

**Kansas has within its system of justice a rediscovered remedy for the current civil unrest and mistrust of institutional power in America.** Phillip Cosby August 26<sup>th</sup> 2020

Citizens and political leadership calling for judicial reform would do well to examine the Citizen-Initiated Grand Jury by Petition contained in the Kansas Statute 22-3001 (c). The citizen's right and authority to independently check the powerful, the indifferent and injustices in Kansas is over 150 years old.

This citizen-initiated grand jury by petition process was dormant, lost to history for over 100 years but rediscovered and revived in 2003. The Kansas legislature has rightly strengthened and improved this citizen process a dozen ways in the years since its revival. Wrestling power from the powerful and delivering the process back into the hands its rightful owner, the people.

Since 2003 the citizen-initiated grand jury process has been upheld twice as Constitutional and valid by the Kansas Supreme Court. Since its rediscovery Kansas citizens have effectively used it to confront indifference and corruption. This citizen process does not enjoy the praise of ensconced power. By nature the citizen-initiated grand jury embarrasses institutional power for its indifference to the law or worse it indicts power for corruption.

It is a citizen centric process as ancient as Greece, as relevant as the Magna Carta and as close as the Fifth Amendment to the U.S. Constitution...**"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 Grand Jury was crafted to be a shield for the accused, a remedy to indifference to the law, a relief to the underserved victim and a sword against erring authorities.

The Grand Jury that we witness today was usurped from the American people in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. Today it is held captive, jealously guarded, and wielded by prosecutors and judges. The famous phrase of "you can indict a ham sandwich with a Grand Jury" is true. Prosecutors enjoy a track record of a 99.9% success rate of indictments from their secret Grand Juries. The Grand Jury in use today is not the Grand Jury envisioned by the framers of the Bill of Rights. It has devolved into today's "Star Chamber". What was originally crafted to be an investigative process has been usurped and refashioned as an unquestionable prosecutorial tool.

The first ten amendments to the U.S. Constitution, the Bill of Rights, have two main themes; first, to ensure the liberties of the citizen and second to restrain the innate overbearing nature of institutional power. Now why would the framers of the Bill of Rights have gifted to the powerful, the grand jury process in the fifth amendment,? A constitutional restraint found squarely in the center of the Bill of Rights? A secret Grand Jury process that today yields a prosecutor a 99.9% indictment success rate?

Simple, Federal and State level Grand Juries American citizens are subject to today are not the Grand Juries of our Grandfathers. The founding fathers were not naive. Who did they trust and mistrust? They understood the corrupting nature of unchecked authority and intentionally chose to trust "we the people" over unrestrained professionals wielding power. If America truly wants to seek justice, reform and restrain oppressive power, then a hard look at the Kansas citizen-initiated grand jury process, judicial history and the forgotten fifth-amendment to the Constitution would be prudent. Our current civil unrest and festering national wound cries for this citizen remedy.