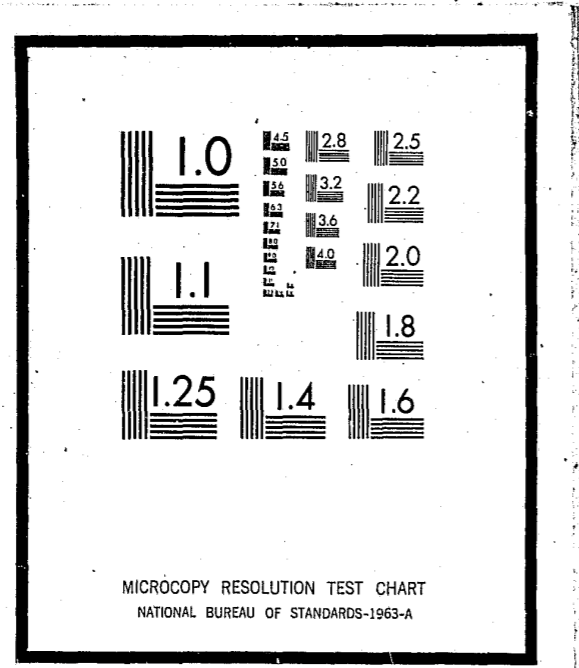


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Annotated Bibliography
on the Grand Jury

An American Judicature Society
Research Study

by Jeffrey Lubbers

THE GRAND JURY

[Note: The bibliography contained herein represents a substantial updating of a bibliography published by the Society in 1968.]

Since 1968, many new articles have been written about the role of the grand jury in our criminal justice system. The tenor of these articles is quite different from most of the earlier ones; particularly noticeable is the rising concern about the rights of witnesses who are called to testify before grand juries.

The grand jury is an institution of ancient common law origin. Its historic function has been to provide security to the innocent against hasty, malicious or oppressive prosecution - to act as a shield between the accused and his accusers. However, in recent years the institution has been under attack. Initially, it was criticized as being an expensive rubber stamp for the prosecutor (an argument which won out in England, the country of its birth, where it was abolished in 1933). Now, in the United States, the grand jury has come under renewed attack, especially at the federal level.

In the federal system and in 24 of our states,¹ no person may be charged with commission of a felony except by indictment returned by a legally constituted grand jury. To complement its indicting function, grand juries in some states often exercise their power to investigate independently, within the boundaries of the community, any public offenses that may have been committed, in order to determine where the responsibility rests and whether any indictments should issue. Whether or not anyone is indicted, the grand jury often issues a report - often referred to as a "presentment" - on its investigation.

Although most state grand juries have the power to issue reports and investigate on their own, they have become generally passive bodies of late. As a rule, the grand jury investigation is confined to the jury room. There is almost complete reliance on the prosecutor to determine the subject matter, to determine the question presented to witnesses, and to provide general direction of the investigation he has initiated.

As the prosecutorial influence increased, and as the scope of federal criminal law expanded into regulation of business, fighting organized crime, and suppressing perceived political conspiracies, federal grand jury investigations often have become wide-ranging, coordinated interrogations of suspected citizens. The most well-known example of this is the campaign against political dissidents by the Internal Security Division of the Justice Department, which has utilized the grand jury as an

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offensive weapon by giving witnesses the choice of answering very detailed questions about their life and associations or going to jail for the length of the grand jury (up to 18 months). Some of these investigations have been widely publicized, and the tactics of the prosecution have led many to question the fairness of many of the laws relating to witnesses called before a grand jury.

The grand jury witness is, in a real sense, at the mercy of the prosecutors. The witness may be ordered to appear by a subpoena, which, unlike subpoenas used in other proceedings, does not disclose the nature of the proceedings, nor the questions which that person will be asked. In a federal proceeding, the prosecutor may summon anyone in the nation to testify at the investigation without having to make any showing whatsoever that he has any reason to believe that the witness has relevant information.

Once in the jury room, the witness is confronted with as many as 23 jury members and one or more prosecuting attorneys. No judge is permitted to be present, nor is the witness permitted to have his lawyer inside the room with him. The defense lawyer in the "Harrisburg VII" and "Ellsberg" cases, Leonard Boudin, points to this as most significant.

The witness must submit to virtually unlimited grand jury questioning with respect to criminal matters, his constitutional rights endangered, without the benefit of counsel. Our society has no comparable institution which sanctions such interrogations of a person "legally" denied counsel.²

The witness is allowed to leave the room to confer with his lawyer in the hall, but even this gives the prosecutor an opportunity, if he wishes, to make insinuations before the grand jury.

Another important issue concerns the granting of immunity from prosecution to a witness to require him to testify. The theory is that the witness no longer needs (nor may he invoke) his Fifth Amendment right to refuse to testify if he cannot be prosecuted for what he says. The old style of immunity was "transactional immunity", whereby the witness could not be prosecuted for any action of his connected with the transaction about which he testified. In 1970, Congress amended federal law to create "use immunity", which means that the government may not use the witness' testimony against him in any way, but may still prosecute him for a crime relating to his testimony if the prosecutor can show that the evidence against him was derived from an independent source. Use immunity was recently held constitutional by the United States Supreme Court.³ Consequently, the reluctant witness is now confronted with an even more perplexing dilemma.

As a corollary to this, immunity is often not enough for those who prize the confidentiality of their contacts, such as newsmen or scholars. In June, 1972, in a 5-4 decision,⁴ the Supreme Court ruled that Earl Caldwell, a newsman covering the Black Panther Party, would have to answer questions before a San Francisco grand jury. In so doing, the court refused to give legal recognition to a "newsman's privilege." The Caldwell decision has caused much consternation among lawyers and journalists. As one commentator put it:

For many journalists and scholars, the issue is plain: To obey the Supreme Court decision is to violate crucial professional ethics and to jeopardize not only one's livelihood, but also the public's right to know....[I]t's suddenly clear that a good story can now lead to prison rather than a Pulitzer.⁵

Finally, in many states, there is no guarantee that a grand jury will not issue a report (as opposed to an indictment) which could be damaging to the witness' reputation or career. Inevitably, these issues are tainted by politics, since many critics who deplore the use of such strategy against political dissidents recognize its utility in breaking down organized crime. This contradiction has added more fuel to the fire.

The fire always burns hottest when politics are involved, but there are some other areas of controversy, which are the subject of many of the newer articles and case notes:

- Are grand juries representative of the entire community?
- Should a defendant have access to a transcript of all grand jury testimony which the prosecution plans to use against him at trial? Should he at least have access to his own testimony?
- Should recordation of all testimony be mandatory?
- May a witness refuse to answer questions derived from illegal wiretaps? Of someone else's phones?
- May a person be indicted on the basis of evidence that would be inadmissible at trial?
- Should the grand jury be provided with an attorney and staff which are independent of the prosecutor's office?

- Can blood samples, handwriting exemplars, or voice-prints be compelled by grand juries?
- What role should the supervising judge play?

A few commentators call for the abolition of the grand jury (a constitutional amendment would be required at the federal level), while some simply want to abolish its indicting function. Still others want to eliminate its investigative function. Most agree that some reform is necessary.

Grand juries are likely to be surrounded by controversy for years to come. Whether they can be called "juries", whether they are, in fact, still the "people's panel", or whether they have become an arm of the prosecutor are not technical legal questions. The attempts to reconcile these questions should be of interest to everyone.

FOOTNOTES

¹The source of these statistics was Dash, "The Indicting Grand Jury: A Critical Stage?" 10 Am. Crim. L. Rev. 807, 812 fn. 24 (1972). In 15 states the defendant may waive indictment in at least some types of cases.

²Boudin, "The Federal Grand Jury," 61 Georgetown L.J. 1, 3 (1972).

³Kastigar v. U.S., 405 U.S. 441 (1972).

⁴United States v. Caldwell, 408 U.S. 665 (1972).

⁵Cowan, "A Kind of Immunity that Leads to Jail: The New Grand Jury," N.Y. Times Mag. April 29, 1973, at 40.

BIBLIOGRAPHY

Abramson, Ira N. "Rules of Evidence Applicable to Grand Juries." 20 New York U. Intramural L. Rev. 13-21 (1964).
Discusses problems involved in relaxing the rules of evidence.

American Bar Association, Section of Judicial Administration. Federal Grand Jury Handbook. 22 p.

American Bar Association, Section of Judicial Administration. State Grand Jury Handbook, (revised draft). 10 p.

"American Grand Jury: Investigating and Indictment Powers." 22 Clev. St. L. Rev. 136-56 (1973).
Advocates that the grand jury's indicting function be abolished but that its investigative powers be retained and strengthened. Uses Kent State grand juries as an example.

Anderson, J.T. "In re Egan-The Reluctant Grand Jury Witness and the Constitution." 1 Am. J. Crim. L. 224-34 (1972).
Discussion of the standing and Fourth Amendment issues with which a reluctant grand jury witness must deal.

Antell, Melvin. "Modern Grand Jury: Benighted Supergovernment." 51 A. B. A. J. 153-56 (1965).
A New Jersey district court judge argues for the abolition of the grand jury.

Association of the Bar of the City of New York. "The Library. Selected Materials on the Grand Jury." 27 Record 628-37 (1972).
An extensive, but not annotated, bibliography.

Belli, M.M. "Useless Coroner and the Redundant Grand Jury." 6 (2) Trial 51-52, 57 (1970).
Prominent trial lawyer questions value of coroner and grand jury.

Bibliography of the Grand Jury. 10 Am. Crim. L. Rev. 867-78 (1972).
Books and articles arranged by sub-category.

Boudin, Leonard B. "The Federal Grand Jury." 61 Georgetown L. J. 1-35 (1972).
An examination of the grand jury's relation to the witness and the criminal defendant. The author concludes that reform is urgently needed if the institution is to fulfill its traditional role, and he suggests several specific areas that require legislative reform.

Bray, Thomas J. "Not-so-grand Juries: Blue Ribbon Panels are Assailed by Critics from the Right and Left; System Outdated, Inefficient, Vehicle for Harassment, They Assert, Use Widens." 178 Wall St. J. 1 (July 29, 1971).

Brice, Roger T. "Grand Jury Proceedings: The Prosecutor, the Trial Judge and Undue Influence." 39 U. Chi. L. Rev. 761-82 (1972).
Argues that the grand jury's only important function is to determine probable cause, and that this function must not be disrupted by overbearing prosecutorial influence. Suggests the application of the "undue influence" doctrine.

Briscoe, Frank. "Texas 'Courts of Inquiry' -- A Legitimate Means of Criminal Investigation." 1 Houston L. Rev. 88-96 (1963).
Defends the Texas Court of Inquiry as an alternative to the grand jury system.

Brown, Peter Megargee. "Ten Reasons Why the Grand Jury in New York Should be Retained and Strengthened." 22 Record 471-78 (1967).
A general defense of the system.

Caillouet, L. Charles. "Use of Grand Jury Testimony to Impeach Credibility at Trial." 18 Loyola L. Rev. 468-80 (1971/72).
Recent Louisiana case disallowing such use is criticized.

California Legislative Assembly, Interim Committee on Criminal Procedure. Problems of the California Grand Jury. (Sacramento: 1964).
Minutes from a hearing on the grand jury system.

Calkins, Richard M. "Abolition of the Grand Jury Indictment in Illinois." U. Ill. L. F. 423-45 (1966).
Advocates a dual system under which criminal prosecutions may be initiated either by state attorney's information or by grand jury investigation.

Calkins, Richard M. "Grand Jury Secrecy." 63 Michigan L. Rev. 455-90 (1964/65).
Argues against limiting the disclosure of grand jury minutes.

Cannon, W.P. "The Propriety of a Breach of Grand Jury Secrecy When No Indictment is Returned." 7 Houston L. Rev. 341-54 (1970).
Examines the propriety of the non-indicting or interim grand jury report and suggests a new rule based upon vulnerability of reputation.

- Carlson, Ronald L. "Jailing the Innocent: The Plight of the Material Witness." 55 Iowa L. Rev. 1-25 (1969).
Argues that new decisions in the due process and right to counsel fields make urgent the need to reexamine our laws permitting governmental confinement of material witnesses.
- Cavanaugh, J.A. and Meredith, J. "Trial delay and the Grand Jury." 33 The Shingle 213-15 (1970).
A brief argument for abolishing grand juries.
- Comment, "Compulsory Immunity Legislation; Title II of the Organized Crime Control Act of 1970." U. Ill. L. F. 91-111 (1971).
A thorough analysis of Title II, but the brief against the constitutionality of use immunity was written before the Supreme Court decided to the contrary in Kastigar v. U.S.
- Comment, "Constitutional Right of Witnesses in Federal Grand Jury Proceedings." 121 U. Pa. L. Rev. 900-20 (1973).
Questions of immunity, repetitive questions, compulsory transcription, availability of prior testimony to the witness, and newsman's privilege are closely examined through case analysis.
- Comment, "Federal Courts - Juries - Exclusion of Women." 58 Ky. L. J. 572-79 (1970).
Examines case holding that women are not excludable from a petit jury in trial of medical malpractice dealing with male sex organs.
- Comment, "Right to Counsel in Grand Jury Proceedings." 26 Wash & Lee L. Rev. 97-105 (1969).
A critical analysis of a New York case which denied a witness the right to even consult with his attorney outside the jury room if the consultation was determined to be over "matters of strategy."
- "Constitutional Law - Criminal Procedure - Omnibus Crime Control Act of 1968 - Grand Jury Witness Who has Been Granted Transactional Immunity May Refuse to Answer Questions which are Based Upon Information Derived from Unauthorized Electronic Surveillance." 17 Vill. L. Rev. 524-45 (1972).
Focuses on In re Egan (3rd Cir. 1971), later affirmed by the Supreme Court.
- "Constitutional Law - First and Fifth Amendments - Grand Jury Witness May Assert First Amendment Rights of Press and Association as a Basis for Refusing to Answer Questions - Immunity Extends Only to Subjects Specifically Mentioned in a Grant of Immunity." 48 N.Y.U. L. Rev. 171-96 (1973).
Analysis of a 9th Circuit case which limited the grand jury's power to compel testimony.

- "Constitutional Law - Grand Juries - Racial Discrimination - Conscious Inclusion of Negroes on Grand Jury Venire is Not Violative of a Negro Defendant's Right to Equal Protection." 55 Georgetown L. J. 942-7 (1967).
Analysis of a recent case.
- "Constitutional Law - Wiretapping - An Immune Grand Jury Witness has a Statutory Right to Refuse to Answer Questions Based on Unlawful Electronic Surveillance." 46 N.Y.U. L. Rev. 1193-1209 (1971).
Case note on In re Egan.
- Cowan, Paul A. "A New Kind of Immunity that Leads to Jail: The New Grand Jury." N.Y. Times Mag. 18-19+ (April 29, 1973).
Journalistic piece about how the grand jury has become a weapon of the prosecutor against both organized crime and political dissidents.
- "Criminal Law - Wiretap Evidence - Witness Before Grand Jury Can Be Examined with Questions Derived from an Illegal Wiretap Directed at Witness." 40 Fordham L. Rev. 175-84 (1971).
Case note of People v. Di Napoli; NY (1970).
- "Criminal Procedure - People v. Sears - The Grand Jury." 22 De Paul L. Rev. 260 (1972).
An account of the controversial grand jury investigation of the raid on the Chicago Black Panthers. History and Illinois law are discussed as is the question of whether the presiding judge exceeded his supervisory jurisdiction.
- "Criminal Procedure - Right to Counsel in Investigative Grand Jury Proceedings: Washington Criminal Investigatory Act of 1971 - RCW Sec. 10.27 120-40." 47 Wash. L. Rev. 511-23 (1971).
The act permits accompaniment by counsel until immunity is granted. Author feels that this is the correct compromise.
- "Criminal Procedure - Search and Seizure - Witness before Grand Jury Summoned to Testify under Compulsion Is Entitled to Notice of Wiretapping Conducted against Him before He Is Committed to Jail for Civil Contempt for Refusing to Answer Grand Jury's Questions." 6 Ind. L. Rev. 614-23 (1973).
Analysis of Supreme Court's decision in Gelbard v. U.S.
- Dash, Samuel. "The Indicting Grand Jury: A Critical State?" 10 Am. Crim. L. Rev. 807-28 (1972).
Argues that the indicting grand jury is as much of a "critical stage" as the preliminary hearing and that therefore the accused should have a right to testify and be counselled. Useful state-by-state list included in footnotes.

- "Defense Access to Grand Jury Testimony: A Right in Search of a Standard." Duke L. J. 556-87 (1968).
Favors a constitutional standard permitting disclosure rather than the present discretionary rule of disclosure when a "particularized need" is shown.
- "Dennis vs. U.S. - Disclosure of Grand Jury Testimony for Purpose of Cross Examination." 62 Nw. U. L. Rev. 233-43 (1967).
Critical analysis of the decision.
- Dession, George H. "From Indictment to Information - Implications of the Shift." 42 Yale L. J. 163-93 (1932).
Classic article arguing for the use of information rather than indictments.
- Dession, George H., and Cohen, Isadore. "Inquisitorial Functions of Grand Juries." 41 Yale L.J. 687-712 (1932).
Argues that the function of grand juries should be that of general investigating agencies.
- Dewey, Thomas. "Grand Jury: The Bulwark of Justice." 19 Panel, 3, 6, 10-11 (1941).
Speech citing examples of the utility of New York grand juries.
- "Discovery by a Criminal Defendant of His Own Grand Jury Testimony." 68 Columbia L. Rev. 311-33 (1968).
Examines federal law, state law and the special problem of the corporate defendant. Concludes that the old rule against disclosure is dying but is not dead yet.
- "Discovery of a Trial Witness' Grand Jury Testimony." 1 Rutgers-Camden L. J. 93-103 (1969).
Analysis of federal cases.
- Donner, F. and Cerruti, E. "The Grand Jury Network: How the Nixon Administration Has Secretly Perverted a Traditional Safeguard of Individual Rights." The Nation 5+ (January 3, 1972).
The role of the Internal Security Division of the Justice Department in the recent grand jury campaign against political dissidents is discussed at length.
- Drosdick, Ernest R. "Propriety of Holding A Grand Jury in Contempt of Court." 17 U. Miami L. Rev. 110-13 (1962).
Argues that grand juries must be left free to act without fear of reprisal.
- Dummit, Craig S. "Investigatory Powers of California Grand Juries." 46 Calif. S. B. J. 467-75 (1971).
Why the California county grand juries are precluded from making a non-criminal investigation into the operation of a city government and its departments.

- Edwards, G. J. and Olson, B. "Grand Jury, Considered from an Historical, Political and Legal Standpoint, and the Law and Practice Relating Thereto." N. Y. AMS Press. 1971. 219p.
- Ehrenfreund, N. et al. "Report of the Grand Jury Committee, San Diego County Bar Association." 9 San Diego L. Rev. 145-89 (1972).
A comprehensive analysis of the operation and makeup of the San Diego County Grand Jury from 1962-1971. Includes questionnaire survey and findings and recommendations.
- "El Chicano y the Constitution: The Legacy of Hernandez v. Texas - Grand Jury Discrimination." 6 U. San Fran. L. Rev. 129-46 (1971).
States a prima facie case of discrimination against Chicanos in the Los Angeles grand jury.
- "Electronic Surveillance of the Grand Jury Witness: Detering Fourth Amendment Violations Intended to Produce Conviction of Someone Other than the Victim." 120 U. Pa. L. Rev. 546-73 (1972).
A statutory analysis which foreshadows the recent Supreme Court decision in Gelbard v. U.S., which gave any witness "standing" to challenge a grand jury interrogation based upon an illegal wiretap.
- Elias, C.E. "The Grand Jury System in Massachusetts: A Survey." 2 Suffolk U. L. Rev. 201-27 (1968).
Present operations and case law.
- "Evaluating the Grand Jury's Role in a Dual System of Prosecution: An Iowa Case Study." 57 Iowa L. Rev. 1354-75 (1972).
- "Examination of the Grand Jury in New York." 2 Colum. J. of Law & Soc. Prob. 88-108 (1966).
Indicates some major areas where reform is needed.
- "Exclusion of Incompetent Evidence from Federal Grand Jury Proceedings," 72 Yale L. J. 590-99 (1963).
Argues for the use of pre-indictment suppression orders in place of the rule that only competent evidence may be used at grand jury hearings.
- Fahringer, Herald D. "Lawyer for the Witness." 9 Trial 12 (Jan-Feb 1973).
A lawyer's guide to his client's rights before a grand jury, with an emphasis on the law of New York.
- "Federal Civil Procedure - Work Product Doctrine - U.S. Court of Appeals for the Eighth Circuit Holds Work Product Doctrine Available in Grand Jury Proceedings." 6 Creighton L. Rev. 277-90 (1972-73).
Analyzes case which held that an attorney's notes of conversation with interviewees could not be subpoenaed nor could he be forced to testify about them.
- "Federal Statutes Applicable to Grand Juries." 10 Am. Crim. L. Rev. 876-78 (1972).

- Findley, Tim. "Grand Juries: Farewell to the Fifth Amendment." 123 Rolling Stone 1, 20+ (Dec. 7, 1972).
Describes the recent grand jury utilization by the Internal Security Division of the Justice Department.
- Fine, David J. "Federal Grand Jury Investigation of Political Dissidents." 7 Harv. Civ. Rights - Civ. Lib. L. Rev. 432-99 (1972).
A thorough and well documented indictment of the recent grand jury "campaign" against political dissidents and the laws which permit it. With a discussion of the differences between grand juries and legislative investigations.
- Fink, R. S. "Use and Abuse of the Grand Jury in the Criminal Tax Investigation." 50 Taxes 325-32 (1972).
Author believes that the grand jury, with its broad subpoena power, is being improperly used by prosecuting attorneys to accomplish the Special Agent's task of investigating potential criminal tax cases.
- Foster, David L. "Grand Jury Practice in the 1970's." 32 Ohio St. L. J. 701-17 (1971).
With a special emphasis upon anti-trust cases.
- Gelber, Seymour. "A Reappraisal of the Grand Jury Concept." 60 J. Crim. L., C. & P. S. 24-27 (1969).
The author examines several modern expansions of the traditional grand jury procedure, particularly the use of special grand juries and special counsel.
- Gelber, Seymour. "Grand Jury Looks at Itself." 45 Fla. B. J. 576-77 (1971); 8 The Prosecutor 126-27 (1972).
Results of questionnaire survey of Florida grand jurors.
- Glickman, Edward. "Disclosure of Grand Jury Minutes to Challenge Indictments and Impeach Witnesses in Federal Cases." 111 U. Pa. L. Rev. 1154-96 (1963).
Argues that the defendant should be granted disclosure of the grand jury minutes where they contain information required to demonstrate that an indictment should be dismissed on independent constitutional grounds.
- Glynn, Clement. "The Grand Jury Report as an Infringement of Private Rights." 23 Hastings L. J. 561-87 (1972).
Recommends that the issuance of reports by grand juries in California be better regulated.
- Goodell, Charles E. "Where Did the Grand Jury Go?" 246 Harper's 14+ (May, 1973).
Excerpt from former Senator's book: Political Prisoners In America.

- "Grand Juries May Inquire into Political Beliefs Only in Narrow Circumstances." 73 Colum. L. Rev. 867-81 (1973).
Analysis of a 9th Circuit case which limited the grand jury's power to compel testimony when First or Fifth Amendment rights are involved.
- Grand Jury Association of New York County, Inc. The People's Big Stick: A Brief Account of the Roots, the Achievements, and the Present Status of the Grand Jury System in New York State. (New York: 1963). 30 p.
Extolls the virtues of the grand jury system.
- "Grand Jury: Bulwark of Prosecutorial Immunity?" 3 Loyola U. L. J. (Chicago) 305 (summer, 1972).
A critical look at an Illinois case which barred grand jurors from impeaching their indictment.
- "Grand Jury - Future Defendants Entitled to Witnesses' Grand Jury Testimony Without Showing of Particularizing Need." 81 Harv. L. Rev. 712-17 (1968).
Analysis of 2nd Circuit case: U.S. v. Youngblood.
- "Grand Jury - Reports Not Amounting to Presentments." 18 Wayne L. Rev. 1643 (1972).
Discusses the problem of immunity in relation to grand jury reports: (the witness is not immunized from a critical report.)
- "Grand Jury - Witnesses - Omnibus Crime Control and Safe Streets Act of 1968 - Immunized Witness before a Grand Jury Is Entitled to a Judicial Determination Whether the Government's Questions Are Improper Because Derived from an Illegal Wiretap." 85 Harv. L. Rev. 1060-75 (1972).
Case note.
- "Grand Jury Witness' Privilege Against Self-Incrimination." 62 Nw. U. L. Rev. 207-32 (1967).
Discussion of government's need for information vs. witness' Fifth Amendment rights.
- Hall, Livingston, Kamisar, Yale; La Fave, W. R. and Israel, J. H. "The Grand Jury." (In Modern Criminal Procedure) 3d ed. N.Y. West (1969).
Cases and materials.
- "Indictment Sufficiency." 70 Colum. L. Rev. 876-908 (1970).
Uncovers the prevailing standards by which the sufficiency of an indictment is determined and suggests a revised formulation.
- "Inspection of Grand Jury Minutes by Criminal Defendants." 1961 Wash. U. L. Q. 382-401 (1961).
Analysis of the trend toward furnishing criminal defendants with grand jury transcripts.

Kairys, David. "Jury Selection: The Law, a Mathematical Method of Analysis and a Case Study." 10 Am. Crim. L. Rev. 771-806 (1972).

Criticizes the courts for allowing juries to become unrepresentative of black, poor and young people. Suggests a mathematical methodology and utilizes a case study of the jury selection process in the Philadelphia state courts.

Kaufman, Irving R. "Grand Jury: Its Role and Its Powers." 17 Federal Rules Decisions 331-36 (1955).
A U.S. District Court Judge's charge to the grand jury.

Klein, Wm. J., Jr. "Pretrial Disclosure of Federal Grand Jury Testimony." 48 Wash. L. Rev. 423-52 (1973).
Cogently argues that every criminal defendant should be presumed to have the right to discover before trial all grand jury testimony which the prosecutor plans to use against him. Calls for uniform recordation of all testimony.

Kranitz, Theodore M. "Grand Jury: Past, Present, No Future." 24 Missouri L. Rev. 318-29 (1959).
An argument against the grand jury, written as an introduction for lawyers to the problems involved.

Kuh, Richard H. "Grand Jury 'Presentment,' Foul Blow or Fair Play?" 55 Columbia L. Rev. 1103-36 (1955).
Examination of the history, scope and usefulness of grand jury reports and presentments.

Lefcourt, Gerald. "Voir Dire of New York Grand Jury." 28 Nat'l L. Guild Practitioner 78-86 (summer, 1969).
Brief description of voir dire questions of grand jurors in New York trial of Black Panther Party members.

Lumbard, Edward J. "The Criminal Justice Revolution and the Grand Jury." 39 New York S. B. A. J. 397-405 (1967).
Argues that abolition of the grand jury would be a backward step in the modern trend toward safeguarding the rights of criminals.

MacCorkle, Stuart Alexander. The Texas Grand Jury. (1966) 23 p.
General description of the grand jury in Texas.

Mar, Patricia. "California Grand Jury: Vestige of Aristocracy." 1 Pacific L. J. 36-64 (Jan. 1970).
Describes legislative efforts at reform, selection practices, constitutional issues, and the need for new legislation.

McInerney, Denis. "Discovery and Use of Grand Jury Minutes." 1966 Antitrust Law Symposium 91-108.
Speech describing current trends towards allowing discovery of grand jury minutes, with emphasis on civil cases.

Mernitz, David W. "A Practical Handbook of Federal Grand Jury Procedure, Prepared for the Use of Attorneys in the Criminal Division, U.S. Department of Justice." Rev. 2nd ed. Wash. Dept. of Just. (various pagings) (1968).

Meshbesh, Ronald I. "Right to counsel Before Grand Jury." 41 Federal Rules Decisions 189-208 (1967).
Deals with the problem of the lay person's inability to determine when he can claim the right against self-incrimination without being found in contempt of court.

Morse, Wayne L. "A Survey of the Grand Jury System." 10 Oregon L. Rev. 101-60, 217-57, 295-365 (1931).
Presentation of data and conclusions derived from an intensive study of the grand jury system.

Note, "A Police Officer May Be Compelled to Reveal His Informant's Identity to a Grand Jury if the Informant Possesses Legal Evidence." 6 Hous. L. Rev. 188-193 (1968).
Discusses the informer's privilege.

Note, "A State Grand Jury Report Chilling Freedom of Speech May Be Ordered Expunged by a Federal District Court as a Violation of the Civil Rights Act of 1871." 71 Colum. L. Rev. 1090-1102 (1971).
The Kent State grand jury report which criticized a group of professors was ordered expunged by a federal court on the grounds that it impaired the professors' First Amendment rights.

Note, "Evidence - Informer's Privilege before a Grand Jury." 23 Ark. L. Rev. 128-31 (1969).
Discusses a recent Arkansas case on the subject.

Note, "Fourth Amendment Protection for a Grand Jury Witness." 10 Am. Crim. L. Rev. 881-904 (1972).
Discussion of the effect of Gelbard v. U.S. in which the court held, on statutory grounds, that a grand jury witness has "just cause" to refuse to testify when the interrogation is based upon information gained from an illegal wiretap.

Olson, Bruce T. The California Grand Jury: An Analysis and Evaluation of its Watchdog Function. (1966) 465 p.
A detailed study and analysis, written as a doctoral thesis. Bibliography.

"Omnibus Crime Control and Safe Streets Act of 1968 - Grand Jury Witness Standing to Suppress Illegally Obtained Evidence." 25 Vand. L. Rev. 206-19 (1972).
Recent developments in this area are scrutinized.

- Osber, Keith E. "Criminal Law - Grand Jury Without Power to File a Report Censuring Public Officials Where No Indictment is Returned." 12 Syracuse L. Rev. 516-19 (1961).
Presentation of New York rule that a grand jury must either issue and indictment charging a specific crime or remain silent.
- Popkin, Samuel L. "The Scholar Invokes his 'Privilege.'" 9 Trial 21 (Jan-Feb 1973).
Interview with Harvard professor who was jailed for refusing to testify at grand jury investigating leakage of Pentagon Papers.
- Prahl, William G. "The Civil Petitioner's Right to Representative Grand Juries and a Statistical Method of Showing Discrimination in Jury Selection Cases Generally." 20 UCLA L. Rev. 581-654 (1973).
Concludes that non-discriminatory jury selection should be a cognizable legal interest for all citizens, not just criminal defendants. Demonstrates a statistical method of analysis and blames the unchecked discretion of the selectors for the proven underrepresentation of the Alameda County grand jury.
- Rawson, Robert H. "Layman Looks at the Grand Jury." 4 Western Reserve L. Rev. 19-32 (1952).
Appraisal of the system by a former grand jury foreman, with useful insights into needed changes.
- Rief, James. "The Grand Jury Witness and Compulsory Testimony Legislation." 10 Am. Crim. L. Rev. 829-66 (1972).
Argues for a return to transactional immunity. Written before the Supreme Court sustained the constitutionality of use immunity in Kastigar v. U.S.
- "Rights of a Witness Before a Grand Jury." 1967 Duke L. J. 97-135 (1967).
Argues that the right to counsel for grand jury witnesses is a natural extension of recent Supreme Court decisions.
- Ruffner, Ben F. "Two Are Better than One." 9 Trial 24 (Jan-Feb 1973).
California Supreme Court judge discusses that state's grand jury system.
- "Rules of Evidence as a Factor in Probable Cause in Grand Jury Proceedings and Preliminary Examinations." 1963 Wash. U. L. Q. 102-24 (1963).
Analysis of state and federal case law.
- Schwartz, Helene E. "Demythologizing the Historical Role of the Grand Jury." 10 Am. Crim. L. Rev. 701-70 (1972).
A readable and interesting historical discussion of the origins of the grand jury and a comparison of its abuses in political cases in the past with similar abuses in recent political cases.
- Scigliano, Robert G. "The Grand Jury, the Information and the Judicial Inquiry." 38 Oregon L. Rev. 303-15 (1959).
Concludes that grand juries "fill and important role in the investigation and accusation that leads to the prosecution of crime."

- Scigliano, Robert G. The Michigan One-Man Grand Jury. (1957) 100 p.
Examines the relative roles played by courts and legislatures in the formulation of public policy with respect to the Michigan Grand Jury law. Bibliography.
- Segal, Bernard L.; Spivack, Gerald W.; and Costilo, Barry L. "Obtaining a Grand Jury Investigation in Pennsylvania." 35 Temple L. Q. 73-101 (1961).
Synthesis of Pennsylvania Court decisions on the necessity of grand jury investigations.
- Seltzer, C. Zachary. "Pre-trial Discovery of Grand Jury Testimony in Criminal Cases." 66 Dickinson L. Rev. 379-401 (1962).
Discusses the defendant's right to pre-trial inspection of grand jury testimony.
- Shannon, J. P. "Grand Jury: True Tribunal of the People or Administrative Agency of the Prosecutor?" 2 New Mexico L. Rev. 141-70 (1972).
Through the use of several case studies, the author contends that the indicting function of the grand jury should be abolished due to the danger of unchecked prosecutorial discretion.
- Sharp, Robert D. "Grand Juries - An Investigative Force." 9 Trial 10 (Jan-Feb 1973).
A federal prosecutor lauds the grand jury's investigative function.
- Sherry, Arthur H. "Grand Jury Minutes: the Unreasonable Rule of Secrecy." 48 Va. L. Rev. 668-84 (1962).
Criticizes the traditional secrecy of the grand jury minutes in light of the trend toward liberal pre-trial inspection practices.
- Spain, John. "Grand Jury, Past and Present: A Survey." 2 Am. Crim. L. Q. 119-42 (1964).
Summary of grand jury law in each of the many American jurisdictions.
- Steele, W. W., Jr. "Right to Counsel at the Grand Jury Stage of Criminal Proceedings." 36 Mo. L. Rev. 193-214 (1971).
Argues that denial of counsel at the critical stage of grand jury interrogation is incongruous and indefensible.
- Stevenson, M. E. "Federal Grand Jury Secrecy." 5 Gonzaga L. J. 255-69 (1970).
Discusses the pros and cons of grand jury secrecy with a cautious call for liberalization.

Stinehart, Roger R. "Constitutional Law - Standing of a Witness Before a Grand Jury to Challenge Evidence Procured Through Illegal Wiretapping - Applicability of Omnibus Crime Control Act of 1968 and of Fourth Amendment." 33 Ohio St. L. J. 181-205 (1972).

An analysis of the 3rd Circuit's decision in In re Egan.

Tigar, M. and Levy, M. R. "Grand Jury as the New Inquisition." 50 Mich. S. B. J. 693-700, 717 (1971).

A general denunciation of "trial by grand jury."

Toomey, David C. "Discretionary Power in the Judiciary to Organize a Special Investigating Grand Jury." 111 U. Pa. L. Rev. 954-73 (1963).

Argues in favor of trial courts' discretionary power.

"Unconstitutionally Obtained Evidence Before the Grand Jury as a Basis for Dismissing the Indictment." 27 Maryland L. Rev. 168-82 (1967).

Analysis of recent case law.

Villalobos, Edward A. "Grand Jury Discrimination and the Mexican American." 5 Loyola (L.A.) L. Rev. 87-125 (1972).

A strong brief opposing discrimination against Mexican Americans in grand jury selection, especially in Los Angeles County.

Waltz, Jon R. "A Grand Jury on Trial: Mayor Daley's Way with Justice." 213 Nation 460-68 (1971).

Watts, Lewis Poindexter, Jr. "Grand Jury: Sleeping Watchdog or Expensive Antique?" 37 N. Car. L. Rev. 290-315 (1959).

Hypothesizes that in the future, the grand jury will serve mainly as a check on the honesty of government officials.

Weisman, Peter and Postal, Andrew D. "The First Amendment as a Restraint on the Grand Jury Process." 10 Am. Crim. L. Rev. 671-99 (1972).

Explores the perceived threat to First Amendment rights posed by grand jury investigations - with hints for the practicing attorney.

Whyte, James P. "Is the Grand Jury Necessary?" 45 Va. L. Rev. 461-91 (1959).

Detailed discussion of English and Colonial history plus a listing of advantages and disadvantages of the system.

Wickersham, Cornelius W. "The Grand Jury - Weapon against Crime and Corruption." 51 A. B. A. J. 1157-61 (1965).

Answering the Antell article (op cit), the author argues that the grand jury protects the public from crime and criminals while affording protection to those accused of crime.

Winograd, Barry and Fassler, Martin. "The Political Question." 9 Trial 16 (Jan-Feb 1973).

A strong, well-informed attack upon the recent use of federal grand juries to harass political dissidents.

Younger, Richard D. The People's Panel: The Grand Jury in the U.S., 1634-1941. (1963) 263 p.

Historical study of the grand jury system, concluding that it "remains potentially the strongest weapon against big government and the threat of 'statism'".

END