

# Historical Foundations of the Grand Jury

## The Grand Jury as an Institution of the People

The grand jury is one of the oldest and most enduring institutions in Anglo-American law. Its purpose has always been to ensure that the power of government is balanced by the voice and judgment of ordinary citizens. From its earliest origins, the grand jury served both as a protector of individual liberty and as a means by which citizens could raise concerns about misconduct, crime, or dangers affecting the public welfare.

The grand jury therefore stands as a cornerstone of constitutional government and citizen oversight.

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## Origins in the Magna Carta (1215)

The roots of the grand jury trace back to medieval England. In 1215, the Magna Carta established the principle that the Crown could not punish individuals arbitrarily. Instead, accusations of serious crimes were to be reviewed by a body of local citizens.

Clause 39 of the Magna Carta declared:

“No free man shall be seized or imprisoned... except by the lawful judgment of his peers or by the law of the land.”

Over time, this principle evolved into the grand jury system, where groups of citizens investigated wrongdoing and determined whether sufficient grounds existed to accuse an individual of a crime.

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## Development in English Common Law

By the 17th century, grand juries had developed into powerful bodies capable of resisting government pressure.

One famous example occurred in 1681 when a London grand jury refused to indict the Earl of Shaftesbury for treason despite pressure from the Crown. The jurors determined that the charges were politically motivated and declined to bring an indictment. This event became an early symbol of the grand jury's independence from government authority.

Grand juries also issued **presentments**, which were reports identifying misconduct, corruption, or dangers affecting the community.

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## The Grand Jury in Early American Law

American colonists embraced the grand jury as a safeguard of liberty and carried the institution into the founding of the United States.

Colonial grand juries frequently investigated:

- abuses of government authority
- corruption by public officials
- unsafe public conditions
- violations of community standards.

In many colonies, grand juries acted as a direct voice of the people and served as a check against oppressive actions by colonial governors.

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## Recognition in the United States Constitution

The grand jury was so central to the American system of justice that it was included in the Bill of Rights.

The Fifth Amendment to the United States Constitution provides:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.”

The use of both terms—**presentment** and **indictment**—reflects the dual authority of the grand jury to initiate accusations and to investigate matters of public concern.

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## The Grand Jury in Alaska’s Constitution

When Alaska became a state in 1959, its constitutional convention deliberately preserved and strengthened the role of the grand jury.

Article I, Section 8 of the Constitution of the State of Alaska provides:

“The grand jury shall have power to investigate and make recommendations concerning the public welfare or safety.”

This language goes beyond the federal constitution by expressly recognizing the investigative authority of grand juries concerning matters affecting the public welfare.

The framers intended that Alaska's grand juries remain an independent institution of the people capable of investigating both criminal conduct and matters affecting the public interest.

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## **Citizen Presentments and Public Accountability**

Historically, grand juries were not limited to indictments brought by prosecutors. Citizens could bring information directly to grand juries, and jurors themselves could initiate investigations.

Through the mechanism of **presentment**, grand juries issued reports identifying misconduct, recommending reforms, and exposing conditions that threatened public safety or good governance.

This authority reinforced the role of the grand jury as a guardian of the public interest.

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## **Continuing Importance in Constitutional Government**

The grand jury remains one of the most important institutions designed to protect liberty and accountability in a constitutional system.

By allowing citizens to participate directly in the administration of justice, the grand jury helps ensure that the rule of law is not controlled solely by government officials.

Preserving the independence and accessibility of the grand jury strengthens public confidence in the justice system and ensures that citizens retain a meaningful role in safeguarding the public welfare.

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## **Conclusion**

For centuries, the grand jury has served as a bridge between the people and the law. It stands as a reminder that justice in a free society is not administered solely by government officials but is guided by the judgment and conscience of ordinary citizens.

Maintaining the independence of the grand jury honors this long tradition and protects one of the most important safeguards of liberty ever developed in the Anglo-American legal system.

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**“Where the Spirit of the Lord is, there is liberty.”  
— 2 Corinthians 3:17**